



**ORDINARY COUNCIL MEETING  
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## **ORDINARY COUNCIL MEETING**

**Minutes of the Ordinary Meeting of the City of South Perth Council  
held in the Council Chamber, Sandgate Street, South Perth  
Tuesday 25 May 2010 at 7.00pm**

### **1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS**

The Mayor opened the meeting at 7.00pm and welcomed everyone in attendance. He then paid respect to the Noongar peoples, the traditional custodians of the land we are meeting on, and acknowledged their deep feeling of attachment to country.

### **2. DISCLAIMER**

The Mayor read aloud the City's Disclaimer.

### **3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER**

#### **3.1 Activities Report Mayor Best / Council Representatives**

Mayor / Council Representatives Activities Report for the month of March 2010 attached to the back of the Agenda.

#### **3.2 Public Question Time**

The Mayor advised the public gallery that 'Public Question Time' forms were available in the foyer and on the City's web site for anyone wanting to submit a written question. If anyone required help in this regard the Manager Governance and Administration is available to assist. He further stated that it was preferable that questions were received in advance of the Council Meetings in order for the Administration to have time to prepare responses.

#### **3.3 Audio Recording of Council meeting**

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

### **4. ATTENDANCE**

#### Present:

Mayor J Best (Chair)

#### Councillors:

I Hasleby	Civic Ward
V Lawrance	Civic Ward
P Best	Como Beach Ward
L P Ozsdolay	Manning Ward
T Burrows	Manning Ward
R Wells, JP	McDougall Ward
S Doherty	Moresby Ward
K Trent, RFD	Moresby Ward

Officers:

Mr C Frewing	Chief Executive Officer
Mr S Bell	Director Infrastructure Services
Mr M Kent	Director Financial and Information Service
Mr R Bercov	Acting Director Development and Community Services
Ms D Gray	Manager Financial Services
Mr R Kapur	Manager Development Services (left at 8.25pm)
Mr P McQue	Manager Governance and Administration
Mr M Taylor	Manager City Environment
Mr M Stuart	Senior Planning Officer (left at 8.16pm)
Ms C Husk	City Communications Officer (left at 8.35pm)
Ms J Jumayao	Acting Minute Secretary

Gallery

There were 25 members of the public present and 1 member of the press.

**4.1 Apologies**

Cr R Grayden	Mill Point Ward
Cr B Skinner	Mill Point Ward

**4.2 Approved Leave of Absence**

Cr G Cridland	Como Beach Ward
Cr C Cala	McDougall Ward

**5. DECLARATION OF INTEREST**

The Mayor reported having received a Declaration of Interest from Cr Best in relation to Agenda Item 10.3.1 which he read out for the record.

DECLARATION OF INTEREST : CR BEST : ITEM 10.3.1

*I wish to declare an Interest in relation to Agenda Item 10.3.1. Robert Hart Architects is one of many companies for which my business provides services. Robert Hart Architects is the architect for the applicant of the property subject to a report Item 10.3.1. I will leave the chamber during debate and will not participate in the vote on this item.*

He further stated that in accordance with the *Local Government (Rules of Conduct) Regulations 2007* that the Declaration would be read out immediately before the Item in question was discussed.

**6. PUBLIC QUESTION TIME**

**6.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE**

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

**6.2 PUBLIC QUESTION TIME : 25.5.2010**

Opening of Public Question Time

The Mayor stated that in accordance with the *Local Government Act* regulations question time would be limited to 15 minutes. He said that questions are to be in writing and questions received 5 working days prior to this meeting will be answered tonight, if possible or alternatively may be taken on notice. Questions received in advance of the meeting will be dealt with first, long questions will be paraphrased and same or similar questions asked at previous meetings will not be responded to and the person will be directed to the Council Minutes where the response was provided. He then opened Public Question Time at 7.05pm.

**Note:** *Written Questions submitted prior to the meeting were provided (in full) in a powerpoint presentation for the benefit of the public gallery.*

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

*(Written Questions submitted prior to the meeting)*

Summary of Question

If a residential building is built within the City's jurisdiction which does not comply with the Town Planning Scheme, the R Codes, the Building Licence and the Planning Consent is there a time limit on the City to require compliance with the above building controls?

Summary of Response

The Mayor requested Cr Doherty to respond. Cr Doherty advised as follows:

1. Barrie Drake asked a similar question Barrie Drake asked a similar question at Item 6.2.2 of the April 2010 minutes records the answer that is also applicable in response to your new question to the extent of his reference to the Town Planning Scheme, the R-Codes, and the Planning Consent.

In relation to a building not constructed in compliance with the Building Licence drawings and specifications, the answer is as follows:

"Under section 401 of the Local Government (Miscellaneous Provisions) Act 1960, at any time the Council is able to serve notice requiring a property owner to implement action to bring unauthorised building construction into compliance. The Act provides a right of appeal against a section 401 Notice.

Finally, a prosecution for an offence relating to a building not constructed in compliance with the Building Licence drawings and specifications, must be commenced within 2 years after the date the offence was committed - see section 9.25(2) of the Local Government Act 1995."

**6.2.2 Mr Geoff Defrenne, 24 Kennard Street, Kensington**

*(Written Questions submitted prior to the meeting)*

Summary of Question

1. At the last Council meeting the Mayor James Best claimed the Council procedures only allowed for three questions to be asked. When did the Council vote that only three questions could be asked
2. In the article in "Inside Cover" it was claimed that budget cuts had reduced the printing of the Neighbourhood Watch newsletter to 14 copies for Kensington. If this article is correct regarding budget cuts. Will similar cuts also apply to the mayoral and councillors allowances? If the article is correct regarding budget cuts, will a similar cut also apply to the CEO's salary?

Summary of Response

The Mayor responded as follows:

1. The first 4 questions received will not be acknowledged or responded to as they do not relate to the business of the Council or the City, and as they relate to an individual they could be construed as offensive and defamatory in nature, due to its very personal focus.
2. The current Standing Orders Local Law permit up to 2 questions to be asked. Following a recommendation from the Audit and Governance Committee in February 2010 this limit has been increased to 3, pending endorsement of the Council after considering the public submissions in relation to the Standing Orders Local Law.

3. The article in the Inside Cover on 24 May 2010 in the West Australian is incorrect for the following reasons. There have been no budget cuts to Neighbourhood Watch. The previous method of distribution of nearly 20,000 Neighbourhood Watch newsletters every two months proved ineffective, after a survey was conducted and only 170 residents responses were received, this was not the best method and needed to move forward.

Alternative strategies such as conducting community barbeques with Neighbourhood Watch volunteers and attendance at events such as Fiesta and Australia Day have commenced. A quarterly safety feature appears full page in the Southern Gazette which has had a good response. Neighbourhood Watch updates are provided on the City's website and residents are encouraged to access the information and copies of the newsletter are available at the Civic Centre and other City locations. We can also send residents the newsletter by post. In addition a survey conducted by an independent Market Research firm is presently being conducted to identify residents' communication needs.

Due to the answer to the first question being that there have been no budget cuts, the other two questions are now irrelevant.

Close of Public Question Time

The Mayor asked if there were any further questions from the public gallery. There being no further written questions from the public gallery the Mayor closed Public Question time at 7.12pm

**7. CONFIRMATION OF MINUTES / BRIEFINGS**

**7.1 MINUTES**

**7.1.1 Ordinary Council Meeting Held: 27.4.2010**

**COUNCIL DECISION ITEMS 7.1.1**

Moved Cr Trent, Sec Cr Wells

That the Minutes of the Ordinary Council Meeting held 27 April, 2010 be taken as read and confirmed as a true and correct record.

CARRIED 9/0

**7.1.2 CEO Evaluation Committee Meeting Held: 11.5.2010**

**COUNCIL DECISION ITEMS 7.1.2**

Moved Cr Trent, Sec Cr Wells

That the Minutes of the CEO Evaluation Committee Meeting held 11 May 2010 be received.

CARRIED (9/0)

**7.2 BRIEFINGS**

The following Briefings which have taken place since the last Ordinary Council meeting, are in line with the 'Best Practice' approach to Council Policy P516 "Agenda Briefings, Concept Forums and Workshops", and document to the public the subject of each Briefing. The practice of listing and commenting on briefing sessions, is recommended by the Department of Local Government and Regional Development's "Council Forums Paper" as a way of advising the public and being on public record.



**7.2.1 Agenda Briefing - April Ordinary Council Meeting and Events Update Held:20.4.2010**

Officers of the City presented background information and answered questions on items identified from the April 2010 Council Agenda. An update from officers on Australia Day 2010 and the Fiesta Events was also presented. Notes from the Agenda Briefing are included as **Attachment 7.2.1.**

**7.2.2 Concept Forum 2010/11 Budget “Setting the Scene” Meeting Held: 21.4.2010**

The Director Financial and Information Services presented an ‘introduction’ to the Strategic Financial Plan and Budget Process for the 2010/11 period. Notes from the Concept Briefing are included as **Attachment 7.2.2.**

**7.2.3 Concept Forum: Town Planning Major Developments Meeting Held: 5.5.2010**

Officers of the City and applicants presented background on proposed developments at No. 16 Bradshaw Crescent, Manning, No.12 Coode Street, South Perth and the Metro Hotel, Canning Highway. Questions were raised by Members and responded to by applicants/officers. Notes from the Concept Briefing are included as **Attachment 7.2.3.**

**COUNCIL DECISION ITEMS 7.2.1 TO 7.2.3**

Moved Cr Trent, Sec Cr Doherty

That the comments and attached Notes under Items 7.2.1 to 7.2.3 inclusive on Council Briefings held since the last Ordinary Council Meeting be noted.

CARRIED 9/0

**8. PRESENTATIONS**

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

**8.1.1 Petition received 7 May 2010 from Mia Betjeman, 32 Market Street, Kensington together with 21 Signatures in Relation to Character Homes in Market Street, Kensington.**

**Text of petition reads:** “*Market Street is facing the demolition of three of its character homes which are to be replaced with modern homes, not in keeping with the current streetscape. We, the undersigned, are concerned residents of Market Street who urge the City of South Perth to act now in preserving the unique and historically significant streetscape and amenity of Market Street. we request that any further developments in our street be done in a manner that retains and is respectful to the existing traditional streetscape. We are particularly opposed to situations whereby character homes are demolished and ultra-modern houses are erected in their place. We strongly feel this not only impacts on the unique aesthetic streetscape but also impacts on the value of our investment into this beautifully traditional street.*”

**RECOMMENDATION**

That the petition received 7 May 2010 from Mia Betjeman, 32 Market Street, Kensington, together with 21 signatures in relation to maintaining character homes in Market Street, Kensington be received and forwarded to the Development and Community Services Directorate for investigation and response.

**COUNCIL DECISION ITEM 8.1.1**

Moved Cr Trent, Sec Cr Ozsdolay

That the petition received 7 May 2010 from Mia Betjeman, 32 Market Street, Kensington, together with 21 signatures in relation to maintaining character homes in Market Street, Kensington be received and forwarded to the Development and Community Services Directorate for investigation and response.

CARRIED (9/0)

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

**8.2.1 The Esther Foundation's Fiesta Fun Run 2010**

A letter of appreciation received from the Esther Foundation thanking the City of South Perth for its valued support and generous contribution in particular to the 2010 Esther Foundation Fiesta Fun Run.

The Mayor read out the letter; “ *We would like to thank you, along with your wonderful office at the City of South Perth for your valued support and generous contribution not only at the Esther Foundation's Fiesta Fun Run 2010 but into the many areas you have given and continue to support us.* ”

*We are happy to let you know that the Fun Run was enjoyed by all and was a fine success due greatly to your involvement and support. We are proud and also grateful to be able to present your name as sponsor at our events.”*

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

**Note:** Deputations in relation to Agenda Item 8.1.1, 10.0.2 and 10.3.1 were heard at the April Council Agenda Briefing held on 18 May 2010.

Opening of Deputations

The Mayor opened Deputations at 7.17pm.

The Mayor made the following apology: *"In respect to this application, I wish to apologise to the applicants for the time it has taken to process this application, it has taken a little longer than would normally be the case."*

**8.3.1 Mr Greg Moore & Joe Conway representing Sacridan Pty Ltd - Agenda Item 10.3.3**

Mr Moore and Mr Conway spoke against the officer recommendation for Item 10.3.3 “*Proposed Mixed Development within a 3-Storey Building, 16 Bradshaw Crescent Manning*” on the following points:

- cash in lieu payment requirements and car parking requirements
- a hand out was tabled summarising key points
- do support officer recommendation except cash in lieu condition for parking
- large amount of money, amounts to 10% of construction costs
- more than adequate parking

**8.3.2 Mr Graeme Robert Langenbach, 14 Chesson Street, Alfred Cove - Agenda Item 10.3.4**

Mr Langenbach spoke against the officer recommendation at Item 10.3.4 “*Proposed Two-Storey Single House, 93 Banksia Terrace, Kensington*” and raised the following points:

- flat section of roof to rear of dwelling
- disappointment that it has taken 19 weeks
- would like fair consideration

The Mayor made the following apology: “*In respect to this application, I wish to apologise to the applicants for the time it has taken to process this application, and I will look into the issue.*”

Close of Deputations

The Mayor closed Deputations at 7.25pm.

**8.4 COUNCIL DELEGATES**

**8.4.1. Council Delegate: WALGA South East Metropolitan Zone: 31 March 2010**

A report from Mayor Best and Cr Trent summarising their attendance at the WALGA South East Metropolitan Zone Meeting held at the City of South Perth on 31 March 2010 is at **Attachment 8.4.1**.

**Note:** The Minutes of the WALGA South East Metropolitan Zone meeting of 31 March 2010 have also been received and are available on the *iCouncil* website.

RECOMMENDATION

That the Delegate’s Report at **Attachment 8.4.1** in relation to the WALGA South East Metropolitan Zone Meeting held at the City of South Perth on 31 March 2010 be received.

**8.4.2. Council Delegate: Rivers Regional Council: 15 April 2010**

A report from Council Delegates summarising their attendance at the Rivers Regional Council Meeting held 15 April 2010 at the City of South Perth is at **Attachment 8.4.2**.

**Note:** The Minutes of the Rivers Regional Council Ordinary Council Meeting of 15 April 2010 have also been received and are available on the *iCouncil* website.

RECOMMENDATION

That the Delegate’s Report at **Attachment 8.4.2** in relation to the Rivers Regional Council Meeting held 15 April 2010 be received.

**8.4.3. Council Delegate: Perth Airports Municipalities Group – 14 April 2010**

Crs Burrows and Hasleby attended the Perth Airports Municipalities Group meeting held at the Town on Bassendean on 14 April 2010 which was also attended by the Manager Environmental Health and Regulatory Service. The Minutes of the PAMG meeting are available at **Attachment 8.4.3**.

**Note:** The Minutes and *Confidential* Attachment of the Perth Airports Municipalities Group Meeting held 14 April 2010 are also available on the *iCouncil* website.

RECOMMENDATION

That the Minutes at **Attachment 8.4.3**, of the Perth Airports Municipalities Group (PAMG) meeting held at the Town on Bassendean on 14 April 2010 be received.

**8.4.4. Council Delegate: South East Regional Centre for Urban Landcare (SERCUL) Meeting Held: 11 February 2010**

Cr Skinner attended the SERCUL Group meeting held at the City of Canning on 11 February 2010. The Minutes of the South East Regional Centre for Urban Landcare (SERCUL) meeting are available at **Attachment 8.4.4**.

**Note:** The Minutes of the South East Regional Centre for Urban Landcare meeting held 11 February 2010 are also available on the *iCouncil* website.

RECOMMENDATION

That the Minutes, at **Attachment 8.4.4**, of the South East Regional Centre for Urban Landcare meeting (SERCUL) held at the City of Canning on 11 February 2010 be received.

**COUNCIL DECISION ITEM 8.4.1 TO 8.4.4**

Moved Cr Trent, Sec Cr Burrows

That the Delegate's Reports at:

- **Attachment 8.4.1** in relation to the WALGA South East Metropolitan Zone Meeting held 31 March 2010;
- **Attachment 8.4.2** in relation to the Rivers Regional Council Meeting held 15 April 2010;
- **Attachment 8.4.3** in relation to the PAMG Perth Airports Municipalities Group Meetings held 14 April 2010; and
- **Attachment 8.4.4** in relation to the South East Regional Centre for Urban Landscape meeting held 11 February 2010 be received.

CARRIED (9/0)

**8.5 CONFERENCE DELEGATES**

Nil

**9. METHOD OF DEALING WITH AGENDA BUSINESS**

The Mayor advised the meeting that with the exception of the items identified to be withdrawn for discussion that the remaining reports, including the officer recommendations, would be adopted en bloc, ie all together. He then sought confirmation from the Chief Executive Officer that all the report items had been discussed at the Agenda Briefing held on 18 May 2010.

The Chief Executive Officer confirmed that this was correct.

WITHDRAWN ITEMS

The following items were withdrawn:

- Item 10.0.2 Alternative Motion
- Item 10.0.3 Amended Motion
- Item 10.3.1 Declaration of Interest
- Item 10.3.3 Amended Motion
- Item 10.3.4 Amended Motion

**COUNCIL DECISION ITEM 9.0 - EN BLOC RESOLUTION**

Moved Cr Trent, Sec Cr Hasleby

That with the exception of Withdrawn Items 10.0.2, 10.0.3, 10.3.1, 10.3.3 and 10.3.4 which are to be considered separately, the officer recommendations in relation to Agenda Items 10.0.1, 10.3.2, 10.6.1, 10.6.2, 10.6.3, 10.6.4, 10.6.5, 10.6.6 and 10.6.7 be carried en bloc.

CARRIED (9/0)

**10. REPORTS**

**10.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS**

**10.0.1 Submissions on Proposed Closure of Portions of Bradshaw and Conochie Crescent, Manning** (*Item 10.3.2 December 2009 Council meeting refers*)

Location: Bradshaw and Conochie Crescent road reserves, Manning  
Applicant: City of South Perth  
File Ref: RO/702/1  
Date: 28 April 2010  
Author: Patricia Wojcik, Trainee Planning Officer  
Reporting Officer: Vicki Lummer, Director Development and Community Services

**Summary**

This report considers the submissions on the proposal to initiate the closure of portions of Bradshaw Crescent and Conochie Crescent road reserves, Manning and recommends that Council support the closure to the extent shown in **Attachment 10.0.1** and recommend approval to the Minister for Planning.

**Background**

This report includes the proposed closure plan referred to as **Attachment 10.0.1**.

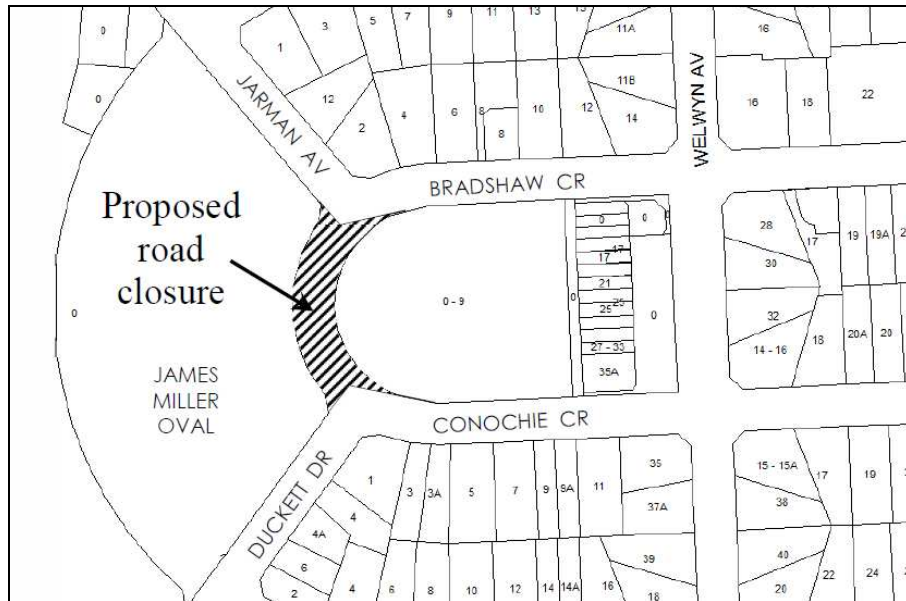
At the December 2009 meeting, the Council resolved as follows:

*“That Council commences the statutory procedure for the public road closure under the **Land Administration Act 1997** for the curved portions of Bradshaw Crescent and Conochie Crescent road reserves between Jarman Avenue and Duckett Drive, Manning to the extent shown in **Attachment 10.3.2**.”*

The statutory procedure for road closures includes advertising for the lodging of submissions. Details regarding the methods of advertising and the submissions received are contained in the Consultation section of this report.

Location

The subject portion of road reserve is the curved portion at the western end of Bradshaw and Conochie Crescents, as shown on the location map below:



**Manning Community Hub**

The proposed closure is the first step in pursuing the much larger Manning Community Hub project. The consultant’s final report of this larger project was considered at the June 2009 Council meeting. At that meeting, the Council accepted the consultant’s recommendations and in particular, supported their “Option 3” subject to further investigation. Part (d) of the Council’s June resolution reads as follows:

*“(d) The closure of the Bradshaw Crescent “loop” road be investigated as a matter of priority.”*



**Diagram 1:** Plan of consultant’s Option 3 outlining proposed community and commercial facilities.

**Comment**

**Public road closure process**

The closure process for a public road is dealt with under Section 58 of the *Land Administration Act 1997*. The process is summarised as follows:

- Council resolves to initiate the statutory process under Section 58 of the Land Administration Act.
- A notice of motion is published in a newspaper regarding the intended closure. The newspaper notice nominates a period of 35 days for receipt of objections to the proposal.
- Following expiry of the 35-day objection period, after having considered any objections received, if those objections are not supported, Council resolves to request the Minister for Lands to close the road. The Council resolution must be accompanied by a plan showing the intended distribution of the land to adjoining properties.
- When delivering the closure request to the Minister, the Council must also forward copies of any public submissions received and the officer report incorporated into the minutes containing Council’s comments on the submissions.
- On receipt of the Council’s request, the Minister decides either to grant or refuse that request, or directs the Council to reconsider the proposal, having regard to any identified concerns.
- If the Minister grants the closure request, the road is closed from the date of the Minister’s registration of an order to this effect.
- Generally when the closure is finalised, the land becomes “unallocated Crown land”. The preference for this project as shown in the Option 3 Plan above is that the land be amalgamated with James Miller Oval. James Miller Oval is currently Crown-owned and vested in the City for the purposes of “Recreation and Park”. In the short term, pending completion of the integrated Manning Hub proposals, the “closed road” land can be used for car parking to alleviate the existing parking congestion which occurs at times of “peak use” of existing facilities.

It is anticipated that this road closure will take approximately 12 months to complete.

**Consultation**

Consultation has been undertaken in accordance with the requirements of Section 58 of the *Land Administration Act* (as amended) and Council Policy P355 “Consultation for Planning Proposals”. Submissions were invited during a period of 65 days, commencing on 9 February 2010 and concluding on 14 April 2010.

Sign on site

As per Council Policy P355 “Consultation for Planning Proposals”, two signs were placed on the site during the advertising period inviting submissions.

City website

As per Council Policy P355, the City placed information regarding the closure on the City’s website during the advertising period.

Public Notice

A Notice was published in the City Update column of the *Southern Gazette* newspaper on Tuesday, 9 February 2010. The Notice is only required to be published once in a newspaper circulating within the district.

Submissions from adjoining landowners

Approximately 70 property owners within the focus area of the affected portion of road reserve have been consulted by the City regarding the proposed closure. During the advertising period, a total of five submissions were received in relation to the proposed closure. These submissions are summarised in the table below:

Submitter	Submitter’s Comment	Officer’s Comment
Submitter 1	Support	Noted
Submitter 2	Support	Noted

Submitter 3	Support	Noted
Submitter 4	Supports, however is concerned the closure may increase parking on verges.	As noted in the Comments section of this report, in the short term, pending completion of the integrated Manning Hub proposals, the "closed road" land can be used for car parking to alleviate the existing parking congestion which occurs at times of "peak use" of existing facilities. When the Manning Hub development is completed, additional car parking will be provided as part of that development.
Submitter 5	Does not support as: <ul style="list-style-type: none"> <li>concerned with the extra traffic that will be channelled through Ley Street; and</li> <li>closure will disrupt daily activities (Submitter uses this portion of the road daily to access local businesses and main roads).</li> </ul>	<ul style="list-style-type: none"> <li>Of the 70 consulted property owners, this is the only submission expressing concern about extra Ley Street traffic. There is no evidence to support the submitter's claim and in any event, any increase in Ley St traffic would be minimal.</li> <li>Again, this is the only submission objecting to disruption of their normal travel route. Alternative roads can be used with negligible inconvenience.</li> </ul> <p>The submission is NOT UPHELD.</p>

Response from service authorities

The services authorities were notified on 21 January 2010 and no objections to the proposed closure were received as set out below:

Service Provider	Comment
Western Power	No objection, but the City to note that if the existing infrastructure needs to be relocated then there will be additional costs.
Westnet Energy	No objection
Telstra	No objection
Water Corporation	No objection

Infrastructure Services

The Manager, Engineering Infrastructure has provided detailed comments relating to the proposed closure design. It has been identified that the design shown in **Attachment 10.0.1** is desirable. This will provide sufficient road reserve to realign Jarman Avenue to link into Bradshaw Crescent and Duckett Drive to link into Conochie Crescent.

A request was placed with "DIAL BEFORE YOU DIG" (Australia's National Reference Service for Information on Underground Pipes and Cables) to ascertain services that may be affected by the proposed closure. From information supplied, there appear to be no underground services within the affected section of road reserve. However, this information comes with a disclaimer and a formal approach will need to be made to each service authority and a response will need to be received as part of the closure process. The information supplied does not include the Western Power overhead network that would require removal.

**Policy and Legislative Implications**

The road closure is being implemented in accordance with the provisions of the Land Administration Act.

**Financial Implications**

Costs could potentially be significant if Landgate requires the City to purchase the land following the road closure. This would not eventuate if the "closed road" land remains in the ownership of the Crown.



Additionally, there was a cost involved in placing an advertisement in the newspaper to notify the public of this proposal. The cost of removing the overhead power lines also needs to be included in the 2010/2011 budget.

#### **Strategic Implications**

This matter relates to Strategic Direction 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**

It is considered that this proposal satisfactorily contributes to the City’s sustainability objectives by removing a section of road which is not essential for local traffic movement, and by facilitating improvement to James Miller Oval and more effective integration with the proposed Manning Community Hub.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.0.1</b>
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That...

- (a) Submissions 1 to 4 in support of the proposed road closure, be noted;
- (b) Submission 5 be not upheld;
- (c) the submissions be forwarded to the Minister for Lands for consideration, together with the Council resolution relating to the road closure; and
- (d) the Minister for Lands be requested to approve the public road closure for the curved portions of Bradshaw Crescent and Conochie Crescent road reserves between Jarman Avenue and Duckett Drive, Manning to the extent shown in **Attachment 10.0.1.**

CARRIED EN BLOC RESOLUTION

<b>10.0.2 Proposed Change of Use (Shop and Single House to Shop and Café / Restaurant) and Associated Extensions to the Existing Building - Lot 3 (No. 333) Mill Point Road, South Perth</b>
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Location:	Lot 3 (No. 333) Mill Point Road, South Perth
Applicant:	Private Horizons – Planning Solutions
Lodgement Date:	8 December 2009
File Ref:	11.2009.539 MI3/333
Date:	3 May 2010
Author:	Lloyd Anderson, Senior Statutory Planning Officer
Reporting Officer:	Vicki Lummer, Director Development & Community Services

#### **Summary**

This application for planning approval was considered at the April 2010 Council meeting. A decision was deferred to the May 2010 Council meeting to allow the applicant to undertake further neighbour consultation to fully address issues relating generally to noise and amenity.

The application relates to the conversion of an existing Shop and Single House to a Shop and Café / Restaurant. Under Table 1 of the City’s Town Planning Scheme No. 6 (TPS6), the proposed Café / Restaurant is classified as a “DC” use (Discretionary use with Consultation) on the subject lot zoned local commercial. Neighbour consultation has resulted in several supporting as well as opposing, comments received by the City. Council consideration is sought in regard to this discretionary use, the concerns expressed by

neighbours, and variations requested to car parking requirements. The officer recommendation is for approval, subject to a number of standard and special conditions.

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

Element on which discretion is sought	Source of discretionary power
Discretionary land use	TPS6 Clause 3.3(3) and Table 1
Car parking	TPS6 Clause 7.8(1)

### Background

The development site details are as follows:

<b>Zoning</b>	Local Commercial
<b>Density coding</b>	R15
<b>Lot area</b>	562.0 sq. metres
<b>Building height limit</b>	7.0 metres
<b>Development potential</b>	The proposed Café / Restaurant is a "DC" use (Discretionary use with Consultation) in the local commercial zone - The existing Shop is a "D" use (Discretionary use).
<b>Plot ratio limit</b>	0.5

The City's property file does not have a record of when the existing development was originally built, and it is possible that it was built during the first half of the 20<sup>th</sup> century. The subject premises originally operated as a House with a Shop front and continued to operate in this form until recently. The use of the premises for commercial purposes in part therefore is not new, even though the site is adjoined by low density residential development on both sides and at the rear. Approval is now sought for conversion of the entire building to a non-residential use, namely Café / Restaurant.

This report includes the following attachments:

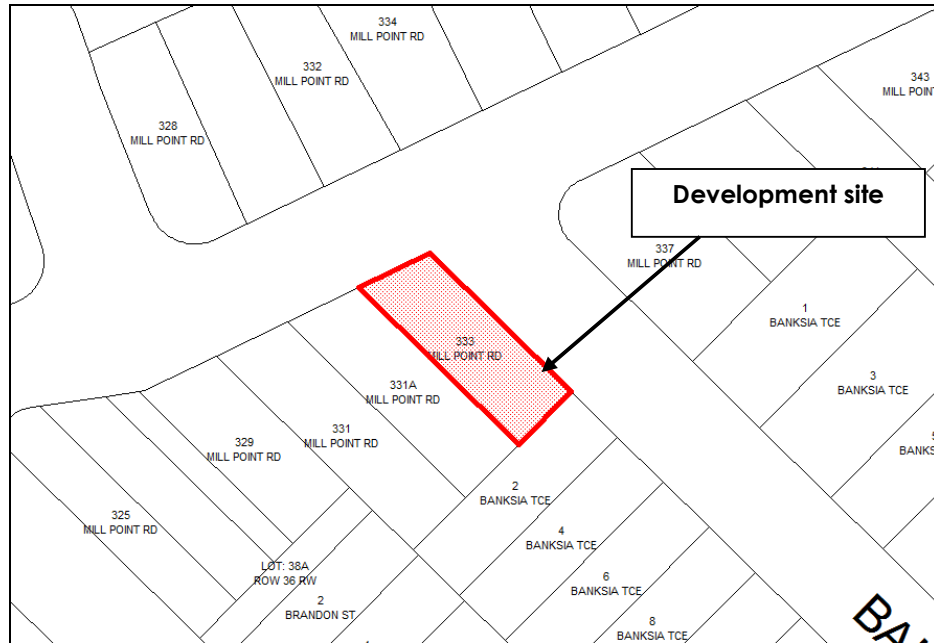
- Confidential Attachment 10.0.2(a)** Revised plans of the proposal received 5 May 2010.  
**Attachment 10.0.2(b)** Extract Council Minutes 27 April 2010.

The application was received on 8 December 2010. It was advertised for neighbours' comments during December 2009 and January 2010. Revised plans requested in February 2010 were received in March 2010, and the proposal was referred to a Council meeting held on 27 April 2010. At the meeting, the Council resolved to defer the item to its May 2010 Council meeting. This deferment allowed the applicant to undertake further neighbour consultation to fully address the issues, which included:

- (a) suggested inversion of the toilet / ablutions area at the rear of the plan to realign along Banksia Terrace;
- (b) height and construction materials of the dividing fences;
- (c) proposed hours of business (especially at night) and
- (d) minimisation of noise and odour effects on amenity.

A meeting on 3 May 2010 was held at the City's offices attended by Ms Adele Johnson (adjoining neighbour at No. 331A Mill Point), Ben McCarthy (applicant), Louise Beekink (owner), Councillors Lawrance, Doherty and Hasleby, Vicki Lummer (Director Development and Community Services) and Lloyd Anderson (Senior Statutory Planning Officer). Aspects discussed in detail were design, fencing, hours of operation and noise. Whilst agreement could not be reached in all areas, some design improvements and changes have been made to the plans and can be viewed by Council referred to as **Confidential Attachment 10.0.2(a)**. These plans are available for neighbours to view at the Council offices. All of the matters listed above are discussed below.

The location of the development site is shown below:



As explained in the April 2010 report at **Attachment 10.0.2(b)**, in accordance with Council Delegation DC342, the proposal was referred to Council because it falls within the following categories described in the delegation:

**6. Amenity impact**

*In considering any application, the delegated officer 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.*

Issues raised by neighbours include late trading, serving of alcohol on the premises, noise, car parking and traffic generated.

**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.*

The City advertised the proposal and neighbours' comments are discussed in the April 2010 report.

**Comment**

**(a) Suggested inversion of the toilet / ablutions area at the rear of the plan to realign along Banksia Terrace**

Concerns have been raised relating to the noise and smell from the use of the toilets and bin enclosure along the property boundary to the adjoining property. It was suggested that the inversion of this would lessen the impact.

As per **Confidential Attachment 10.0.2(a)**, the applicant has moved the bin enclosure, however has not moved the toilets as this change would be undesirable to patrons that are seated in the alfresco area. The applicant has installed internal ventilation systems for the toilets, and as such no windows would be along the common boundary. City officers support these changes in the aim of minimising the impact of noise and odour from the toilet / ablution areas.

**(b) Height and construction materials of the dividing fences**

The adjoining neighbour had some concern regarding the construction materials proposed for the fencing, however no agreement has been met between the applicant and neighbour within the timeframe between Council meetings. There was also some disagreement relating to the height of the fence. The following condition is recommended which now relates to a suitable fence that is finished to the satisfaction of the adjoining neighbour before a building licence is issued for the development:

*“In order to minimise the noise related amenity impact upon the adjoining residential properties at No. 331A Mill Point Road and No. 2 Banksia Terrace, the owner of the proposed development is required to consult with the adjoining property owners and provide a suitable fence on common boundaries with both these properties. The finish of the wall is to be to the satisfaction of the neighbour, or in the case of a dispute, to the satisfaction of the Director Development and Community Services. The cost of the fence and its installation is to be borne by the owner of the proposed development.”*

The applicant has submitted revised plans referred to as **Confidential Attachment 10.0.2(a)** showing a 2.1 metre high fence which is solid colourbond metal sheet fencing. In relation to the noise effect and the ability of the fence to ameliorate the noise, Manager Environmental Health Services has advised that a fence of 2.1 or 2.2 metre height will reduce the noise impact on the adjoining properties. A difference of 100mm in the fence height will have a negligible impact. In terms of materials, the denser the material the more it reflects noise away, however the unevenness of the colorbond surface also breaks up sound waves so the actual material will make a difference, but only minimal difference.

**(c) Proposed hours of business (especially at night)**

Hours of operation of the proposed Café / Restaurant can be set by way of a condition of planning approval under Clause 7.5 of TPS6 as an amenity consideration. The applicant’s proposal is to operate from 7:00am to 9:00pm, seven days of the week.

In light of neighbours’ comments and other approvals for Café / Restaurant within the City, the officer’s recommendation is to confine opening hours to between 8:00am and 9:00pm, seven days of the week. The general daily operations would need to fit within these core hours. It is not suggested to modify the hours of operations as these hours have been researched and found to be consistent with other similar uses within the locality.

However, a condition could be imposed that would expire at the end of twelve months from the date of granting planning approval. Towards the end of this period, the applicant could apply to the Council pursuant to Clause 7.9(7) of the Scheme to vary the conditions of approval with the object of having the operational effect of this “twelve-month” condition extended for a further period as may be agreed by the Council at that time. The Council could then take into account the manner in which the operation of the extended trading hour’s condition had impacted on the amenity of the locality and any related social issues, as provided by Scheme Subclause 7.5(i) and 7.5(p), during its consideration of the application to vary the conditions of the approval. The following condition is recommended:

*“The maximum opening hours of the Café / Restaurant shall be 8:00am to 9:00pm, seven days a week. Should any noise complaints from neighbours be received within the first 12 months of operation, the Council will determine whether the complaints are valid and if so, will impose an earlier closing time or other requirements to address the complaints.”*

**(d) Minimisation of noise and odour effects on amenity**

It is considered that issues discussed in Items (a), (b) and (c) assist in minimising noise and odour effect on amenity. However, in relation to noise it is ultimately the owner's responsibility to ensure that patron behaviour is acceptable. Therefore the following note is recommended to be placed on the approval:

*"It is the owner's responsibility to manage patron behaviour to reduce disturbance to neighbours."*

In addition, the Building Codes of Australia (BCA) prescribes a capacity of one person per square metre for a Café / Restaurant, resulting in a maximum of 50 patrons at any time for the current proposal. A recommended condition of planning approval relates to a maximum 50.0 sq. metres of floor area.

**(e) Other matters discussed in the April 2010 report**

Various other issues were also discussed in detail in the officer's August report referred to as **Attachment 10.0.2(b)**. Most of the comments on these issues are still valid and the previous report should be referred to for the relevant discussion on each. For convenience however, the matters are summarised below:

(i) Change of use

The current proposal involves the conversion of the House to Café / Restaurant while retaining the existing Shop. Extensions to the existing building have been proposed to accommodate the additional enclosed areas, as shown on the plans.

(ii) Consumption of liquor

As TPS6 does not contain any provisions dealing with liquor, legal advice obtained by the City advises that it is unlikely that the City would be able to impose a condition preventing the consumption of BYO alcohol on the premises where that occurs in accordance with Section 51(3) of the *Liquor Licensing Act*.

(iii) Plot patio

Table 3 of TPS6 prescribes a maximum plot ratio of 0.5 (281.0 sq. metres) for the subject proposal. The plot ratio proposed is 0.5 (281.0 sq. metres) which complies with the relevant provisions.

(iv) Landscaping and fencing

Table 3 of TPS6 requires 10% (56.2 sq. metres) of the subject local commercial zoned lot to be landscaped. The proposal entails landscaping 12.2% (68.5 sq. metres) of the site, which complies with the prescribed requirement.

(v) Car parking bays

A total of 10 car bays are available on site. By virtue of the parking ratio contained in Table 6 of TPS6, the 10 proposed car bays would support up to 50.0 sq. metres of dining area. This would be a total dining area, whether located inside or outside the building.

The on-site car parking is seen to satisfy the demand requirements for staff and customers. To ensure that the proposed dimensions of the car parking bays comply with Clause 6.3 of TPS6, a standard condition to this effect has been recommended.

(vi) Bicycle parking

The bicycle parking requirement for a Café / Restaurant in Table 6 of TPS6 is one bay per 40.0 sq. metres of dining area. Three bike bays have been provided to comply with this requirement.

(vii) Setbacks

In view of the building having existed with a zero setback for many years as a non-residential use, it has become well established within the streetscape of Mill Point and this part of the precinct, and therefore fits comfortably within the orderly and proper planning of the locality for the type of building that it is and the function it fulfils. Noting that the use of this portion of the building as a Shop remains unchanged, it is considered that the existing zero setback of the front wall of the building should be accepted.

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

All Scheme objectives were examined in the officer's April 2010 report referred to as **Attachment 10.0.2(b)** and it was found that, with appropriate conditions of planning approval, the objectives would be satisfactorily met.

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

In addition to any other matter, 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. These matters were considered in the officer's April 2010 report referred to as **Attachment 10.0.2(b)**, and the recommendation reflects those matters.

(h) **Local Commercial Strategy**

The proposal has been assessed against to the strategy for local commercial centres set out in the Council's Local Commercial Strategy (LCS) which was adopted in March 2004. The proposal is considered to meet the following relevant statements:

*“Objective for local centres*

*To recognise, reinforce and retain the important role that small corner stores and local centres play in fulfilling the daily shopping and commercial requirements of residents of the City.*

*Recommended actions for local centres*

*In considering a change from one commercial use to another within a local commercial zone, Council should aim to ensure that such use will not adversely impact on adjoining residential amenity and can preferably be demonstrated as serving local shopping needs or aspirations. The Council will have regard to the impact of the development on adjacent residential areas, as well as the demand for such facilities to serve the adjacent local community.”*

**Consultation**

(a) **Design Advisory Consultants**

The proposal to convert the existing House and Shop to a Café / Restaurant was not required to be referred to the Design Advisory Consultants for comment.

(b) **Neighbour consultation**

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”. All of the submissions have been summarised and responses provided to all comments referred to in **Attachment 10.0.2(b)** to this report.

(c) **Engineering comments**

Supporting comments have been received from the City's Engineering Department and will be attached to the determination of this planning application.

(d) **Environmental Health comments**

Comments have also been received from the City's Environmental Health Department and will be attached to the determination of this planning application.

In relation to the noise effect and the ability of the fence to ameliorate the noise, the Manager Environmental Health Services has advised that a fence of 2.1 or 2.2 metre height will reduce the noise impact on the adjoining properties. A difference of 100mm in the fence height will have a negligible impact. In terms of materials, the denser the material the more it reflects noise away, however the unevenness of the colorbond surface also breaks up sound waves so the actual material will make a difference, but only minimal difference.

A condition to this effect has been recommended by the officers.

**Policy and Legislative Implications**

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

**Financial Implications**

There are no financial implications in relation to this development.

**Strategic Implications**

This matter relates to Strategic Direction 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**

Since the proposal is observed by officers to comply with relevant statutory planning requirements and not have an adverse amenity impact upon the surrounding residential development, the proposed development is observed to be sustainable.

**OFFICER RECOMMENDATION ITEM 10.0.2**

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 the proposed change of use from Shop to include Café / Restaurant at Lot 3 (No. 333) Mill Point Road, South Perth, **be approved** subject to:

(a) **Standard Conditions**

349	Car parking bay dimensions	455	Standard fence heights
352	Approved bays marked on site	456	Removal of existing fencing
353	Designated visitors' bays	508	Landscaping plan required
351	Screening of parking bays	555	Revised drawings required
354	Hard standing area for bays	550	Concealed plumbing fittings
390	Crossover specifications	615	Visual privacy screening details
393	Reinstating verge and kerbing	625	Sightlines for drivers
410	Crossover effects infrastructure	660	Validity of approved construction
425	Colours and materials	661	Validity of approved use

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

- (i) The dining area including the proposed alfresco seating area of the proposed Café / Restaurant shall not exceed 50.0 sq. metres in order to comply with the car parking requirements of TPS6.
- (ii) The maximum opening hours of the Café / Restaurant shall be 8:00am to 9:00pm, seven days a week. Should any noise complaints from neighbours be received within the first 12 months of operation, the Council will determine whether the complaints are valid and if so, will impose an earlier closing time or other requirements to address the complaints.
- (iii) Adequate measures shall be taken to ensure that on-site parking is not accessible to the public outside the hours of operation of the proposed use. Barriers shall be installed to block access to on-site parking outside the approved operating hours.
- (iv) The external materials and finish of the existing building shall be upgraded to a standard that matches with the proposed building and its use.
- (v) In order to minimise the noise related amenity impact upon the adjoining residential properties at No. 331A Mill Point Road and No. 2 Banksia Terrace, the owner of the proposed development is required to consult with the adjoining property owners and provide a suitable fence on common boundaries with both these properties. The finish of the wall is to be to the satisfaction of the neighbour, or in the case of a dispute, to the satisfaction of the Director Development and Community Services. The cost of the fence and its installation is to be borne by the owner of the proposed development.

**(c) Standard Advice Notes**

645	Landscaping plan required	648	Building licence required
646	Landscaping standards – General	649	Signs licence required
646A	Details of any brick fence	649A	Minor variations - Seek approval
647	Amended drawings	651	Appeal rights - SAT

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

The applicant is advised that:

- (i) The applicant / owner are advised of the need to liaise with the City's Environmental Health Department in order to comply with all relevant health requirements.
- (ii) The applicant / owner are advised of the need to liaise with the City's Engineering Infrastructure Department in order to comply with all relevant infrastructure requirements.
- (iii) It is the applicant's responsibility to liaise with the City's Environment Department prior to landscaping the street verge areas.
- (iv) All activities conducted on the premises will need to comply with the *Environmental Protection (Noise) Regulations 1997* at all times.
- (v) It is the owner's responsibility to manage patron behaviour to reduce disturbance to neighbours.

**OFFICER RECOMMENDATION**

Moved Cr Hasleby, Sec Cr Ozsdolay



MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Hasleby opening for the Motion

- there have been several issues with the application for café/ restaurant to replace existing shop/ single house and it is pleasing that the issues have been addressed at the mediation and a satisfactory outcome for all
- hours of business need to be as often and as long as possible for the viability of the business and economic prowess
- there is a rider in the form of a condition by the officers that if there is a noise complaint within the first 12 months, may impose earlier closing time
- we need to encourage this sort of proposal in this vicinity, as South Perth is in need of this type of facility
- commend staff for the time taken, conditions proposed are reasonable

Cr Ozsdolay for the Motion

- endorse points raised by Cr Hasleby
- condition b(v) in the officer recommendation covers the dividing fence issue in minimising noise
- support the motion

AMENDED MOTION PART ONE

Cr Lawrance moved the motion, there being no seconder the amendment part one at Item 10.3.1 lapsed.

AMENDED MOTION PART TWO

Moved Cr Lawrance, Sec Cr Best

That the officer recommendation be amended by:

- (a) The deletion of condition (b)(iii)
- (b) Add a new condition (b)(iii) as follows:  
A barrier shall be installed to block access to on-site parking after the approved closing time of the café. The barrier shall be constructed of safe and impenetrable materials with secure fastenings. A chain across the driveway is not an acceptable form of barrier.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Lawrance opening for the Motion

- the reason for this amendment is to document that a chain is not an acceptable form of barrier due to the owner providing a gate
- the barrier is needed for safety and security issues

Cr Best point of clarification – will there be a gate provided as a barrier?

Acting Director Development and Community Services responded that there will be a gate provided as a barrier as illustrated in Confidential Attachment 10.0.2(a).

CARRIED (8/1)

Cr Ozsdolay voted against the Motion

AMENDED MOTION PART THREE

Moved Cr Lawrance, Sec Cr Best

That the officer recommendation be amended by:

- (c) The deletion of condition (b)(v)
- (d) Add a new condition (b)(v) as follows:  
In order to minimise the noise related amenity impact upon the adjoining residential property at No. 331A Mill Point Road, the owner of the proposed development is required to provide a 2.2 m high fence on the common boundary extending from the rear of the existing boundary wall of the café to the rear lot boundary. The fence is to be constructed of either rendered and painted brickwork or alternative masonry materials as sourced by the neighbour. The cost of the fence and its installation is to be borne by the owner of the proposed development.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Hasleby against the motion

- only difference between the colour bond and masonry fence is negligible
- owners have been magnanimous willing to pay for whole colour bond fence
- undulations in colour bond fence as an appropriate barrier to noise
- no need to amend officers condition

Cr Doherty for the motion

- at the Agenda Briefing the neighbour gave an alternative masonry fence that is cost equivalent to colour bond fence
- masonry fence will add to the aesthetics and amenity of the neighbourhood
- the neighbour will be there longer than the café operator and we need to look after neighbour

Cr Ozsdolay against the motion

- condition (b)(v) in the officer recommendation states that the finish of the wall will be to the satisfaction of the neighbour
- do not know if the cost for alternative masonry wall is equivalent to the colour bond fence
- this will be imposed on the applicant

Cr Lawrance for the motion

- security and safety of the neighbour is paramount this is why the fence needs to be of masonry construction
- it is a small price to pay for the amenity of the neighbourhood
- will safeguard the neighbour in the future
- the compromise is an alternative and similar cost to the proposed colour bond fence
- will create harmony and is a win win situation

CARRIED (5/4)

Cr Ozsdolay, Hasleby, Cr Burrows and Cr Wells voted against the Motion

AMENDED MOTION

Moved Cr Trent, Cr Burrows

That the opening time be changed to 7am in condition (b)(ii) in the officer recommendation.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Trent opening for the Motion

- many people run around the river and get their local paper and coffee at 7am in the morning
- people want to have a coffee before they go to work
- 8am to 9pm is restrictive
- neighbours and applicant will benefit from an open time of 7am for the paper

Cr Best point of clarification – it was covered in the Agenda Briefing that the shop will be open at 7am to get the paper, Cr Trent is this the reason for motion?

Cr Trent point of clarification – also want café open at 7am.

Cr Burrows for the Motion

- 7am more in line with other cafés
- have seen cafés open earlier than 7am

CARRIED (8/1)

Cr Lawrance voted against the Motion

**COUNCIL DECISION ITEM 10.0.2**

The Mayor put the Motion

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for the proposed change of use from Shop to include Café / Restaurant at Lot 3 (No. 333) Mill Point Road, South Perth, **be approved** subject to:

**(a) Standard Conditions**

349	Car parking bay dimensions	455	Standard fence heights
352	Approved bays marked on site	456	Removal of existing fencing
353	Designated visitors' bays	508	Landscaping plan required
351	Screening of parking bays	555	Revised drawings required
354	Hard standing area for bays	550	Concealed plumbing fittings
390	Crossover specifications	615	Visual privacy screening details
393	Reinstating verge and kerbing	625	Sightlines for drivers
410	Crossover effects infrastructure	660	Validity of approved construction
425	Colours and materials	661	Validity of approved use

**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 dining area including the proposed alfresco seating area of the proposed Café / Restaurant shall not exceed 50.0 sq. metres in order to comply with the car parking requirements of TPS6.
- (ii) The maximum opening hours of the Café / Restaurant shall be 7:00am to 9:00pm, seven days a week. Should any noise complaints from neighbours be received within the first 12 months of operation, the Council will determine whether the complaints are valid and if so, will impose an earlier closing time or other requirements to address the complaints.
- (iii) A barrier shall be installed to block access to on-site parking after the approved closing time of the café. The barrier shall be constructed of safe and impenetrable materials with secure fastenings. A chain across the driveway is not an acceptable form of barrier.

- (iv) The external materials and finish of the existing building shall be upgraded to a standard that matches with the proposed building and its use.
- (v) In order to minimize the noise related amenity impact upon the adjoining residential property at No. 331A Mill Point Road, the owner of the proposed development is required to provide a 2.2 m high fence on the common boundary extending from the rear of the existing boundary wall of the café to the rear lot boundary. The fence is to be constructed of either rendered and painted brickwork or alternative masonry materials as sourced by the neighbour. The cost of the fence and its installation is to be borne by the owner of the proposed development.

(c) **Standard Advice Notes**

645	Landscaping plan required	648	Building licence required
646	Landscaping standards – General	649	Signs licence required
646A	Details of any brick fence	649A	Minor variations - Seek approval
647	Amended drawings	651	Appeal rights - SAT

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

The applicant is advised that:

- (i) The applicant / owner are advised of the need to liaise with the City's Environmental Health Department in order to comply with all relevant health requirements.
- (ii) The applicant / owner are advised of the need to liaise with the City's Engineering Infrastructure Department in order to comply with all relevant infrastructure requirements.
- (iii) It is the applicant's responsibility to liaise with the City's Environment Department prior to landscaping the street verge areas.
- (vi) All activities conducted on the premises will need to comply with the *Environmental Protection (Noise) Regulations 1997* at all times.
- (vii) It is the owner's responsibility to manage patron behaviour to reduce disturbance to neighbours.

CARRIED (9/0)

Reason for change

The item was amended as Council were of the view that the café/ restaurant hours should be altered in line with other cafés protect amenity of neighbourhood and minimise noise to adjoining neighbours.

<b>10.0.3 Review of Policy P519 "Legal Representation"</b> (Item 12.1 October 2007 and Item 12.1 November 2009 Council Meetings refer)
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Location:	City of South Perth
Applicant:	Council
File Ref:	GO/108
Date:	3 May 2010
Author:	Phil McQue, Manager Governance and Administration
Reporting Officer:	Cliff Frewing, Chief Executive Officer

### **Summary**

This report considers the Department of Local Government's response to the Council's request in 2007 for the Minister for Local Government to grant an exemption under Section 5.69A of the *Local Government Act 1995* for Council members to participate in the review of Policy P519 Legal Representation.

### **Background**

The issue of legal representation and reimbursement of legal expenses for Council members emerged following the City of South Perth Inquiry in 2006, specifically as a number of applications for legal representation were received during 2007. Within this context, the Council considered that it was an appropriate time to review and broaden the scope of the policy and resolved at the 16 October 2007 meeting:

*"That....*

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

The Chief Executive Officer subsequently wrote to the Department of Local Government advising of the Council's October 2007 resolution, seeking an exemption from the Minister in accordance with Section 5.69A of the *Local Government Act 1995*, for Council Members to review Policy P519 Legal Representation. There has since been ongoing communication with the Department of Local Government and the City on 6 December 2007, 18 January 2008, 25 January 2008, 15 February 2008, 24 April 2008, 6 August 2008 and 30 November 2009 as well as a number of meetings taking place.

The Department of Local Government advised the City on 15 February 2008 that its application had been put aside until a review was conducted by the Department. The Department of Local Government again wrote to the City on 24 April 2008 advising that *"the Department has sought advice on the issues it was examining and I am advised that the receipt of the advice to the Department is imminent"*.

The City received correspondence from the Department of Local Government on 6 August 2008 which stated that it had received legal advice from the State Solicitors Office to the effect that it was *"prudent to put aside the City's earlier request for Councillors to be*

*allowed to participate in the Legal Representation Policy until the SSO advice has been fully considered”.*

Following several further discussions and items of correspondence this matter continued to remain unresolved by the Department of Local Government, and the Council resolved on 24 November 2009:

*“That:*

- (a) in the matter of the claim for legal expenses by Mr Lindsay Jamieson the CEO write to the Director General of the Department of Local Government asking her to expedite the response to the requests made previously by Mr Jamieson; and*
- (b) the City’s representatives be granted the necessary approvals for the Council to discuss and decide on Mr Jamieson’s claim”.*

**Comment**

The City met with the Executive Director Governance and Legislation from the Department of Local Government in March 2010 to progress this matter. As a result of this meeting, the City received written advice dated 20 April 2010 as follows:

*I refer to previous correspondence and discussions in relation to your request to assist the City when reviewing its Legal Representation Policy and the Department’s subsequent advice that it was examining issues associated with local government members participating in discussion and voting on the development/review of policy that confer benefits to them.*

*As you know the Department sought its own advice on the issues it was examining and has since informed the City that it is not prepared to approve the application presently before it. However, should the City wish to make a new application confirming that it would not be reviewing the issue of retrospectivity and retrospective claims, the Department will consider the new request.*

The Department of Local Government have expressed the view that they will only grant the Council an exemption to review the legal representation policy, if the issue of retrospectivity and retrospective claims is not considered. Should the Council be agreeable to not reviewing retrospectivity and retrospective claims as part of this review, it is recommended that a new application be made to the Department of Local Government requesting an exemption based on their suggested proposal.

Claim by former Councillor Lindsay Jamieson

The 24 November 2009 Council resolution dealt specifically with former Councillor Lindsay Jamieson and his claim for legal expenses. The Council has already considered Mr Jamieson’s claim for legal expenses at the 25 September 2007 meeting where it determined that the application did not fall within the Policy and subsequently resolved *“That Council, having considered the application for legal representation at Attachment 15.1.4(b), in accordance with Policy P519, has decided to refuse the application”.*

Given that the Department for Local Government have advised that it will not permit the Council to consider the issue of retrospectivity and retrospective claims as part of any proposed future review of Policy P519, Mr Jamieson is not and will not be entitled to make a claim for legal expenses into the foreseeable future.

**Consultation**

The City has been in ongoing communication with the Department of Local Government, WALGA and its solicitors in respect to progressing and resolving this matter to a satisfactory conclusion.

**Policy and Legislative Implications**

This matter relates to the review of Council Policy P519 “Legal Representation”. Section 3.1 and 6.7(2) of the *Local Government Act 1995* contain provisions that allow a Council to expend funds to provide legal representation for council members and employees, as long as it believes that the expenditure falls within the scope of the local government’s function.

Section 5.95A of the *Local Government Act 1995* contains provisions for local governments to make application to the Minister for Local Government seeking exemptions for Council members relating to the disclosure of interests.

Given the view now expressed by the Department on this matter, it is recommended that the Council convene a workshop to informally review Policy P519 “Legal Representation” prior to the Council then writing to the Minister for Local Government seeking an exemption to formally review the Policy.

**Financial Implications**

The proposed review of Council Policy P519 “Legal Representation” has financial implications, as the revised Policy could potentially contain broader provisions in relation to the payment of legal expenses for Council members in the future.

**Strategic Implications**

The proposed review of Council Policy P519 “Legal Representation” is consistent with 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**

The proposed review of Council Policy P519 “Legal Representation” contributes to the City’s sustainability by ensuring good and proper governance of the City.

**OFFICER RECOMMENDATION ITEM 10.0.3**

The Mayor put the Motion

That the Council...

- (a) note the advice from the Department of Local Government dated 20 April 2010;
- (b) convene a workshop to review Policy P519 Legal Representation; and
- (c) write to the Minister for Local Government at the appropriate time requesting an exemption under section 5.69A of the *Local Government Act 1995* to review Policy P519 “Legal Representation”, subject to the issue of retrospectivity and retrospective claims not being considered.

OFFICER RECOMMENDATION

Moved Cr Ozsdolay, Sec Cr Hasleby

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Ozsdolay opening for the Motion

- the report is clear
- a review of the legal policy can now proceed
- need to get on with the process

Cr Hasleby opening for the Motion

- there is no consideration for retrospectivity
- Department of Local Government will advise the Minister of Local Government accordingly
- support officer recommendation as prescribed

AMENDED MOTION

Moved Cr Doherty, Sec Cr Best

That the officer recommendation be amended by adding the following as (b) and renumber (b) to (c) and (c) to (d):

- (b) write to the Director General of the Department of Local Government expressing serious concerns in the length of time it has taken the Department to respond to the City's request of December 2007 for approval to review Policy P519 Legal Representation;

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Doherty opening for the Motion

- amendment to motion due to length of time taken by Department of Local Government to answer question, 2 and ½ years
- not an acceptable time frame
- the Department of Local Government over complicated the issues
- response took too long, not in a business like sense, time taken was appalling

Cr Best for the Motion

- situation likely to arise on future occasions
- just adds and addresses clarity

Cr Ozsdolay against the Motion

- made this clear to the Department of Local Government we were not happy
- what difference will this make
- make more work for officers
- agree with the spirit, however it will just create more work

Mayor for the Motion

- it has created a negative impact on me personally
- 2 and ½ years is too long to right this wrong
- Council could take morale stance
- need to send a strong message to the Department of Local Government
- happy to write letter not the CEO

Cr Ozsdolay point of clarification – is it appropriate for the Mayor to write the letter since he has a personal interest in the matter.

Chief Executive Officer responded that the Local Government Act 1995 provides that the CEO make effect on Council decisions.

Cr Trent against the Motion

- writing to the Department of Local Government is a futile effort
- we can impact change by writing to the Minister of Local Government

Mayor point of clarification – new amendment (b) refers to the length of time taken by Department of Local Government; and (d) which is (c) in the officers recommendation refers to writing a letter to the Minister for Local Government about an exemption to review Policy P519 “Legal Representation”.



The Mayor asked the Mover and the Secunder of the proposed amendment if they would be prepared to include the Minister for Local Government instead of the Director General of Local Government, and they agreed.

Cr Hasleby against the Motion

- complaint is regarding amount of time taken, writing a letter will take more time
- note advice, review policy and move on

CARRIED (5/4)

Cr Burrows, Cr Hasleby, Cr Ozsdolay and Cr Trent voted against motion.

**COUNCIL DECISION ITEM 10.0.3**

The Mayor put the Motion

That the Council...

- (a) note the advice from the Department of Local Government dated 20 April 2010;
- (b) write to the Minister of Local Government expressing serious concerns in the length of time it has taken the Department to respond to the City's request of December 2007 for approval to review Policy P519 Legal Representation;
- (c) convene a workshop to review Policy P519 Legal Representation; and
- (d) write to the Minister for Local Government at the appropriate time requesting an exemption under section 5.69A of the *Local Government Act 1995* to review Policy P519 "Legal Representation", subject to the issue of retrospectivity and retrospective claims not being considered.

CARRIED (9/0)

Reason for change

The item was amended as Council were of the view that the Department of Local Government need to be notified advising of the Council's concern about the process taking so long.

**10.1 STRATEGIC DIRECTION 1 : COMMUNITY**

*Confidential Report*

**10.2 STRATEGIC DIRECTION 2: ENVIRONMENT**

Nil

**10.3 STRATEGIC DIRECTION 3: HOUSING AND LAND USES**

**10.3.1 Application for Planning Approval for a Change of Use to 12 Multiple Dwellings within a Six-Storey (plus Terrace) Building, Expansion of Existing Tourist Accommodation Use (The Metro Hotel) with 48 Rooms within a Four-Storey Building & Relocation of Existing Ancillary Use of Café/Restaurant within an Existing Ten-Storey Building - Lot 10 (No. 61) Canning Highway, South Perth**

Location:	Lot 10 (No. 61) Canning Highway, South Perth
Applicant:	Hart Architects
Lodgement Date:	13 October 2009
File Ref:	11.2009.424 CA6/61
Date:	7 May 2010
Author:	Matt Stuart, Senior Statutory Planning Officer
Reporting Officer:	Vicki Lummer, Director, Development & Community Services

**Summary**

To consider an application for planning approval for a proposed change of use to 12 Multiple Dwellings within a six-storey (plus terrace) building, expansion of existing Tourist Accommodation use (The Metro Hotel) with 48 rooms within a four-storey building and expansion of existing ancillary use of Café/Restaurant within an existing ten-storey building on Lot 10 (No. 61) Canning Highway, South Perth. The proposal conflicts with the City's Town Planning Scheme No. 6 (TPS6), specifically:

1. Plot ratio;
2. Car parking; and
3. A Building setback (a minor variation).

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

Element on which discretion is sought	Source of discretionary power
Plot Ratio	TPS6 clause 7.8(1)
Car parking	
Building setback (for a small section)	

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

**Background**

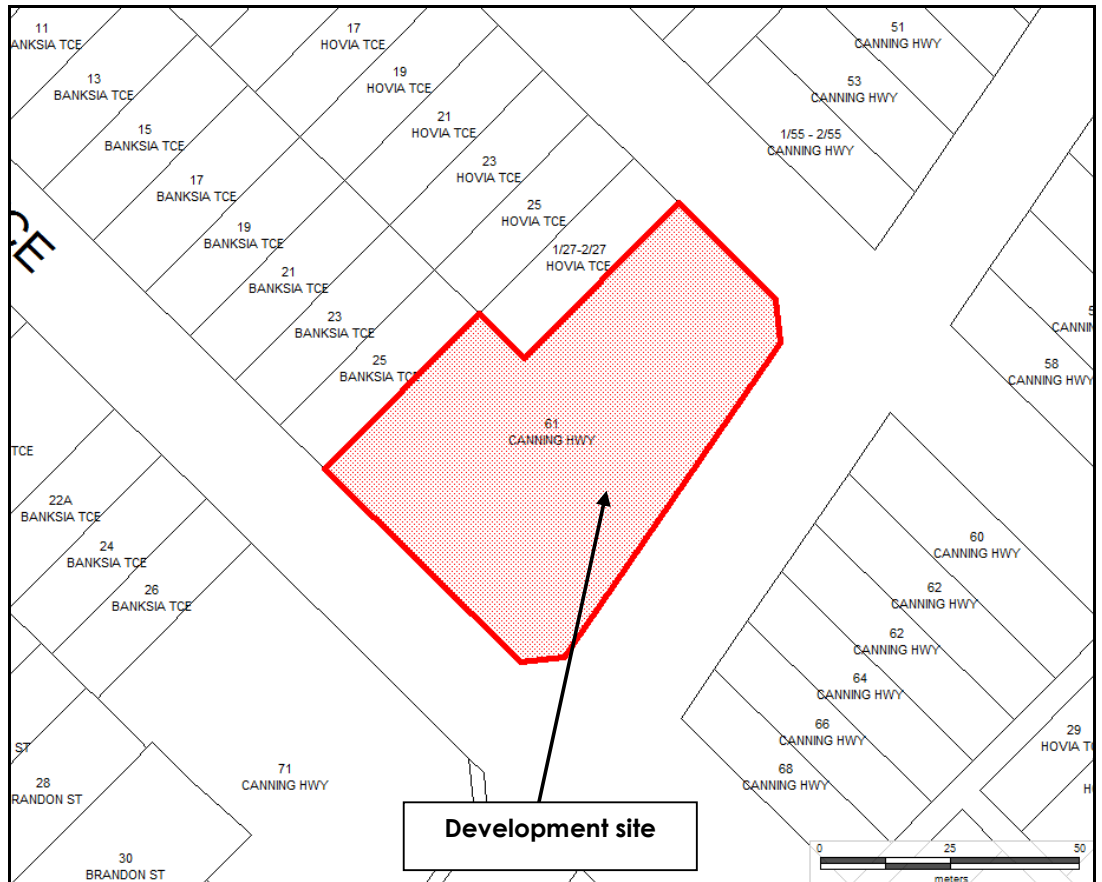
The development site details are as follows:

Zoning	Highway Commercial
Density coding	R80
Lot area	3,834 sq. metres
Building height limit	10.5 metres
Development potential	30 dwellings
Plot ratio limit	Non-Residential 0.5, Residential 1.0

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)** Applicant's supporting report
- **Attachment 10.3.1(d)** Justification letter
- **Attachment 10.3.1(e)** Transport report
- **Attachment 10.3.1(f)** Car parking survey by the Applicant
- **Attachment 10.3.1(g)** Neighbour's vehicular observations
- **Attachment 10.3.1(h)** Typical objectors letter
- **Attachment 10.3.1(i)** Letter drop
- **Attachment 10.3.1(j)** Engineering referral
- **Attachment 10.3.1(k)** Photographic/ electronic streetscape assessment
- **Attachment 10.3.1(l)** Traffic management plan

The location of the development site is shown below:



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

**2. Large scale development proposals**

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

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

- (iii) Proposals involving 10 or more dwellings.

Based on the ground level reference point selected, the wall height of the proposed building is approximately 10.5 metres.

**3. The exercise of a discretionary power**

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

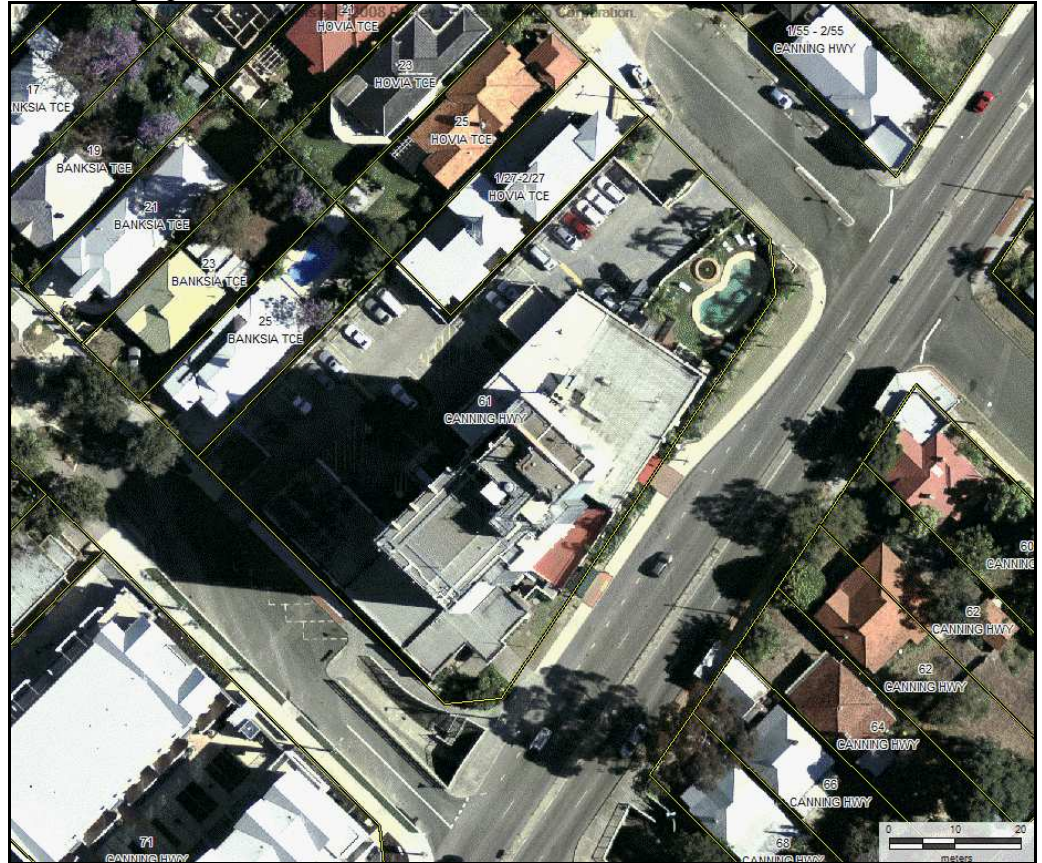
**7. Neighbour comments**

*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 frontages to Canning Highway (southeast), Banksia Terrace (southwest) and Hovia Terrace (northeast). The site is also located adjacent to two residential properties (northwest), as seen below:



**(b) Existing Development on the Subject Site**

The existing development on the subject site currently features land uses of ‘Tourist Accommodation’ (the Metro Hotel), as depicted in the site photographs [Attachment 10.3.1(b)].

**(c) Description of the Proposal**

The proposal involves a proposed change of use to 12 Multiple Dwellings within a six-storey (plus terrace) building, expansion of existing Tourist Accommodation use (The Metro Hotel) with 48 rooms within a four-storey building and expansion of existing ancillary use of Café/Restaurant within an existing ten-storey building on Lot 10 (No. 61) Canning Highway, South Perth (the site), as depicted in the submitted plans [Attachment 10.3.1(a)]. The site photographs [Attachment 10.3.1(b)] show the relationship of the site to the surrounding development.

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

- (i) Plot ratio;
- (ii) Car parking; and
- (iii) Building setback (minor variation).

The Applicant's letter, **Attachment 10.3.1(c)**, describes the proposal in more detail.

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) Plot Ratio**

The maximum permissible plot ratio is 0.5 (1,917m<sup>2</sup>) as a non-residential development, whereas the proposed plot ratio is 2.01 (7,691m<sup>2</sup>). Therefore the proposed development does not comply with the plot ratio element of the Scheme.

There is a disagreement between plot ratio calculations due to the intricacies of the contrasting definitions of residential and non-residential plot ratio. The City is of the opinion that the proposed plot ratio is 2.01 in lieu of the suggested 1.96, however as a variation is being requested by the Applicant, an additional plot ratio variation of 0.05 is not pivotal in the assessment of this application.

Council discretion- cl. 7.8.1

Council has discretionary power under clause 7.8.1 of TPS6 to approve the proposed plot ratio, if Council is satisfied that all requirements of that clause have been met. In this instance, it is recommended that the proposed plot ratio be approved, as the applicant has satisfied the City in relation to the following requirements of that clause (emphasis added):

- (a) approval of the proposed development would be consistent with the **orderly and proper planning** of the precinct and the preservation of the **amenity** of the locality;
- (b) the non-compliance will not have any **adverse effect** upon the occupiers or users of the development or the inhabitants of the precinct or upon the likely future development of the precinct; and
- (c) the proposed development meets the **objectives for the City and for the precinct** in which the land is situated as specified in the precinct Plan for that precinct.

Applicant's response

*The maximum plot ratio for 'mixed development' or other 'non-residential' is 0.5 as prescribed in Table 3 of TPS6. Combined, the proposed Metro Hotel redevelopment and the new multiple dwellings will result in a plot ratio of 1.96. In the March 2006 Council report, the City of South Perth Council noted the existing development had been approved with a measurement of 2.2, based on the measurement requirements of that time. The current plot ratio measurement for the existing development is calculated as 1.4, as determined and agreed by the Council during its re-measurements in August 2006. In this context, it should be recognised that the plot ratio figure for this site will continue to vary according to the evolving statutory measurement requirements at that particular time.*

*The existing plot ratio of 1.4 for the site is non-compliant with the existing Scheme provision listed within Table 3. Clause 6.1(3) of TPS6 states:*

*The Council may approve redevelopment of that site to the same plot ratio and height or both, as those of the development which existed on the site on the date of gazettal of the Scheme.*

*Plot ratio is not considered to be as relevant, from a strategic planning and design outcome point of view, for a mixed use development site of this nature. The decisions made regarding the Metro Hotel's future redevelopment should be*

*weighted up against the urban design solution provided, rather than the measured variation in plot ratio figures. This is considered a reasonable and practical approach to the proposal, particularly when considering the hotel was built a number of decades ago and the proposed redevelopment and additions will be contained within the existing building footprint.*

*In the context of the site's existing and proposed plot ratio and clauses 7.8(1)(b) and 1.6(2)(f), it is considered that the proposed bulk, scale and site placement of the additional structures along the busy Canning Highway frontage is in keeping with the intent of the Scheme provisions, being a suitable design solution and location for the purpose of the 'Highway Commercial' zone, and bearing in mind the historical context of the Metro Inn development which has existed here for over three decades.*

*The proposal will enable the revitalisation of the existing hotel structure, which has been a landmark building in the South Perth area, and remove the vacated commercial strip along Banksia Terrace which has reached the end of its economic cycle.*

*The proposal is appropriate to enable the redevelopment of the site in a commercially realistic manner, whilst adhering to sensible and proper planning principles by improving the local amenity for residents and visitors alike.*

*Council has the ability to exercise its discretion in relation to plot ratio, subject to a proposal meeting the requirements and objectives of its planning scheme. The proposal has been examined and critically analysed in the context of these requirements and objectives in the 'Self Assessment' section of this report [please refer to **Attachment 10.3.1(d)**].*

In addition, the Applicant has presented a photographic/electronic streetscape assessment of the existing and proposed development from multiple vantage points along Hovia and Banksia Terraces **Attachment 10.3.1(d)**.

City's response

It should firstly be noted that it is certainly within the Council's power to approve variations in plot ratio, as has been the case with recently approved developments with variations being granted by Council (see table below).

<b>Recent plot ratio variations granted by Council</b>				
	No. 26 Hardy St (2008)	No. 83 Canning Hwy (2009)	No. 26 Banksia Tce (2009)	Metro Hotel (2010)
Permissible	0.750	0.5	0.5	0.50
Existing discretion	-	-	-	1.40
Variation- plot ratio	0.064	0.492	0.7	0.61
<b>Approved/proposed</b>	<b>0.814</b>	<b>0.992</b>	<b>1.2</b>	<b>2.01</b>
<b>Variation- percentage</b>	<b>8.5%</b>	<b>98%</b>	<b>140%</b>	<b>122%</b>

There is a significant variations proposed to the key planning control of plot ratio, however this control is inherently a 'one size fits all' measure, with an inbuilt facility to accept site and land-use specific factors via a discretionary clause in the



Scheme. This discretion is specifically designed for applications such as this, where flexibility in method is required, as long as the outcome is within the bounds of a reasonable impact upon the neighbouring properties and locality in general.

In addition, the numerical value of the variation, or any comparisons of previous variations granted, is not the source of an assessment for a variation. Technically, the variation needs to be assessed under the potential impacts upon amenity and the streetscape. Furthermore, there is no upper numerical limit to such a variation.

In assessing this variation, firstly it should be acknowledged that there are contrasting planning controls for non-residential and residential developments in the Highway Commercial zone. Whilst non-residential developments have a plot ratio control of 0.5, residential development is allowed to build to a plot ratio of 1.0. This is not to say that non-residential developments have a right to the higher plot ratio, however it does go part-way in justifying a greater plot ratio than 0.5 by showing that plot ratios in the order of 1.0 are not abnormal or incompatible with the amenity of the locality.

The Applicant is correct in saying that existing development on the site has a plot ratio in the order of 1.4 in lieu of the current control of 0.5, due to previous approvals under a previous scheme. Given that the existing hotel has recently undergone a major renovation and is not at the end of its economic life cycle, it is suggested that a demolition of the site is not practical, reasonable or desirable. It would therefore be reasonable to suggest that to improve the amenity of the three streetscapes and improve the image of this landmark, a redevelopment of the site is required and will necessitate a plot ratio greater than 1.4.

Recently, a property opposite the subject site (No. 26 Banksia Terrace) was refused planning approval by the City (REF: 11.2008.222) due (in part) to an unacceptable plot ratio variation, with the subsequent appeal dismissed by the State Administrative Tribunal [SAT; *Miktad Holdings P/L v. City of South Perth (2009) WASAT 77*]. The reasoning behind this decision (in part) is that the development could not be supported without a '*...transitional and sensitive design which has regard to the residential development of the focus area*'. The City suggests that although a large variation to plot ratio could not be supported on a site adjacent to the Metro Hotel site, this does not mean that such variations cannot be supported in the immediate vicinity. To the contrary, a transitional and sensitive design should be granted such a variation, as was the case with a significantly modified design for No. 26 Banksia Terrace, which was approved by Council with a plot ratio variation of 1.2 in lieu of 0.5 (REF: 11.2009.162).

The proposed plot ratio floor space of the Metro Hotel is roughly massed on the south-eastern half of the site which abuts Canning Highway, with significant wall setbacks to its neighbours from both internal boundary setbacks as well as road reservations, both achieving the same effect.

In addition, one of the effects of building bulk is overshadow. With the proposed building bulk massed to the south-eastern portion of the lot, the greatest potential impact will be upon the southerly road reservations, which is an acceptable aspect of the proposal.

To the north-west, one of the abutting neighbouring properties has been specially designed with considerable parapet walls interfacing with the Metro Hotel on two boundaries, as seen in the site photographs [**Attachment 10.3.1(b)**]. The other abutting neighbour has existing multi-level car parking decks at the interface, with only additional fencing proposed.

The character of ‘Highway Commercial’ streetscapes on the other three boundaries (in the immediate vicinity) is as follows. Canning Highway is a busy ‘Primary Regional Road’ featuring a large street reservation; with existing and recently approved tall and bulky buildings dominating its character, as does Banksia Terrace. Hovia Terrace is also dominated by tall and bulky buildings (the Metro Hotel), and opposite an existing Mixed Development (and therefore a less sensitive land use).

The greatest effect of this proposed development is upon its abutting and adjacent neighbours, who lodged supporting written submissions with no objections (see section Neighbour Consultation). The greatest objection has been received from a local resident whose property is located greater than 130 metres from the boundary of the subject site, at which distance the plot ratio impacts can be adequately described as minimal.

It is therefore considered that the current proposal does have a ‘transitional and sensitive design’ due to considerable setbacks to neighbouring properties, parapet walls, existing streetscape character and supporting submissions from affected neighbours.

For the objectives of the Scheme, refer to section Scheme Objectives, which has been satisfied.

It is therefore concluded that the proposal complies with the discretionary clause; therefore the plot ratio variation is supported by the City.

(e) **Car Parking- number**

The required number of *residential* car bays is 24; whereas the proposed number of car bays is 29 (a surplus of 5). Therefore the proposed development complies with the car parking requirement of the R-Codes.

Residential Land Uses					
Land Use	Volume	of	Rate	Required	Proposed
Multiple Dwelling	12	dwelling	2	24.00	29
				<b>24.0</b>	<b>29</b>

The required number of *non-residential* car bays is 146; whereas the proposed number of car bays is 116 (a shortfall of 30). Therefore the proposed development does not comply with the car parking requirement of the TPS6.

Non-Residential Land Uses					
Land Use	Volume	of	Rate	Required	Proposed
Existing Tourist Accom.	98	units/bedrooms	N.A.	90.00	90
	67	dining area			
Proposed Tourist Accom.	48	units/bedrooms	1.000	48.00	26
	39	dining area	0.200	7.70	
				<b>145.7</b>	<b>116</b>

It is important to note that the existing bedrooms and existing dining area of the ancillary use of Café/Restaurant, currently enjoy a previous planning approval (in accordance with a superseded Scheme). Therefore the required number of bays for these uses is as per the existing 90 bays. Conversely, the parking requirement for the proposed bedrooms and proposed dining area is calculated as per TPS6.



Similar to the plot ratio issue, there is a disagreement between car parking calculations due to the intricacies of the contrasting definitions of residential and non-residential plot ratio. The City is of the opinion that the required number of car parking bays is 170 in lieu of the suggested 163, however as a variation is being requested by the Applicant, an additional variation of 7 bays is not pivotal in the assessment of this application.

In addition, two complying disabled bays are included in the proposal and calculations.

In summary, the proposal has a surplus of 5 residential car bays (+21 percent) and a shortfall of 30 non-residential car bays (-21 percent).

Council discretion- cl. 7.8.1

Council has discretionary power under clause 7.8.1 of TPS6 to approve the proposed car parking, if Council is satisfied that all requirements of that clause have been met. In this instance, it is recommended that the proposed car parking be approved, as the Applicant has satisfied the City in relation to the following requirements of that clause (emphasis added):

- (a) approval of the proposed development would be consistent with the **orderly and proper planning** of the precinct and the preservation of the **amenity** of the locality;
- (b) the non-compliance will not have any **adverse effect** upon the occupiers or users of the development or the inhabitants of the precinct or upon the likely future development of the precinct; and
- (c) the proposed development meets the **objectives for the City and for the precinct** in which the land is situated as specified in the precinct Plan for that precinct.

Applicant's response

As a response to the above sub-clause, the Applicant has submitted a:

- (i) Transport report;
- (ii) Car parking survey by the Applicant;
- (iii) Observations by an adjoining neighbour;
- (iv) A supporting argument for the function room; and
- (v) A general justification; and
- (vii) A parking management plan

*Transport report*

A transport report has been prepared by suitably qualified traffic engineers [**Attachment 10.3.1(e)**], which supports the Applicant's justification.

*Car parking survey by the Applicant*

A car parking survey has been carried-out by the Applicant [**Attachment 10.3.1(f)**], which supports the Applicant's justification.

*Observations by an adjoining neighbour*

A neighbouring Landowner has provided some observations with regard to car parking, traffic and noise [**Attachment 10.3.1(g)**], which supports the Applicant's justification.

*Supporting argument for the function room*

- (a) Function rooms are to be reduced from 5 rooms (480 people) to 3 rooms (200 people);

- (b) Most functions are held during the day and are not usually attended by hotel guests;
- (c) The type of functions have changed from weddings (generally night-time) to business seminars (day-time); and
- (d) An adjoining neighbour for 24-years has never had a problem with overflow parking but believes the situation has drastically improved over the years the Metro Hotel changes to more day-time business functions [**Attachment 10.3.1(g)**].

*General Justification*

As per the justification in section Plot Ratio and linking attachments.

*Parking Management Plan*

The Applicant has submitted a car parking management plan in order to better utilise the existing and proposed bays and therefore prevent 'overflow' parking into the public streets [**Attachment 10.3.1(k)**].

City's Response

It should firstly be noted that it is certainly within the Council's power to approve variations in car parking, as has been the case with recently approved developments with variations being granted by Council (see table below).

<b>Recent car parking variations granted by Council</b>					
	No. 1 Preston St (2003)	No. 3 Barker Av (2009)	No. 5 Barker Av (2009)	No. 123 Melville Pde (2009)	Metro Hotel (2010)
Permissible	241	33	33	44	145
Variation- bays	86	5	10	18	30
<b>Approved/proposed</b>	<b>155</b>	<b>28</b>	<b>23</b>	<b>26</b>	<b>115</b>
<b>Variation-percentage</b>	<b>36%</b>	<b>15%</b>	<b>30%</b>	<b>41%</b>	<b>21%</b>

There is a significant variations proposed to the key planning control of car parking, however this control is inherently a 'one size fits all' measure, with an inbuilt facility to accept site and land-use specific factors via a discretionary clause in the Scheme. This discretion is specifically designed for applications such as this, where flexibility in method is required, as long as the outcome is within the bounds of a reasonable impact upon the neighbouring properties and locality in general.

In addition, the numerical value of the variation, or any comparisons of previous variations granted, is not the source of an assessment for a variation. Technically, the variation needs to be assessed under the potential impacts upon amenity and the streetscape. Furthermore, there is no upper numerical limit to such a variation.

The City agrees with the spectrum of supporting information and justification provided by the Applicant and neighbours, which heavily outweighs the countering opinion of an objecting neighbour (see section Neighbour Consultation).

For the objectives of the Scheme, please refer to section Scheme Objectives, which has been satisfied.

It is therefore concluded that the proposal complies with the discretionary clause; therefore the variation is supported by the City.

**(f) Car Parking- dimensions**

The dimensions of car bays are controlled by Schedule 5 of TPS6, including (but not limited to) a requirement that bays be 2.5 metres in width, with an additional 0.3 metres where a physical obstruction. It is however notable that the requirement under previous Schemes has been as per the Australian Standards, which is 2.4 metres in width. Of the total bays existing and proposed onsite, some bays have a deficiency in width, as per TPS6.

Council discretion- cl. 7.8.1

Council has discretionary power under clause 7.8.1 of TPS6 to approve the proposed car parking, if Council is satisfied that all requirements of that clause have been met. In this instance, it is recommended that the proposed car parking be approved, as the Applicant has satisfied the City in relation to the following requirements of that clause (emphasis added):

- (a) approval of the proposed development would be consistent with the **orderly and proper planning** of the precinct and the preservation of the **amenity** of the locality;
- (b) the non-compliance will not have any **adverse effect** upon the occupiers or users of the development or the inhabitants of the precinct or upon the likely future development of the precinct; and
- (c) the proposed development meets the **objectives for the City and for the precinct** in which the land is situated as specified in the precinct Plan for that precinct.

The non-complying car parking bays are all located in the lower ground level (the basement). The reason these bays are non-complying is due to previous Scheme requirement for bays to be 2.4 metres in width, resulting a large number of structural columns positioned to suit. The bays are broken-up into 32 existing bays and 12 repositioned bays.

<b>Car Bay Dimensions (irrespective of land use)</b>			
	<b>Complying</b>	<b>Non-complying</b>	<b>Total</b>
Existing	45	32	77
Repositioned	0	12	12
Proposed	56	0	56
<b>Total</b>	<b>100</b>	<b>45</b>	<b>145</b>

The 32 existing bays currently enjoy a previous planning approval and therefore there is no statutory requirement or ability to retrospectively assess such aspects of a development.

The 12 repositioned bays have been moved because the proposed layout is more efficient and results in a higher yield of bays. The bays could be left unchanged and therefore fall within the 'existing bays' group and therefore would be similarly left unchanged, however this would result in a reduction of 3 bays, which is not a desirable outcome. In addition, the relocation of the structural columns to achieve an additional 10 centimetres of width is a particularly onerous request in existing circumstances. Furthermore, these bays conform to Australian Standards.

It is therefore concluded that the proposal complies with the discretionary clause; therefore the car bay variation is supported by the City.

**(g) Street Setback**

The permissible street setback is 1.5 metres, whereas the proposed building setback is nil therefore, the proposed development does not comply with Table 3 of the R-Codes. It should be noted that the proposal is predominantly complying with wall setbacks, although a small portion of a basement wall is projecting above ground, near the corner of Canning Highway and Hovia Terrace.

*Council discretion- cl. 7.8.1*

Council has discretionary power under clause 7.8.1 of TPS6 to approve the proposed setback variation, if Council is satisfied that all requirements of that clause have been met. In this instance, it is recommended that the proposed plot ratio be approved, as the applicant has satisfied the City in relation to the following requirements of that clause (emphasis added):

- (a) approval of the proposed development would be consistent with the **orderly and proper planning** of the precinct and the preservation of the **amenity** of the locality;
- (b) the non-compliance will not have any **adverse effect** upon the occupiers or users of the development or the inhabitants of the precinct or upon the likely future development of the precinct; and
- (c) the proposed development meets the **objectives for the City and for the precinct** in which the land is situated as specified in the precinct Plan for that precinct.

As a response to the above sub-clause, the Applicant submits the opinion that as the wall in question is mostly below ground with only a 0.7m long projection of only 2.5m<sup>2</sup> in area, that the proposed wall will not have an adverse effect upon the locality.

The points raised by the Applicant are considered valid. For the objectives of the Scheme, please refer to section Scheme Objectives, which has been satisfied.

In assessing this variation, it is concluded that the proposal complies with the discretionary clause, therefore the non-compliant setback is supported by the City.

**(h) Building Height**

The natural ground level datum point is 18.94m AHD, located towards the corner of Canning Highway and Banksia Terrace. As the height limit for the site is 10.5 metres, the upper height limit is at 29.44m AHD, plus any walls which fit within a notional 25 degree roof envelope.

The proposed *non-residential* building is proposed at a height of 29.0m AHD and therefore complies with clause 6.2 "Building Height Limit" of TPS6.

The proposed *residential* building fits within the 29.44m AHD wall height limit, plus external walls on the roof terrace are within the 25 degree roof envelope. Therefore, the proposed development complies with clause 6.2 "Building Height Limit" of TPS6.

As a result of community consultation, a landowner in the vicinity of the site has expressed an opinion that the allowable building height of the development should be in relation to the sloping natural ground level. However, it should be noted that the lower datum point (aka zero point) used to measure the building height is the standard

method as per cl. 6.2.1(b)(i) of TPS6. There is an ability to vary this datum point for various reasons, however this sub-clause is not applicable for reasons of land use [6.2(1)(b)(ii); emphasis added]:

*Notwithstanding the provisions of subparagraph (i), in cases where the topography would, in the opinion of the Council, cause the height of a building to be in conflict with the objectives of any planning policy relating to the design of **residential buildings** as referred to in clause 4.5, the Council shall determine the point at ground level from which height shall be measured.*

As the application is for a Mixed Development, which is a land use listed as a non-residential use in Table 1 (Zoning –Land Use) of TPS6, this application is ineligible for assessment under the variation method [cl. 6.2(1)(b)(ii)] and therefore the standard method is required [cl. 6.2(1)(b)(i)].

(i) **Land Use- Hotel/Tourist Accommodation**

As a result of community consultation, a landowner in the vicinity of the site has expressed an opinion that the current use of the site is not in compliance with its approved use of “Tourist Accommodation” as defined by the Scheme. The community member claims that the existing building is now operating as a “Hotel”. His further contention is that by virtue of this nomenclature, the current development proposal should be subject to the more stringent car parking control of a Hotel land use and should therefore be refused for lack of compliance.

Prior to 1972, there was no Town Planning Scheme covering the subject site. However, in February 1969, under the City’s By-Law No. 1 “Classification of Districts”, planning approval was granted for the site (in part) to be used for construction of a “Private Hotel”. Under By-Law No. 1, this land use was defined as (emphasis added):

*“land and buildings used for residential purposes in respect of which may be granted a **limited hotel license** under the provisions of the Licensing Act, 1911 (as amended), or any Act in substitution for that Act;”*

By virtue of the 1969 planning approval, the site was not approved for use as a “Hotel”. Under By Law No. 1, “Hotel” is defined as (emphasis added):

*“land and buildings the subject of a **Publican’s General License**, or a **Wayside-house Licence** granted under the provisions of the Licensing Act, 1911 (as amended), or any Act in substitution for that Act, but does not include a motel”*

Since that time, the statutory controls (town planning and liquor licensing) have undergone significant changes, ultimately resulting in the current TPS6 and the *Liquor Control Act 1988* (the Liquor Act). Clause 3.3(7) of TPS6 states that:

*“A use not listed in Table 1 which **cannot reasonably be determined as being included in the general terms of any of the Uses** defined in Schedule 1 may only be approved if notice of the development is first given in accordance with clause 7.3.”*

Under TPS6, the land use of “Private Hotel” is not listed in Table 1 (Zoning – Land Use); however an equivalent replacement land use, namely “Tourist Accommodation” is listed. TPS6 defines “Tourist Accommodation” as:

*“any land or building used for human habitation on a temporary basis, with ancillary amenities such as Café / Restaurant, laundry and cleaning services. The term includes motel and serviced apartment and the like, but does not include Hotel, Residential Building or Bed and Breakfast Accommodation.”*

Based upon the existing use of the premises and its “Restricted” hotel licence, the existing land use fits within the definition of “Tourist Accommodation” in TPS6. According to legal advice that was previously obtained, this method of land use

classification is correct, where the land uses listed in Town Planning Scheme are different from the use under which a particular development application was approved. Therefore, having regard to the provisions of cl. 3.3(7) of TPS6, the existing land use is not classed as a “use not listed” and is therefore not subject to the relevant statutory implications of this classification. To further clarify why the existing land use is properly classified as “Tourist Accommodation”, the following information is provided:

The land use of “Hotel” is defined under TPS6 as (emphasis added):

*“means any land or building providing accommodation for the public the subject of a hotel licence granted under the provisions of the Liquor Licensing Act, 1988 (as amended), with or without a betting agency situated on that land or within those buildings, operated in accordance with the Totalisator Agency Board Betting Act, 1960 (as amended), but does not include Tourist Accommodation.”*

The Liquor Act currently facilitates the issuing of a number of different kinds of liquor licences, including a “Hotel Restricted Licence” and a “Hotel Licence without Restriction”.

By examining the definitions under the previous Classification of Districts By-Law, the current Planning Scheme and Liquor Acts, the evolution of land uses and their terms can be ascertained as shown below:

By-Law No. 1		TPS6	
Land Use	Liquor Licence	Liquor Licence	Land Use
Hotel =	Publican’s General Licence =	Hotel Licence without Restriction =	Hotel
Private Hotel =	Limited Hotel Licence =	Hotel Restricted Licence =	Tourist Accommodation

As officers from the City have sighted the current Hotel Restricted Licence for the site, it is evident that the existing business is operating in the manner of Tourist Accommodation and not as a Hotel. It is therefore clear that the existing use of the site is as per the original planning approval. Therefore a “change of use” application is not required and the current application should not be assessed as a Hotel in relation to car parking or any other provisions of TPS6.

**(j) Land Use- other land uses**

The proposed land use of Multiple Dwelling is classified as a ‘D’ (Discretionary) land use in Table 1 (Zoning - Land Use) of TPS6.

In considering this discretionary use, it is observed that the site adjoins residential uses, in a location with a mixed land uses in three streetscapes. Accordingly, it is considered that the proposed use complies with the Table 1 of the Scheme.

**(k) Residential Density**

The permissible number of dwellings is 30 dwellings (R80), whereas the proposed development comprised of 12 dwellings (R31). Therefore, the proposed development complies with the density controls in Table 1 of the R-Codes.

**(l) Finished Ground and Floor Levels- minimum**

As the site is suitably elevated above ground and surface water levels, all ground and floor levels comply with clause 6.9.2 “Minimum Ground and Floor Levels” of TPS6.

**(m) Finished Ground and Floor Levels- maximum**

As the proposed ground levels are not proposed to be altered; and the lowest proposed floor levels are below natural ground level, the proposed development complies with clause 6.10.3 “Maximum Ground and Floor Levels” of TPS6.

**(n) Solar Access for Adjoining Sites**

As the site only overshadows the road reservations of adjoining sites, it is considered that the proposal complies with the Acceptable Development standards, and is supported by the City.

**(o) Visual Privacy Setbacks- north / east / south / west**

The required minimum visual privacy setbacks for all viewing platforms is no greater than 7.5 metres, whereas the proposed visual setbacks are no less than 17.0 metres, therefore the proposed development complies with the visual privacy element of the R-Codes.

**(p) Landscaping**

Noting that open space is not a requirement for Mixed Developments, the required minimum landscaping area is 581m<sup>2</sup> (15 percent); whereas the proposed landscaping area is 708m<sup>2</sup> (18.5 percent), therefore the proposed development complies with the landscaping requirements of Table 3 of TPS6.

In addition, the application involves further landscaping in and around the pedestrian underpass, however this aspect must be removed from the application (see section External Agencies).

**(q) 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;*
- (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;*
- (i) *Create a hierarchy of commercial centres according to their respective designated functions, so as to meet the various shopping and other commercial needs of the community;*
- (j) *In all commercial centres, promote an appropriate range of land uses consistent with:*
  - (i) *the designated function of each centre as set out in the Local Commercial Strategy; and*
  - (ii) *the preservation of the amenity of the locality;*

**(r) 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;*
- (c) the provisions of the Residential Design Codes and any other approved Statement of Planning Policy of the Commission prepared under Section 5AA of the Act;*
- (f) any planning policy, strategy or plan adopted by the Council under the provisions of clause 9.6 of this Scheme;*
- (i) the preservation of the amenity of the locality;*
- (j) all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (k) the potential adverse visual impact of exposed plumbing fittings in a conspicuous location on any external face of a building;*
- (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;*
- (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;*
- (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*

The proposed development is considered satisfactory in relation to all of these matters.

**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 in July 2009 (pre-lodgement plans only), November 2009 and February 2010. The proposal was not favourably received by the Consultants. Their comments and responses from the Applicant and the City are summarised below:



<b>July 2009 (pre-lodgement plans only)</b>		
<b>DAC Comments</b>	<b>Applicant's Responses</b>	<b>Officer's Comments</b>
The conflict between car parking for the dwellings and the existing non-residential use needs to be resolved.	There is no conflict between the apartments and the hotel parking – each is independent apart from the one access via the upper car park.	As a statutory planning perspective, agreed with the Applicant. The comment is <b>NOT UPHELD</b> .
Access to the car parking for the multiple dwellings is narrow and not desirable.	Street access to the apartments is single lane (3m wide). Rather than waste space with a two way access, a warning light system will be implemented to avoid blockages.	
Entrances to the multiple dwellings from Canning Highway are poorly planned and very narrow. In order to improve the design, entrances should be wide enough, safe in use, and located on interactive streets, rather than on a busy street with a 1.8 metre fence running along the entire length if the boundary.	These drawings were not sufficiently advanced for such detailed scrutiny. The separate entries referred to are fire escapes. It is planned to have a formal entrance to the apartments adjacent to the pool concourse at the 19m level.	
The proposed plot ratio is observed to exceed the existing plot ratio. Accurate information will need to be provided at the time of lodging a development application.	The Plot Ratio issues are known.	The comment is <b>NOTED</b> .
The Architects observed that the development was poorly planned on a site which has a great location and great potential for development.	Without being privy to the client's brief and the arrangements between the parties, such a comment about site usage is out of context.	As a statutory planning perspective, agreed with the Applicant. The comment is <b>NOT UPHELD</b> .
Some of the information shown on the plans and elevations does not correlate.	It was explained at our initial meeting that the elevation was from an earlier development.	The comment is <b>NOTED</b> .
Circulation paths within and around the buildings should be designed to be functional.	The functionality of the circulation paths is a reflection of the arrangements between the parties.	As a statutory planning perspective, agreed with the Applicant. The comment is <b>NOT UPHELD</b> .
In conclusion, the Architects observed the proposed development to be compromised on all key planning aspects such as car parking, architecture and design, functional linkages and entry points. The proposal does not improve the quality of living in the area.	As stated above, the sketch drawings were early development drawings and such comments from a premature evaluation were inevitable.	

<b>November 2009 (the Development Application)</b>		
<b>DAC Comments</b>	<b>Applicant's Responses</b>	<b>Officer's Comments</b>
<p>The Architects advised that the proposed development was out of character and an unacceptable outcome. Most of the issues identified at the previous DAC meeting were still unresolved.</p>	<p>We dispute the claim that the development was out of character and an unacceptable outcome and this will be dealt with in responses below to similar claims.</p> <p>Regarding the claim that issues raised at the previous meeting were still unresolved, we believe that all comments have been dealt with in our response dated 17<sup>th</sup> August, '09 and in later developed drawings.</p>	<p>The comment is <b>NOTED</b>.</p>
<p>The proposed buildings are incompatible to the existing development. The proposed elevations are unacceptable from a streetscape point of view.</p> <p>Little attention has been paid to Banksia and Hovia Terrace elevations and the built form does not enhance the existing streetscape character. Additionally, a total of three crossovers for the subject development on Hovia Terrace were observed to be detrimental to the amenity of the neighbourhood.</p>	<p>The proposal reflects the surrounding buildings through the use of sculptural relief on the building surface, recessed balconies behind solid balustrades, complimenting colour palette (as used on the new apartment development opposite in Banksia Tce) and timber planked gables used on surrounding single and multi residential buildings.</p> <p>The building complies with setback and height requirements. The building is setback between 12.5 and 17.0 metres from the adjoining properties at the rear (the requirement is 4.5m or Nil depending on whether this is seen as a side or rear setback).</p> <p>The north-west face of the hotel extension facing the adjoining neighbour on Banksia Tce is stepped back from the initial 12.5m to be less imposing and create an inclined transition to the final extension height and the adjacent existing hotel tower.</p> <p>The adjoining neighbour on Hovia Tce (who is fully supportive of the development) has built to the adjoining boundary. There is no visual overlooking impact on the property by the new building.</p> <p>This two storey building shields any view of the new building extensions from the single residential further down Hovia Tce.</p> <p>The building finishes, colours, solid balconies and relief panels have been used on the new building to compliment the same architectural techniques used on the recently completed Hillcrest Apartment development opposite on the corner of Banksia Tce and Canning Hwy.</p> <p>This same architectural style is carried through to the northern end apartment development.</p> <p>As the Hillcrest development is already an imposing building on the streetscape, the</p>	<p>As a statutory planning perspective, agreed with the Applicant. The comment is <b>NOT UPHELD</b>.</p>

	<p>intension is to maintain the architectural style across into the development to give a more horizontal element and visual continuity or flow along Canning Hwy.</p> <p>The north eastern elevation of the apartment building in Hovia Tce is currently facing, generally, single residential development with a small shop on the corner with Canning Hwy.</p> <p>While the properties opposite in Hovia Tce are zoned R80, our treatment of the north eastern elevation of the apartments recognises the current residential usage and is stepped back from the allowable nil setback to minimise the impact of the building and maximise light.</p> <p>From the boundary walls of the below-ground parking, the first two levels of residential are setback from Hovia Tce 2.0m, increasing to 4.3m on the next two levels and to 4.95m at the roof terrace level.</p> <p>A concerted effort has been made to minimise the impact of the development on the adjoining properties and the streetscape.</p>			
<p>Clear distinction should be made on the drawings with respect to the proposed and existing buildings and associated spaces.</p>	<p>Streetscape elevation drawing 0833DA3.4 clearly indicates existing and proposed.</p> <p>To clarify further, future drawings will shade existing walls (and associated spaces) that are planned to remain.</p>	<p>Agreed with the Applicant. The comment is <b>NOTED</b>.</p>		
<p>The building height limit needs to be carefully assessed as a part of the planning assessment. The heights of the buildings should be calculated separately, as measured from the highest natural ground levels under them.</p>	<p>The apartments and the hotel are one development on one lot (Lot 10) separated by strata title.</p> <p>Clause 6.2(l)(b)(i) refers “.....point at ground level on a lot from which height is measured shall be the highest point under the building.....”</p> <p>A “lot” is defined in TPS6 as the same as the Act. Therefore the lot in question is Lot 10.</p> <p>The highest point measured in accordance with TPS6 Clause 6.2(l)(b)(i) is 18.94m AHD.</p>	<p>Agreed with Applicant. The comment is <b>NOT UPHELD</b>.</p>		
<p>Noting the extensive length of blank walls facing the streets, the proposed development was observed to contribute to an unsafe street environment and create a design that will not qualify against the CPTED (Crime Prevention through Environmental Design) principles. On the contrary, public use areas of the hotel should open onto the streets for a better street surveillance.</p>	<table border="1"> <tr> <td data-bbox="829 1503 971 1923">Surveillance</td> <td data-bbox="971 1503 1304 1923"> <p>The development will increase the number of people in the area and the windows and balconies overlooking streets and adjacent areas.</p> <p>CCTV cameras are planned around the proposed development monitored by the hotel security centre and linked to the police.</p> <p>We acknowledge that the entry canopy of the apartments needs to be opened to surveillance. We suggest a glass canopy to allow</p> </td> </tr> </table>	Surveillance	<p>The development will increase the number of people in the area and the windows and balconies overlooking streets and adjacent areas.</p> <p>CCTV cameras are planned around the proposed development monitored by the hotel security centre and linked to the police.</p> <p>We acknowledge that the entry canopy of the apartments needs to be opened to surveillance. We suggest a glass canopy to allow</p>	<p>Amended plans received in April 2010 show additional balconies, windows and staggered wall setbacks to the non-residential building facing Banksia Terrace and Canning</p>
Surveillance	<p>The development will increase the number of people in the area and the windows and balconies overlooking streets and adjacent areas.</p> <p>CCTV cameras are planned around the proposed development monitored by the hotel security centre and linked to the police.</p> <p>We acknowledge that the entry canopy of the apartments needs to be opened to surveillance. We suggest a glass canopy to allow</p>			

		surveillance from above. The public areas such as the pool area, sportsman bar and restaurant will all overlook the adjoining street.	Highway. The treatments to Banksia Terrace are substantial and sufficient; however the treatments to Canning Highway are required to be extended to include the proposed residential building as well, particularly at pedestrian eye level. Conditions required to address this issue. The comment is <b>UPHELD</b> .
	Access Control	All areas where 'undesirables' could loiter will be secured via an access control system. All car parks will be access controlled.	
	Territorial Reinforcement	Public and private spaces will be clearly defined with CCTV surveillance covering most external areas to form a deterrent.	
	Target Hardening	Locked gates, controlled accesses and other physical barriers will be integrated into the design. CCTV surveillance will be introduced where natural surveillance is poor.	
		External spaces will ensure clear sightlines, effective lighting and landscaping to maintain vision of spaces being approached.	
The Architects observed that the natural and proposed ground levels as well as the finished floor levels, including the basement car parking area should be clearly mentioned on the drawings.		Drawings will be modified to increase the references to natural and proposed ground and finished floor levels.	The comment is <b>NOTED</b> .

February 2010 (amended plans)		
DAC Comments	Applicant's Responses	Officer's Comments
Noting detailed comments (stated above) provided by the Architects at the previous DAC meetings held in July and November 2009, it was observed that issues identified at those meetings have not been adequately addressed.	We have previously responded to all DAC comments from the July '09 and November '09 meetings.	No comment required. The comment is <b>NOTED</b> .
Previously raised issues in relation to vehicular access, internal functional linkages between spaces and need for an entry statement to the hotel have also not been addressed.	In response to earlier concerns, the additional crossover and 2 way ramp from Hovia Terrace has been removed and vehicular access to the lower ground apartment parking is achieved via the hotel's basement car park.	The raised issues have now been addressed. The comment is <b>NOTED</b> .

<p>The Architects observed that there is no ceremonial entrance or entry statement to the hotel area.</p>	<p>The Hotel has no clientele accessing via the Canning Highway side of the building. Guests all arrive by coach, taxi or car. It is imperative that this vehicular access is achieved safely, away from street activities and without increasing traffic movements on the side streets.</p> <p>The owners of the hotel have no desire to provide a ceremonial entry to the hotel.</p>	<p>A ceremonial entrance is not required, especially on Canning Highway especially given the comments from the Department of Planning re: limited access only on Primary Regional Roads. The comment is <b>NOT UPHELD.</b></p>
<p>The hotel faces inside onto the car park, and not onto the streets. The design needs to facilitate interaction with the streets as well. Double height spaces could be incorporated within the building that has glazed exteriors to facilitate this interaction.</p>	<p>The Hotel only interfaces with Canning Highway and Banksia Terrace. Canning Highway interaction will be dangerous and ineffectual considering its location near the brow of a hill.</p> <p>When considering the interaction with Banksia Terrace, it was deemed more important to use the road verge for the upgrading of the underpass and its approaches than a grand entrance into the hotel.</p>	<p>Amended plans received in April 2010 show additional balconies, windows and staggered wall setbacks to the non-residential building facing Banksia Terrace and Canning Highway. The treatments to Banksia Terrace are substantial and sufficient; however the treatments to Canning Highway are required to be extended to include the proposed residential building as well, particularly at pedestrian eye level. Conditions required to address this issue.</p>
<p>The external walls of some of the buildings do not show the location of doors and windows on the drawings (Refer to the Level 1 floor plan drawing). Additionally, limited light and ventilation has been provided to some of the areas within the building.</p>	<p>Adequate natural light and ventilation complying with the BCA will be incorporated when specialist consultants are engaged during the design development of the project.</p>	<p>The comment is <b>UPHELD.</b></p>
<p>The Architects also made some pencil sketches on the drawings to enhance understanding of the concepts identified above.</p>		
<p>To achieve a unified design that blends the proposed built portions with the existing development, some of the vertical as well as horizontal elements visible from the outside should be incorporated into the proposed buildings.</p>	<p>No comment.</p>	<p>As a statutory planning perspective, agreed with Applicant. The comment is <b>NOT UPHELD.</b></p>
<p>The proposed development was observed to be of an unacceptable standard.</p>		

Accordingly, planning conditions and important notes are recommended to deal with issues raised by the Design Advisory Consultants.

**(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 within 150 metres of the site boundaries 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). Due to amended plans being received, the consultation process of 23 October 2009 was repeated on 05 March 2010. In addition, signs were placed on site inviting comment from any other interested person.

During the advertising period, a total of 160 consultation notices were sent with the following results:

Consultation Overview				
160 letters sent (each consultation period)	53 submissions received	9 in favour	9 persons	9 abutting or adjacent properties.
			9 properties	
		45 against	45 persons	0 abutting or adjacent properties. 1 that is 820 metres away. 43 from the same author.
			32 properties	

Of the 9 supporting submissions received, it is significant that 2 submissions are from the only two properties that abut the development site and a further 7 submission are from adjacent properties.

Of the 45 objecting submissions received, it is significant that none are from abutting or adjacent properties, with 1 that is 820 metres away (by pedshed method). Furthermore, 43 were prepared by the same author although they are signed by the owners of other properties in the neighbourhood of the development site- refer to attached submission [**Attachment 10.3.1(h)**].

The comments of the submitters, together with Officer responses, are summarised as follows:

Submitter's Comments	Officer's Responses
<b>Vehicular Issues</b>	
Adjoining neighbour advises that most of current <b>traffic</b> from the Metro Hotel uses Canning Highway.	Although not a specific planning requirement, the use of Canning Highway is a desirable outcome for the community. The comment is <b>UPHELD</b> .
Adjoining neighbour advises that the previous activity of the conference facilities was unacceptable in terms of <b>traffic</b> and <b>noise</b> , however this activity is no longer present, with the Hotel now a responsible neighbour.	The witnessed acceptable level of activity on the site adds to the argument that there is currently an oversupply of car parking. The comment is <b>UPHELD</b> .
Resident of over 50 years has only seen decrease in <b>traffic</b> , mainly due to Metro Hotel ceasing wedding functions (etc).	
The proposal will add significant <b>traffic</b> to the area.	The Applicant has submitted a transport report, car parking survey, observations by an adjoining neighbour, a supporting argument for the function room and a general justification (see section Car Parking). In addition, it is noted that the road reserves of Banksia and Hovia Terrace have existing traffic calming treatments (choke points, chicanes and car parking restrictions). As a consequence of the above, the City's Planning and Engineering sections agree with the provided justification. The comment is <b>NOT UPHELD</b> .
The combined entrance/exit <b>ramp</b> is not safe.	Amended plans depict separate ramps. The comment is <b>NOTED</b> .
The Residential <b>visitor car bays</b> are secured and thus not accessible from the street.	Amended plans depict residential visitor car bays accessible from the street. The comment is <b>NOTED</b> .

<p>The car bays in the <b>lower car park area</b> should be assessed for compliance with the current Scheme as per item 5.01 of Council minutes of 26 April 2006.</p>	<p>The minutes also state:  <i>“...it is important to note that the parking configuration is pre-existing and was established at a time when parking requirements were different from those prescribed today. A large number of these parking bays, while of a lesser dimension than now prescribed by TPS6 are considered to be functional and capable of continued use.”</i>                  Furthermore, there is no statutory requirement or ability to retrospectively assess aspects of a development that enjoy an existing planning approval. To do so is ultra vires (beyond ones powers) and an invitation to SAT appeal.                  The comment is <b>NOT UPHELD</b>.</p>
<p>There are no details on how to manage and improve the condition of the uninviting lower ground car park, resulting in an increase in <b>verge parking</b>.</p>	<p>There is no statutory requirement to retrospectively improve the condition of an approved car park. In addition, the limited number of verge car parking bays is an existing engineering solution to the purported future problem. Furthermore, the application includes a proposal to reduce the number of bays in the verge to improve the grade the pedestrian underpass.                  The comment is <b>NOTED</b>.</p>
<p>The <b>verge car parking bays</b> should not be considered in the assessment of this application.</p>	<p>Verge car parking bays are not used when calculating the required car bays (and exceptions to this calculation are not relevant to this application).                  The comment is <b>NOTED</b>.</p>
<p>The application should detail how bus parking will be accommodated on the site or advise that the deficit in car parking bays will not result in <b>overflow</b> into the street.</p>	<p>The transport report suitably addresses this point. Furthermore, the advice from the City's Engineering section supports the transport report (see section Manager, Engineering Infrastructure).                  The comment is <b>NOTED</b>.</p>
<p>Adjoining neighbour advises that <b>parking</b> on site and <b>in the street</b> is available at any given time. Mostly taxis nowadays.</p>	<p>Availability of car parking inline with the private survey by the Applicant and traffic report.                  The comment is <b>UPHELD</b>.</p>
<p>The proposal will lead to a general shortfall of <b>car parking</b>, resulting in an adverse impact upon the amenity of the area via an increased on the limited number of <b>verge car parking bays</b>.</p>	<p>The proposed car parking has been justified in accordance with the discretionary provisions of the Scheme (see section Car Parking). In addition, the stated limited number of verge car parking bays is an existing engineering solution to the purported future problem. Furthermore, the application includes a proposal to reduce the number of bays in the verge to improve the grade the pedestrian underpass.                  The comment is <b>NOT UPHELD</b>.</p>
<p>Adjoining neighbour is of the opinion that car <b>parking overflowing into the verge</b> is not possible due to the limited number of bays.</p>	<p>Availability of car parking inline with the private survey by the Applicant and traffic report.                  The comment is <b>UPHELD</b>.</p>
<p>The proposal will lead to a shortfall of <b>car parking</b>, in part due to the conference facilities, however there is no requirement in accordance with the planning controls.</p>	<p>It is correct that the conference facility does not require additional car parking in accordance with the statutory planning controls (the Scheme).                  The comment is <b>NOT UPHELD</b>.</p>
<p>The <b>transport report</b> uses WAPC advice, which has no relevance to the Scheme. Furthermore, the report uses the old Rosie O'Grady's Hotel in assessing the impact of increased traffic.</p>	<p>The WAPC Traffic Assessment Guidelines recommends the use of a spectrum of peer-reviewed publications and existing surveys as guidance, which is a relevant method when addressing the discretionary provisions of the Scheme (see section Car Parking). Although the Rosie O'Grady's site is no longer in operation, it does provide empirical data relevant to the development site, as recommended by the WAPC. In addition, the report has been prepared by suitably qualified professionals in the field of traffic engineering. Furthermore,</p>

	<p>the advice from the City's Engineering section supports the methodology used (see section Manager, Engineering Infrastructure).</p> <p>The comment is <b>NOT UPHELD</b>.</p>
<p>The proponents previously provided a <b>car parking survey</b>, which is nothing more than a series of observations over a short period.</p>	<p>The complainant has not provided any countering empirical evidence (only opinions) and in addition, the survey has been continued over a longer period (see section Car Parking). Furthermore, a neighbouring Landowner has provided another car parking survey, which supports the aforementioned survey, the Transport Report and the opinion of the City's Engineering section. The complainant has made a series of statements and requests for information to provide absolute certainty as to the outcome of the car parking and traffic generated by this development. This level of information and certainty is clearly impossible where involving a large number of variables and unknowns. The best available information has been provided from a range of sources, which includes a transport report prepared by suitably qualified professionals in the field of traffic engineering. The comment is <b>NOT UPHELD</b>.</p>

<b>Pedestrian Underpass Issues</b>	
<p>The upgrade of the <b>pedestrian underpass</b> is not possible, practical or sustainable as the stone batters are required for stability of slopes.</p>	<p>The design and method of construction is an engineering issue that is not dealt with at the planning phase. Regardless, the underpass has been removed from the application due to ownership issues (see section External Agencies).</p> <p>The comment is <b>NOTED</b>.</p>
<p>The <b>pedestrian underpass</b> does not current meet current design standards, nor with the proposed modifications.</p>	
<p>Full support for the proposal as it will upgrade the <b>pedestrian underpass</b>, which is a safety measure for all local residents.</p>	<p>The upgrade to the underpass is a desirable outcome for the community, however the underpass has been removed from the application due to ownership issues (see section External Agencies).</p> <p>The comment is <b>NOTED</b>.</p>
<p>The proponents advised Council that the modifications to the <b>pedestrian underpass</b> where to address community safety concerns. However, no record can be found by the CoSP, Main Roads WA and the WA Police.</p>	<p>This is a matter for the complainant to resolve with the Applicant, however multiple residents adjacent to the development site (and the pedestrian underpass) have submitted written concerns about the safety of local residents. Regardless, the underpass has been removed from the application due to ownership issues (see section External Agencies).</p> <p>The comment is <b>NOTED</b>.</p>
<b>Land Use</b>	
<p>The City should assess this application as a <b>change of use</b> as per TPS6.</p>	<p>This application is not a change of use, but an additional use (see section on Land Use- Hotel/Tourist Accommodation).</p> <p>The comment is <b>NOT UPHELD</b>.</p>
<p>The sign onsite advises of a proposed <b>additional use</b>, which is not listed in Schedule 2 of the Scheme, in reference to cl. 3.4 (ibid).</p>	<p>This clause and accompanying schedule of the Scheme is not relevant, as the proposed land use of Multiple Dwelling does not fit within the category of "...for a purpose not otherwise permitted", but rather a 'D' discretionary use (see section Land Use).</p> <p>The comment is <b>NOT UPHELD</b>.</p>
<p>The propose <b>land use</b> should be for a Mixed Development.</p>	<p>Amendments have been made to the title.</p> <p>The comment is <b>UPHELD</b>.</p>
<p>With a <b>change of use</b>, the existing land uses must be fully assessed for compliance with the current Scheme.</p>	<p>There is no statutory requirement or ability to retrospectively assess aspects of a development that enjoy an existing planning approval.</p> <p>The comment is <b>NOT UPHELD</b>.</p>



<b>Other Issues</b>	
Additional <b>plot ratio</b> will adversely impact the amenity of the locality by creating excessive bulk, which is incompatible with the predominately residential nature of the locality.	The immediate area around the existing Metro Hotel is a mixture of land uses, which is permitted in such Highway Commercial zones. The proposed plot Ratio has been justified in accordance with the discretionary provisions of the Scheme (see section Plot Ratio). The comment is <b>NOT UPHELD</b> .
The proposal has inadequate <b>setbacks</b> to soften the excessive bulk.	The existing and proposed wall setbacks abutting the residential zone to the northwest are in full compliance with the Scheme and the R-Codes. In addition, the proposed 6.0 – 16.0 metres of wall setbacks is far in excess of the minimum requirement of 4.5 metres. Furthermore, all the abutting low-density residential neighbours are in support of the proposal. As a consequence of the above, the proposed setbacks represent a suitable and significant transitional and sensitive design. The comment is <b>NOT UPHELD</b> .
The proposal includes <b>building heights</b> relative to the highest point of the natural ground of the site.	The proposed method of building height is as per clause 6.2 of the Scheme. The comment is <b>NOT UPHELD</b> .
The proposal is almost complete devoid of <b>open space</b> due to the zero offset to surrounding streets, resulting in a lack of relief from the excessive bulk.	There is no requirement for open space in a non-residential/mixed-use development in either the Scheme or the R-Codes. There is however a requirement for 15 percent of landscaping, which complies in full (see section Landscaping). The comment is <b>NOT UPHELD</b> .
The proposal will have negligible <b>landscaping</b> at ground level, which will adversely impact the amenity of the locality by not providing any relief from the excessive bulk.	There is no statutory requirement on what level(s) the landscaping is required to be installed (see section Landscaping). The comment is <b>NOT UPHELD</b> .
The City should only use the <b>information</b> provided by the proponent in making their assessment.	The City (and Council) has and will use all information available (including comments from the community) to enable the best possible decisions. The comment is <b>NOT UPHELD</b> .
<b>Amenity Issues</b>	
The proposal will rejuvenate the now <b>iconic</b> structure of South Perth.	It is agreed that the Metro Hotel can be classed as a prominent landmark and as a result, its redevelopment will be a positive outcome to the local and wider community. The comment is <b>UPHELD</b> .
Full support for the proposal as it will upgrade the existing buildings, remove the untidy commercial buildings, improve the streetscape and adds to the <b>amenity</b> of the local surrounding community.	
No objection to the proposal, it will enhance individual and collective <b>amenity and security</b> .	
The proposal will be a visual eyesore and detract from the <b>amenity</b> of the area.	Subjective opinion. The comment is <b>NOTED</b> .
Removing the derelict shops and replacing with active buildings improves security to the street and underpass via 'eyes on street'.	Agreed. The comment is <b>UPHELD</b> .
The proposal will invade <b>privacy</b> .	The proposed overlooking is fully compliant with the Acceptable Development provisions of visual privacy in the R-Codes (see section Visual Privacy). The comment is <b>NOT UPHELD</b> .

(c) **Manager, Engineering Infrastructure**

The Manager, Engineering Infrastructure was invited to comment on a range of issues relating to car parking and traffic arising from the proposal. As this is a significant issue, the full referral can be found in **Attachment 10.3.1(j)**, whereas the summary is as follows:

- (i) The upper and lower decks generally in excess of TPS6 and Australian Standards;
- (ii) The geometry of ramps appear to comply with Australian Standards;
- (iii) In relation to the operation of ramp, it is recommended widening the width to a minimum 6.0 metres;
- (iv) The transport report shows actual traffic movement to be considerably less than the estimates and the Engineering section has no issues with the methodology or the substantive argument for the comparison;
- (v) The transport report shows actual car parking to be considerably less than the estimates and the Engineering section has no issues with the methodology;
- (vi) The proposed steps in the Canning Highway verge are not supported without clearance from the relevant service-providing authorities (which is highly likely to be forthcoming);
- (vii) The upgrade to the underpass is fully supported conditional on the upgrade satisfying all the relevant legislation, including disabled access (i.e. the gradient);
- (viii) The removal of verge car parking bays to achieve the required gradient is supported; and
- (ix) Works in relation to landscaping, paving, re-kerbing and embayed parking is supported in principle, subject to the construction being to the satisfaction of the Director of Infrastructure Services.

Accordingly, planning conditions and important notes are recommended to deal with issues raised by the Manager, Engineering Infrastructure.

(d) **Other City Departments**

Comments have also been invited from Environmental Health and the Parks and Environment areas of the City's administration:

Environmental Health Services provided comments with respect to bins, noise, kitchens and laundries. This section raises no objections and has provided standard comments, with a standard important notes required.

The Parks and Environment section provided comments with respect to the landscaping plan. This section raises no objections and recommends that:

- (i) A root barrier to be placed around areas to be planted with Golden Bamboo (*Phyllostachy aurea*) to a depth of 600mm;
- (ii) If enough room on the grassed verge area, on the corner of Hovia Terrace and Canning Highway in front of the building, a 100 litre Ornamental Flowering Pear (*Pyrus 'Bradford'*) is to be planted; and
- (iii) The Spotted Gum (*Corymbia macalata*) and Western Coolibah (*Eucalyptus victrix*) is not a suitable street tree and should be substituted with a Smooth Bark Apple Myrtle (*Angophora costata*).

Community Development Services provided comments with respect to the art work proposed within the pedestrian underpass. This section raises no objections and has requested an appropriate condition to ensure the works are carried out, however this is not possible as these aspects of the application have been removed from the proposal (see 'External Agencies' section below).

Accordingly, planning conditions and/or important notes are recommended to deal with issues raised by the above officers.

(e) **External Agencies**

Comments have also been invited from the Department of Planning and Main Roads of WA:

Main Roads of WA provided comments with respect to the site being on or abutting a regional road reservation. This agency requests 'relevant structural and cycle/pedestrian path information' to be submitted in order to provide an in-principle approval.

It is considered that at the planning phase, the level of detail requested is most suitably dealt with as a separate application (a metropolitan Development Application). For example, the works to be carried-out are on Main Roads land and therefore will require the involvement of that agency as a Landowner to the application. This requires full approval of detailed drawings and costings, none of which can be reasonably expected prior to the issuing of a planning approval. Whilst the modifications to the underpass is a desirable outcome to the City and community alike, all aspects of this application within the land controlled by Main Road must be removed from the proposal.

The Department of Planning provided comments with respect to the site being on or abutting a regional road reservation. This agency raises no objections and does not recommend that standard conditions and/or notes be placed on the approval.

Accordingly, the underpass is removed from this application; and planning conditions and/or important notes are not required, as per the issues raised by the above officers.

**Policy and Legislative Implications**

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

**Financial Implications**

The determination has a no financial implications.

**Strategic Implications**

This matter relates to Strategic Direction 6 "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**

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**

This proposal is a significant development for the City of South Perth, which will improve the amenity of the streetscapes and locality in general. Predominately, this design complies with the acceptable standards of the planning controls applicable within the City of South Perth.

There are significant variations proposed to the key planning controls of plot ratio and car parking, however these controls are inherently a 'one size fits all' measure, with an inbuilt facility to accept site and land-use specific factors via a discretionary clause in the Scheme. This discretion is specifically designed for applications such as this, where flexibility in method is required, as long as the outcome is within the bounds of a reasonable impact upon the neighbouring properties and locality in general. Opposition to this application has been registered, however the substance of those objections is not considered to nullify or outweigh the justifications and supporting evidence submitted by the Applicant and immediately surrounding neighbours.

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

<p><b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.3.1</b></p>
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Mover Cr Trent, Sec Cr Ozsdolay

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for a change of use to 12 Multiple Dwellings within a six-storey (plus terrace) building, expansion of existing Tourist Accommodation use (The Metro Hotel) with 48 rooms within a four-storey building and expansion of existing ancillary use of Café/Restaurant within an existing ten-storey building on Lot 10 (No. 61) Canning Highway, South Perth, **be approved** subject to:

(a) **Standard Conditions**

470	retraining walls- if required	455	dividing fence- standards
471	retaining walls- timing	456	dividing fence- timing
390	crossover standards	550	plumbing hidden
393	verge & kerbing works	377	clothes drying- screened
625	sightlines for drivers	425	colours & materials- matching
354	car parking- maintained	427	colours & materials- details
353	visitor bays- marked	664	inspection (final) required
508	landscaping approved & completed	660	expiry of approval
506	retained trees shown on plans		

(b) **Specific Conditions**

- (i) Revised drawings shall be submitted, and such drawings shall incorporate the following:
  - (A) In accordance with the comments from the Design Architect Consultants, architectural treatments shall be added to the residential portion of the development along Canning Highway; and
  - (B) In accordance with the comments from the Manager, Engineering Infrastructure and as per the submitted traffic report, the vehicular ramp shall be widened to a minimum 6.0 metres;
- (ii) In response to the comments provided from the City's Parks and Environment section, the landscaping plan shall be amended and such drawings shall incorporate the following:
  - (A) A root barrier to be placed around areas to be planted with Golden Bamboo (*Phyllostachy aurea*) to a depth of 600mm;
  - (B) If enough room on the grassed verge area, on the corner of Hovia Terrace and Canning Highway in front of the building, a 100 litre Ornamental Flowering Pear (*Pyrus 'Bradford'*) is to be planted; and;

(C) The Spotted Gum (*Corymbia macalata*) and Western Coolibah (*Eucalyptus victrix*) is not a suitable street tree and should be substituted with a Smooth Bark Apple Myrtle (*Angophora costata*).

- (iii) This approval does not pertain to any land owned or under the direct control of Main Roads Western Australia [see Important Note (i)].
- (iv) This approval does not pertain to any changes in levels to the City's verges [see Important Note (ii)].
- (v) Works in relation to landscaping, paving, re-kerbing and embayed parking is supported in principle, subject to the construction being to the satisfaction of the Director of Infrastructure Services [see Important Note (ii)].
- (vi) 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.

(c) **Standard Advice Notes**

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

(d) **Specific Advice Notes**

The applicant is advised that:

- (i) It is the applicant's responsibility to apply to Main Road WA for development of any land owned or under the direct control of Main Roads Western Australia.
- (ii) It is the applicant's responsibility to liaise with the City's Infrastructure Services Section in relation to alterations to levels, landscaping, paving, re-kerbing and embayed parking, all within the City's land.
- (iii) It is the applicant's responsibility to liaise with the City's Parks and Environment Section prior to designing a landscaping plan for the street verge areas as required.
- (iv) It is the applicant's responsibility to liaise with the City's Environmental Health Section to ensure satisfaction of all of the relevant requirements.
- (v) Any activities conducted will need to comply with the *Environmental Protection (Noise) Regulations 1997* at all times.

<b>Footnote:</b> A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.
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**Note:** Cr Best left the Chamber at 8.05pm and returned at 8.16pm.

CARRIED (5/3)

Cr Lawrance, Cr Doherty and Mayor voted against the Motion

DECLARATION OF INTEREST : CR BEST : ITEM 10.3.1

The Mayor read aloud the following Declaration of Interest from Cr Best:

*I wish to declare an Interest in relation to Agenda Item 10.3.1. Robert Hart Architects is one of many companies for which my business provides services. Robert Hart Architects is the architect for the applicant of the property subject to a report Item 10.3.1. I will leave the chamber during debate and will not participate in the vote on this item.*

**Note:** The Senior Planning Officer retired from the meeting at 8.16pm

**10.3.2 Proposed Four Grouped Dwellings within a Four-Storey Building - Lot 2 (No. 12) Coode Street, South Perth**

Location: Lot 2 (No. 12) Coode Street, South Perth  
 Applicant: SS Chang Architects  
 Lodgement Date: 8 December 2009  
 File Ref: 11.2009.542 CO6/12  
 Date: 3 May 2010  
 Author: Lloyd Anderson, Senior Statutory Planning Officer  
 Reporting Officer: Vicki Lummer, Director Development and Community Services

**Summary**

To consider an application for planning approval for four grouped dwellings within a four-storey building on Lot 2 (No. 12) Coode Street, South Perth. The proposal complies with the City's Town Planning Scheme No. 6, the 2008 R-Codes and City policies. It is recommended that the proposal be approved subject to conditions.

**Background**

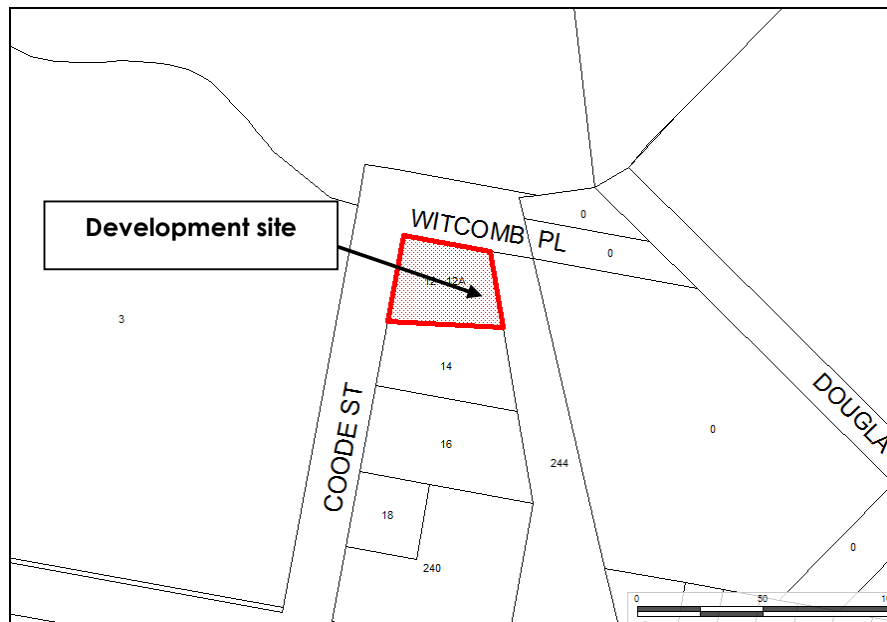
The development site details are as follows:

<b>Zoning</b>	Residential
<b>Density coding</b>	R50
<b>Lot area</b>	1,304 sq. metres
<b>Building height limit</b>	10.5 metres
<b>Development potential</b>	7 Dwellings
<b>Plot ratio limit</b>	Not applicable

This report includes the following attachments:

- Confidential Attachment 10.3.2(a)** Plans of the proposal.
- Attachment 10.3.2(b)** Applicant's supporting report.
- Attachment 10.3.2(c)** Street montage.

The location of the development site is shown below:



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

**2. Large scale development proposals**

(ii) *Proposals involving buildings 9.0 metres high or higher based upon the Scheme definition of the term “height”. This applies to both new developments and additions to existing buildings resulting in the building exceeding the nominated height.*

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

Based on the ground level reference point selected being 2.30 AHD, the external wall height of the proposed building is 10.5 metres.

**6. Amenity impact**

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

In relation to Item 6 above, the extent of amenity impact arising from the proposal is considered acceptable (see “Comments” section below).

**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.*

The City advertised the proposal in accordance with the Policy P355. Neighbours’ comments are discussed further in this report and require Council consideration.

**Comment**

**(a) Description of the subject site and surrounding locality**

The site has a northern frontage of approximately 35.0 metres to Witcomb Place and a western street frontage of approximately 34.0 metres to Coode Street. Over the road in both directions is Sir James Mitchell Park.

The site is immediately surrounded by medium density residential development (zoned R50). An adjacent two-storey eighteen grouped dwellings (zoned R50) to the east continues in a southern direction. Six single-storey grouped dwellings (zoned R50) are located towards the south.

**(b) Description of the proposal**

The proposal involves the construction of four grouped dwellings within a four-storey building on Lot 2 (No. 12) Coode Street, South Perth as depicted in the submitted plans referred to as **Confidential Attachment 10.3.2(a)**.

The proposal complies with *Town Planning Scheme No. 6 (TPS6)*, the *Residential Design Codes of WA 2008* (the R-Codes) and relevant Council policies as discussed below.

**(c) Residential density**

The permissible number of dwellings is seven dwellings, whereas the proposed development comprises four dwellings. Therefore the proposed development complies with the prescribed density in accordance with Table 1 of the R-Codes.

**(d) Streetscape / Building design**

The proposed development has been considered by the Council Design Advisory Consultants (DAC). In this respect, detailed comments are provided in the "Consultation" section of this report. From a streetscape perspective, the design is considered by the DAC to be:

*"a high standard and will make a valuable contribution to the City, especially to the quality of development on the foreshore."*

In relation to the design the applicant has provided a streetscape montage photo showing the adjoining residential properties with the proposed development imprinted onto the photo, referred to as **Attachment 10.3.2(c)**.

The DAC has also stated that in relation to the four grouped dwellings that:

*"the City's statutory planning controls will facilitate a coherent development in terms of the overall design of the dwellings and consistent use of external materials and colour finishes."*

The following condition is recommended:

*"(A) Details of the proposed colours of the external materials shall be submitted for approval by the City prior to the issuing of a building licence. The selected colours shall demonstrate compatibility with neighbouring buildings."*

Subject to the above condition relating to the overall design of the dwellings and consistent use of external materials and colours finishes, the concept is generally supported by City officers as has been favourably considered by the DAC and also meets with all relevant requirements of the Scheme, R-Codes and City policy.

**(e) Finished ground and floor levels - Minimum**

The required minimum finished *habitable room floor* permitted is 2.3 metres above AHD; the proposed finished floor level is 2.3 metres above AHD. Therefore the proposed development complies with Clause 6.9.2 "Minimum Ground and Floor Levels" of TPS6.

**(f) Finished ground and floor levels - Maximum**

The proposed floor level of 2.3 metres above AHD and surrounding ground level also complies with Clause 6.10.1 "Maximum Ground and Floor Levels" of TPS6.

**(g) Building height**

The permitted building height limit for the subject lot is 10.5 metres. The City has determined the appropriate zero point as 2.3 above Australian Height Datum (AHD) which results in an external wall height of 12.8 metres above AHD. The proposed building height is 10.5 metres and the external wall height is 12.8 metres above AHD (including the 2.3 metres of ground above AHD).

External walls are permitted to project above the prescribed building height limit if they are within a 25 degree notional hip-roof shape situated immediately above the exterior walls of the building which reach to the highest altitude, depicted in the submitted plans referred to as **Confidential Attachment 10.3.2(a)**.

Minor projections such as balconies can extend outside of the building envelope, such structures include:

*"vertical glass planes within the roof structure, dormer and saw toothed windows, and chimneys."*



The applicant has proposed that a chimney and privacy screen project outside of the building envelope. City officers consider it appropriate for the chimney to project outside of the building envelope, however the privacy screens should be set back so that they are situated inside the notional roof envelop and building height limit. Therefore the following condition is recommended:

*“Privacy screens to not project outside of the building height limit as referred to in Clause 6.2 of TPS6.”*

Subject to the above condition relating to privacy screens, the proposed development complies with Clause 6.2 “Maximum Building Height Limit” of the Town Planning Scheme No. 6.

**(h) Boundary wall - North / East / South / West**

A boundary wall is proposed on the eastern boundary of the lot. The wall is observed not to have an adverse effect on neighbouring amenity when assessed against the following “amenity factors” referred to in Policy P370.2:

- The effect on the existing streetscape character;
- The outlook from the front of the adjoining dwelling or garden if forward of the proposed parapet wall;
- Overshadowing of adjoining habitable room windows or outdoor living areas;
- Impact of bulk on adjoining outdoor living areas; and
- Nil comments from the neighbour (see “Neighbour consultation”).

Accordingly, it is recommended that the boundary walls be approved.

**(i) Street and side setbacks**

The primary street setbacks, secondary street setbacks, side boundary setbacks and rear boundary setbacks have been assessed to comply with the “Acceptable Development” of Clause 6.3.1 of the R-Codes.

**(j) Significant views**

City Planning Policy P350.9 (“Significant Views”) requires the consideration for the loss of significant views from neighbouring properties. The neighbouring properties to the south of the subject site currently enjoy views of the Perth City skyline and Swan River (significant views), and written objection to the loss of those views has been lodged with the City.

City officers have considered the design relating to the views of adjoining properties having regard to the applicant’s normal development entitlements with respect to density, building height and setbacks and found them to comply as mentioned in Section (a), (g) and (i) of this report. Therefore it is considered that the proposed development complies with the policy.

**(k) Solar access for adjoining sites**

The maximum area of overshadowing permitted is 755 sq. metres (50%) of the adjoining lot, whereas the proposed overshadowing is 648 sq. metres (42.9%). Therefore the proposed development complies with the solar access element of the R-Codes.

**(l) Visual privacy and related setbacks - North / East / South / West**

The proposed development complies with the visual privacy “Acceptable Development” element of the R-Codes. Further details (see “Standard Conditions”) are required to ensure that the visual privacy screens comply with Element 8 of the R-Codes, and protect the neighbour’s visual privacy.

**(m) Plot ratio**

There is no plot ratio control prescribed for grouped dwellings.

**(n) Open space**

The required minimum open space is 45% of each survey strata lot; the open space provided per proposed strata lot ranges between 53.6% and 72.1%. Therefore the proposed development complies with the open space element of the R-Codes.

**(o) Landscaping**

A landscaping plan is required at the building licence stage which meets with the requirements of Clause 6.4.5 of the R-Codes. The following condition is recommended:

*“In accordance with the requirements of Clause 6.4.5 (A5) of the Residential Design Codes, a landscaping plan shall be submitted for approval by the City. No person shall occupy or use the land or any building, the subject of this approval for the purpose for which this approval is given unless and until:*

*(i) the City has approved a landscaping plan; and*

*(ii) the landscaping has been completed in accordance with the plan approved by the City.”*

**(p) Fencing**

The fencing for the proposal complies with the R-Codes provisions. Even though the fencing forward of the front setback line (4.0 metres from Whitcomb Place) is not to exceed 1.2 metres in height unless 80% visually permeable above that height, the associated performance criteria allows a solid fence to a height of 1.8 metres as there is a need to provide screening to the outdoor living area and pool within the front setback area. Such a proposed fence is considered not to have a detrimental impact on the Whitcomb Place streetscape as the adjoining eastern property also has a similar private outdoor living area in the front setback with a high fence.

**(q) Car parking, access, siting and design**

The required number of car bays is eight; the proposed number of car bays is eight (two per dwelling) of the dimensions required by TPS6, and there are no visitor car parking bays required for this development. Therefore the proposed development complies with the car parking requirement of the R-Codes.

The sweep path is shown for vehicles entering and exiting as depicted in the submitted plans referred to as **Confidential Attachment 10.3.2(a)**. The entry and exit manoeuvres are designed to facilitate single forward and reverse movements into and from the parking bays.

**(r) 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 objectives.

**(s) 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. The proposal is considered acceptable having regard to the 24 listed matters.

**Consultation**

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

The proposal was considered by the City’s Design Advisory Consultants at their meeting held on 9 February 2009. The proposal was well received by the consultants and their specific comments are summarised below:

- *The Architects observed that the proposed development has an interesting design. The architecture is of a high standard and will make a valuable contribution to the City, especially to the quality of development on the foreshore.*
- *It was observed that since building heights are calculated separately for each of the dwellings while taking into account the setbacks of the external walls from lot boundaries of each of the proposed green title lots, the proposed single houses were significantly above the prescribed building height limit.*
- *However if these were four grouped dwellings, the building height will be calculated considering the setbacks of the external walls from the lot boundaries of the parent lot, and not each strata lot, resulting in a larger notional roof envelope.*
- *If the proposal was amended to being four grouped dwellings on the subject lot, the City’s statutory planning controls will facilitate a coherent development in terms of the overall design of the dwellings and consistent use of external materials and colour finishes.*
- *The assessing officer should carefully assess compliance with the visual privacy provisions.*
- *The proposed western elevation as seen from Coode Street, was observed to be acceptable in terms of the perceived building bulk.*

The applicant has provided information as well as drawings, referred to in **Attachment 10.3.2(b)**, to adequately address and resolve all of the abovementioned issues. The proposal has been amended to grouped dwellings instead of the single houses. Information in relation to the external colours and materials to demonstrate streetscape compatibility has been recommended as a condition of approval.

**(b) Neighbour consultation**

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”. Five submissions were received, all against the proposal.

A petition was also received on 5 January 2009 with 26 signatures objecting to the proposal. The Council at its March 2010 meeting carried a motion for this to be considered as part of a report on this proposal.

The submissions have been summarised below.

Submitter’s Comments	Responses (Based upon information received from the applicant and officer assessment)
<p>Inadequate setback of the building from Coode Street and Whitcomb Place property boundaries.</p>	<p>Setbacks to both street verges comply with requirements of the R Codes, i.e. 4.0 metre setback to Whitcomb Place and 1.0 metre to Coode Street. Note that the proposed setback along Coode Street varies from a small section at 1.0 metre to 1.8 metres to create a visually interesting facade.</p> <p>The comment is <b>NOT UPHELD</b>.</p>

<p>The proposal is higher than the surrounding existing developments; and contrasts to the adjacent public open space. The height of proposed development will interfere with the aesthetics of the foreshore. The development should keep the integrity of the existing buildings in the vicinity.</p>	<p>This development complies with the R50 density coding assigned to the lot and the prescribed building height limit. Additionally, the Design Advisory Consultants support the aesthetics of this development and considers; <i>“The architecture is of a high standard and will make a valuable contribution to the City, especially to the quality of development on the foreshore.”</i> The comment is <b>NOT UPHELD.</b></p>
<p>The views and outlook to the river from existing surrounding buildings will be disadvantaged.</p>	<p>Both adjoining developments have their unobstructed view corridors to the river and City. The development complies with the City’s Planning Policy P350.9 “Significant Views” which also states that views enjoyed over neighbouring properties can only be regarded as borrowed views. The comment is <b>NOT UPHELD.</b></p>
<p>As a result of the above, the market value of properties will be decreased.</p>	<p>It is not possible to assess movements in property prices through the statutory planning controls. The comment is <b>NOT UPHELD.</b></p>
<p>Due to the special nature of this location, if the development proceeds there will be economic pressure on the surrounding sites to develop to the same height.</p>	<p>The redevelopment of adjoining properties to their full potential, i.e. their maximum permitted density as well as building height will not be determined solely by whether the adjoining property has been developed to its full potential or not. Other factors such as the needs and financial status of the residents of the adjoining properties, market conditions and social demands will be the deciding factors. The comment is <b>NOT UPHELD.</b></p>
<p>There is already a parking problem in the area around the Wesley boatshed and Boatshed Restaurant - An extra four houses will attract a greater demand for parking for family and friends / visitors.</p>	<p>Parking for the proposed development has been provided on-site in accordance with the R-Codes and TPS6. The comment is <b>NOT UPHELD.</b></p>
<p>Creates a precedent for the development of No. 18 Coode Street, now a vacant block, and any other properties in the vicinity that owners may wish to demolish and develop to a greater potential.</p>	<p>This development conforms to the requirements of the City’s Town Planning Scheme No. 6 for an R50 zoning and its prescribed height limits. The comment is <b>NOT UPHELD.</b></p>
<p>In October 2007 the City of South Perth advised that height restrictions applied to the area and that no building could be replaced with anything higher than what was already on the site.</p>	<p>The assessing officer has no knowledge regarding this, however the subject lot has a maximum building height limit of 9.0 metres as per TPS6, which is being complied with subject to minor modifications. The comment is <b>NOT UPHELD.</b></p>
<p>From the drawings it appears part of the building would be over a stream which runs along the east boundary.</p>	<p>A culvert will be constructed over the stream with the water flow maintained as was done on the adjoining 14 Coode Street property. The applicant / owner will be required to liaise with the Water Corporation in this regard. The comment is <b>NOTED.</b></p>
<p>A general objection signed by 26 people requesting that Council reject the proposal surrounding the subject site.</p>	<p>This development conforms to the requirements of the City’s Town Planning Scheme No. 6 for an R50 zoning, its prescribed height limits: (i) the applicant’s normal development entitlements with respect to residential density and building height; and (ii) the objective of maximising any significant view from existing or proposed dwellings. The comment is <b>NOT UPHELD.</b></p>

(c) **Engineering comments**

Supporting comments have been received from the City’s Engineering Department and will be attached to the determination of this planning application.

**(d) Environmental Health comments**

Comments have also been received from the City's Environmental Health Department and will be attached to the determination of this planning application.

**Policy and Legislative Implications**

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

**Financial Implications**

There are no financial implications in relation to this development.

**Strategic Implications**

This matter relates to Strategic Direction 6 "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**

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**

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

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.3.2</b>
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That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for four × four-storey grouped dwellings on Lot 2 (No. 12) Coode Street, South Perth, **be approved** subject to:

**(a) Standard Conditions**

615	Screening to be provided	455	Dividing fence - Standards
616	Screening to be permanent	456	Dividing fence - Timing
390	Crossover standards	377	Screened clothes drying
410	Crossover affects infrastructure	550	Plumbing hidden
393	Verge and kerbing works	508	Landscaping approved / Completed
625	Sightlines for drivers	425	Colours and materials - Matching
340	Parapet walls - Finish of surface	427	Colours and materials - Details
470	Retaining walls - If required	664	Inspection (final) required
471	Retaining walls - Timing	660	Expiry of approval

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

- (i) Revised drawings shall be submitted, and such drawings shall incorporate the following:
  - ~~(A) Privacy screens to be positioned so as not to project outside of the building height limit as referred to in Clause 6.2 of TPS6. Revoked at Item 10.0.3 (1) Council Meeting 28 September 2010 and replaced with the following:~~
  - (A) The privacy screens on the northern side of the third floor are to be reduced in height to be 1.6 metres above finished floor level. The portions of these screens outside of the building height limit will be accepted as minor projections.”
- (ii) Details of the proposed colours of the external materials shall be submitted for approval by the City, prior to the issuing of a building licence. The selected colours shall demonstrate compatibility with neighbouring buildings.
- (iii) At least one tree not less than 3.0 metres in height at the time of planting, and of a species approved by the City, shall be planted within the street setback area or elsewhere on the site prior to occupation of the dwelling. The tree/s shall be maintained in good condition thereafter.
- (iv) In accordance with the requirements of Clause 6.4.5 (A5) of the Residential Design Codes, a landscaping plan shall be submitted for approval by the City. No person shall occupy or use the land or any building the subject of this approval for the purpose for which this approval is given unless and until:
  - (A) the City has approved a landscaping plan; and
  - (B) the landscaping has been completed in accordance with the plan approved by the City.

**(c) Standard Advice Notes**

648	Building licence required	646	Landscaping standards - General
647	Revised drawings required	646A	Masonry fence requires BA
645	Landscaping plan required	649A	Minor variations - Seek approval
		651	Appeal rights - SAT

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

**(d) Specific Advice Notes**

- (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) 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) It is the applicant’s responsibility to liaise with the City’s Parks and Environment section prior to designing a landscaping plan for the street verge areas as required.
- (iii) The applicant / owner are advised of the need to liaise with the City’s Engineering Infrastructure Department in order to comply with all relevant infrastructure requirements.

CARRIED EN BLOC RESOLUTION

**10.3.3 Proposed Mixed Development (1 Shop, 2 Offices, 2 Multiple Dwellings and a Single Bedroom Dwelling) within a 3-Storey Building. Lot 616 (No. 16) Bradshaw Crescent, Manning**

Location: Lot 616 (No. 16) Bradshaw Crescent, Manning  
 Applicant: Sacridin Pty Ltd  
 Lodgement Date: 23 December 2009  
 File Ref: 11.2009.586 BR1/16  
 Date: 3 May 2010  
 Author: Cameron Howell, Statutory Planning Officer  
 Reporting Officer: Vicki Lummer, Director Development and Community Services

**Summary**

To consider an application for planning approval for a three-storey mixed development on Lot 616 (No. 16) Bradshaw Crescent, Manning. The proposal does not conflict with the City's Town Planning Scheme No. 6, 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
Car parking	TPS6 Clause 7.8(1)
Landscaping ( <i>Where non-residential</i> )	TPS6 Clause 7.8(1)
Setbacks	TPS6 Clause 7.8(1)

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

**Background**

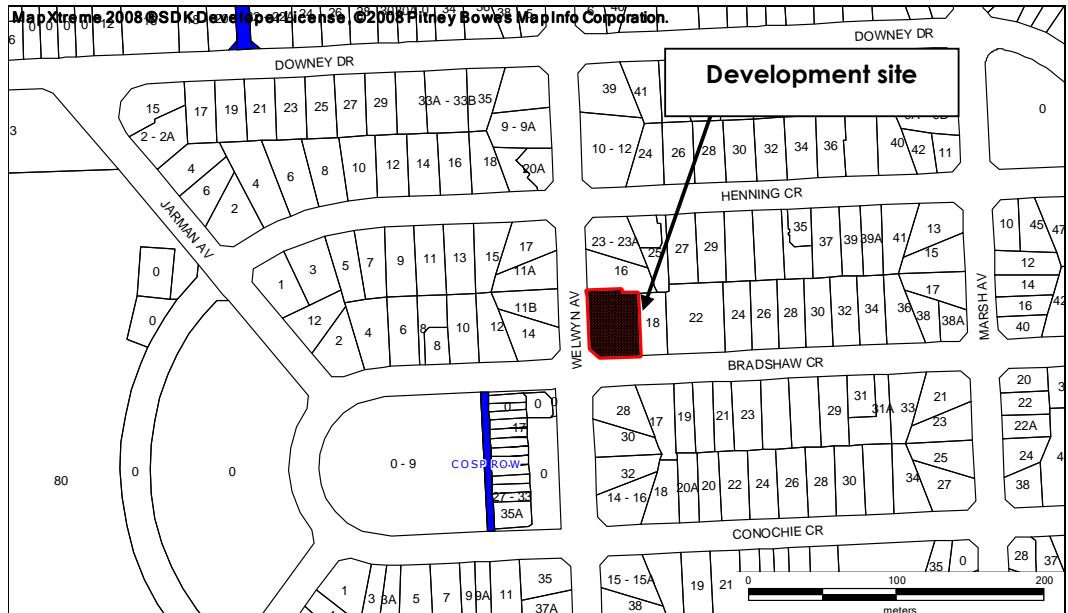
The development site details are as follows:

<b>Zoning</b>	Neighbourhood Centre Commercial
<b>Density coding</b>	R20
<b>Lot area</b>	1,455 sq. metres (1,473 sq. metres including street corner truncation area)
<b>Building height limit</b>	7.0 metres
<b>Plot ratio limit</b>	0.75 (Mixed Development)

This report includes the following attachments:

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

The location of the development site is shown below:



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

2. **Large scale development proposals**
  - (i) *Proposals involving non-residential development which, in the opinion of the delegated officer, are likely to have a significant effect on the City.*
3. **The exercise of a discretionary power**
  - (i) *Proposals representing a significant departure from the No. 6 Town Planning Scheme incorporating the Residential Design Codes, relevant Planning Policies and Local Laws where it is proposed to grant planning approval.*

### Comment

#### (a) Background

In December 2009, the City received an application for a three-storey mixed development on Lot 616 (No. 16) Bradshaw Crescent, Manning (the site). The applicant has submitted amended plans during the course of the assessment in order to demonstrate compliance with relevant statutory provisions.

The application was referred to the February 2010 Design Advisory Consultants' meeting, Engineering Services, Environmental Health Services and Parks and Environment. Consultation of neighbouring properties has also been conducted. The application was referred to Council's Major Development Briefing on 5 May 2010. Further information about the referrals is provided later in this report.



**(b) Description of the surrounding locality**

The subject site has a frontage to Bradshaw Crescent and Welwyn Avenue, located adjacent to a single-storey grouped dwelling development to the north and a single-storey veterinary clinic to the east. The Welwyn Avenue Neighbourhood Shopping Centre is located diagonally opposite the site and a physiotherapy clinic (consulting room) is located on the north-western side of the Welwyn Avenue and Bradshaw Crescent intersection. The remainder of the surrounding locality comprises single-storey residential development. The site photographs, referred to as **Attachment 10.3.3(b)** show the relationship of the site to the surrounding development.

**(c) Existing development on the subject site**

The existing development on the subject site currently features the land use of "Service Station", as depicted in the site photographs referred to as **Attachment 10.3.3(b)**. A single-storey converted service station building is located on site and is currently used as a vehicle maintenance workshop.

**(d) Description of the proposal**

The proposal involves the construction of a three-storey mixed development on Lot 616 (No. 16) Bradshaw Crescent, Manning (the site) as depicted in the submitted plans referred to as **Confidential Attachment 10.3.3(a)**. The proposed development incorporates a shop, a lobby and car parking on the ground floor, offices on the first floor and two multiple dwellings and one single bedroom on the second floor.

Exercise of discretion is requested in relation to the following components of the proposed development:

- (i) Car parking;
- (ii) Landscaping; and
- (iii) Buildings setback from the boundary.

The applicant's letter, referred to as **Attachment 10.3.3(c)** describes the proposal in detail.

The proposal complies with *Town Planning Scheme No. 6 (TPS6)*, the *Residential Design Codes of WA 2008* (the R-Codes) and relevant Council policies with the exception of aspects identified above where discretion is sought. All key planning matters are discussed below.

**(e) Land use**

The proposed land use of mixed development is classified as a "D" (Discretionary) land use in Table 1 (Zoning - Land Use) of TPS6. All of the individual land uses proposed as part of the development are also classified as "D" (Discretionary) land uses.

In considering this discretionary use, it is observed that the site adjoins residential and non-residential uses in a location with a combined residential and non-residential streetscape. Accordingly, it is considered that the proposed mixed development use complies with the Table 1 of the Scheme.

**(f) Car parking**

The required number of car bays is 56, whereas the proposed number of car bays is 44 in accordance with Table 6 of TPS6. The required number of parking bays for the non-residential component is 49 bays and seven bays for the residential component of the development. If approved, the residential and non-residential parking bays will need to be marked on the site plan and on site.

All of the parking bays are of sufficient size to be compliant with Schedule 5 of TPS6. If approved, the City will require the dimensions and setbacks of the support columns to confirm compliance with Figure 2 of Schedule 5.

In relation to the bays required for the residential component of the development, the R-Codes require five car parking bays whereas TPS6 states that a residential component of a mixed development requires an additional two visitor parking bays. Five bays, as per the R-Codes, have been allocated for the proposed development. Officers are of the view that where a residential development is built independently or within a mixed development, there is no marked difference that should require additional visitor bays. Furthermore, a residential development within a mixed development has the benefit of additional bays belonging to the non-residential office use which will be vacant in the evenings as well as on the weekends. Therefore five bays, as required by the R-Codes, should be sufficient to meet with the requirements of the residential component of the development. Officers are recommending that the Council support this variation which actually complies with the R-Codes provisions.

The shop and office components of the development require seven and 42 bays respectively, a total of 49 bays in accordance with Table 6 of TPS6. The proposed development provides 39 parking bays while seeking a variation of 10 parking bays.

The Council has a firm proposal to expand the capacity of public parking facilities in the vicinity of the development which will result from the closure of a portion of Bradshaw Crescent, and future plans to develop parking areas for the library and community hall facilities in the Manning District Centre. This proposal has been discussed in detail in the Council report item 10.2.1 presented at the June 2009 meeting. This future proposal is observed to provide additional parking required in the vicinity of this development. Additional bays can also be provided in the road reserve as advised by Engineering Infrastructure.

Accordingly, Council can utilise Subclause (5)(i) of Clause 6.3 of TPS6 which allows the acceptance of cash-in-lieu of car bays. Following is a summary of the comments provided by the Manager, Engineering Infrastructure in support of the variation:

*“The availability and exact location of parking bays in the road reserve can only be identified after having conducted a thorough inspection of the site and its surrounds, and preparing a detailed design. There is a likelihood that three bays could be provided within the Welwyn Avenue and Bradshaw Crescent road reserves, and a number of bays within the Jarman Avenue road reserve.*

*While utilising the cash-in-lieu provisions of TPS6, the approximate cost of providing street bays is calculated as \$24,500 + GST per bay (land cost of \$21,000 + construction cost of \$3,500). Therefore for 10 bays, the estimated cost is \$245,000.”*

While noting that three bays can be provided within the adjacent street reserve and a number of bays (at least four) can be provided within close proximity of the site on Jarman Avenue (within 400.0 metres of the proposed development), this arrangement results in a variation of three car parking bays for the non-residential use. The proximity of the subject site to public transport, users to the Welwyn Avenue Shopping Centre visiting the proposed shop, local residents visiting the offices and shop not requiring to travel by car are observed to remove the need for these three deficit bays while not adversely affecting the amenity of the locality. Furthermore, the future proposal to develop the Manning District Centre will provide additional parking bays.

Officers recommend that the Council support this variation and asks for a cash-in-lieu payment of \$171,500 for seven parking bays proposed to be provided within the road reserve, or the nearby Manning Community Hub development.

The Council may consider asking for cash-in-lieu payment by the owner for all of the 7 bays being provided within the road reserve as recommended by officers, or a lesser number of bays than 7, as it deems appropriate. Alternatively, the Council may consider waiving the cash-in-lieu payment completely.

**(g) Landscaping**

The required minimum landscaping area is 221.0 sq. metres (15%); whereas the proposed landscaping area is 148.0 sq. metres (9.4%). Therefore the proposed development does not comply with the landscaping requirements of Table 3 of TPS6. The applicant is seeking a variation to the minimum landscaping area by providing outstanding landscaping of the site, in accordance with Clause 5.1(5) of TPS6. The applicant has provided a landscaping plan which requires further information as stated by the City Environment Department. A condition of approval has been recommended that a plan showing outstanding landscaping be submitted in liaison with the City Environment Department, prior to obtaining a building licence. Outstanding landscaping will be able to compensate for the insufficient area of landscaping provided. Officers recommend that the Council support this variation.

**(h) Wall setback - North**

The wall setbacks generally comply, however the northern wall to the fire escape staircase for the first floor is set back 0.75 metres from the boundary, in lieu of the required 1.2 metres. The fire escape staircase wall is 2.7 metres in length and 6.6 metres in height. The site has a common boundary with a residential property on its northern side. In accordance with Clause 5.1(4) of TPS6, the setback from that common boundary is required to be in accordance with the R-Codes requirements in order to have no adverse amenity impact upon the residential amenity.

It is noted that the reduced set back is adjacent to a communal driveway for the dwellings, and not any sensitive or habitable spaces. The applicant has satisfied the associated 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 as no overshadowing of the northern adjoining property is proposed.
- Building bulk is not a significant issue as the length of the wall is only 2.71 metres and is separated from the neighbouring dwellings by a communal driveway.
- Visual privacy is not an issue as the staircase will be infrequently used as it provides an emergency exit only and a staircase is not defined as an active habitable space in the Residential Design Codes.

In assessing the wall setback, it is concluded that the proposal complies with the Performance Criteria.

The rest of the building is observed to comply with the setback requirements. The fire escape passage is set back 3.4 metres and the external walls of the rest of the building are set back at least 4.5 metres from the northern boundary of the site.

(i) **Wall setback - Other**

The building is required to be set back 1.5 metres from a street boundary and is permitted to have a nil setback from other boundaries with a non-residential use in accordance with Table 3 of TPS6. The proposed building is set back at least 1.5 metres from the Bradshaw Crescent street alignment and an average of 1.5 metres (a minimum of 1.2 metres) from Welwyn Avenue. The building is set back more than 10.0 metres from the eastern boundary with the site. Therefore the development complies in this respect.

(j) **Building height**

In accordance with Clause 6.2 of TPS6, the building height limit for the site is 7.0 metres. The external walls of the second-storey are contained within the notional 25 degree hip roof shape, as permitted by Subclause 6.2(1)(b)(II) of TPS6. Only a few minor roof or eaves projections are projecting outside the permitted building height limit which is permitted under TPS6. Building heights are measured to include the wall heights. Therefore the proposed building complies with this requirement.

(k) **Floor levels**

The floor and ground levels of the site are slightly higher than the minimum floor and ground levels permitted by TPS6. The equal cutting below and filling above level for the ground under the building is a relative datum of 10.50m. The proposed floor level of the ground floor is a relative datum of 10.60m. The 100mm additional floor height is observed to demonstrate compatibility with the existing streetscape character, hence compliant with performance criteria provision Clause 6.10(1)(a) of TPS6. The gradient of the proposed car park and access way will achieve the gradient permitted by Clause 6.10(2) of TPS6. The rest of the site generally achieves equal cutting below and filling above the natural ground level and is compliant with Clause 6.10(3) of TPS6. The building, car parking and ground levels are compliant with the maximum floor levels permitted by TPS6.

(l) **Residential density**

The density coding of R20 requires an average site area of 500.0 sq. metres for the multiple dwellings and 333.33 sq. metres for the single bedroom dwelling ( $\frac{2}{3}$  of 500 sq. metres). Noting that the site area is 1,473 sq. metres, the development complies with the acceptable development provisions of Clause 6.1 and Table 1 of the R-Codes.

(m) **Plot ratio**

TPS6 permits a maximum plot ratio of 0.75 for the non-residential and residential components. The proposed plot ratio is 0.71, hence compliant with Table 3 of TPS6.

(n) **Visual privacy**

The R-Codes require openings of active habitable spaces to be set back at least 4.5 metres for bedrooms and studies, 6.0 metres for other habitable rooms and 7.5 metres for balconies and elevated outdoor active habitable spaces. The residential component of the proposed development has been set back a sufficient distance from the boundaries of the site and complies with the acceptable development provisions of Clause 6.8.1 of the Residential Design Codes.

The first floor of the building (offices) is set back less than 6.0 metres from the northern boundary. However, noting that the adjoining residential development has a communal driveway adjacent to this development, in accordance with the R-Codes notes associated with Clause 6.8.1, line of sight setback distance includes the width of this communal street / driveway serving the grouped dwellings.

(o) **Bicycle parking**

TPS6 requires at least four bicycle parking bays to be provided on site. The development proposes to provide seven bicycle parking bays. The provision of bicycle parking is compliant with Table 6 of TPS6.

(p) **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:

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

(q) **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 (considered not to comply in bold):

- (a) *The objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme.*
- (c) *The provisions of the Residential Design Codes and any other approved Statement of Planning Policy of the Commission prepared under Section 5AA of the Act.*
- (f) *Any planning policy, strategy or plan adopted by the Council under the provisions of Clause 9.6 of this Scheme.*
- (i) *The preservation of the amenity of the locality.*
- (j) *All aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance.*
- (n) *The extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details.*
- (o) *The cultural significance of any place or area affected by the development.*
- (p) *Any social issues that have an effect on the amenity of the locality.*
- (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.*
- (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.*
- (x) *Any other planning considerations which the Council considers relevant.*

The proposed development is considered satisfactory in relation to all of these matters.

**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 in February 2010. Their comments and responses from the applicant and the City are summarised below:

DAC Comments	Applicant's Response	Officer Comment
The architects observed that the proposed development did not comply with the prescribed building height limit, hence will require modifications to achieve compliance.	The applicant has included the building height envelope on all elevation plans to demonstrate compliance with TPS6.	The applicant has since submitted amended plans demonstrating compliance with the building height limit. The comment is <b>NOTED</b> and the proposal amended accordingly.
The proposed built form and design was observed to be incompatible to the existing streetscape character.	All existing buildings in the neighbourhood are diverse in terms of their design, built form and use. The proposal aims to remove the existing workshop and provide a better facility for the community with a mix of uses.	Modifications were made to reduce the building height and incorporate exceptional landscaping to improve the built form compatibility. The applicant's comments are observed to be valid. The comment is <b>NOTED</b> and the proposal amended accordingly.
The proposed elevation at the corner of Welwyn Avenue and Bradshaw Crescent does not address the streetscape character, or have regard to other buildings facing the roundabout.	The area is zoned to promote connections diagonally across the intersection. Residential properties are not the dominate attribute of the streetscape; designed to compliment the dominant non-residential developments at the intersection including the Welwyn Avenue Shopping Centre.	The proposed mixed development use is observed to provide a transition between the existing purely non-residential and residential developments. The comment is <b>NOTED</b> and the development observed to be compatible.

DAC Comments	Applicant's Response	Officer Comment
The proposed elevation with blank walls visible from Welwyn Avenue will result in an unsafe street, which is not desirable and also conflicts with the principles of CPTED (Crime Prevention Through Environmental Design).	The first floor windows from the offices to provide surveillance of the street. The height of the car park wall is lower than the floor of the first floor and has a greater street setback to reduce its visual impact.	The comment is <b>NOTED</b> .
There was no architectural relationship between the residential and non-residential components of the development. The proposed development looks like two separate buildings.	Separation deliberately achieved - The design of the building is influenced by planning controls (building height, car parking).	The second floor will be visible to a very negligible extent from the street and immediate surrounds as it is set in from the sides to comply with the building height limit and keep the walls within the notional roof pitch. The comment is <b>NOTED</b> .
Even though the Scheme definition of plot ratio for the non-residential portion of the development states that passages are not to be taken towards the plot ratio area, the officers should carefully assess whether the proposed passage(s) are really required or they have been simply incorporated into the design to obtain an exemption in this regard.	The passage provided to comply with building code requirements intended to provide for multiple tenancies based upon the tenancy size of other suburban office developments and to allow effective occupation.	Detailed assessment of the proposal identified that the plot ratio requirement was adhered to, hence compliant. The comment is <b>NOTED</b> and the proposal amended accordingly.
The architects observed that the proposed development had an uninspiring design.	No direct response - The applicant has made comment on the design of the development elsewhere.	Site inspections conducted by the assessing officer have revealed that the proposed built form is compatible to the existing development and a marked improvement as compared to the existing workshop. The comment is <b>NOTED</b> .

**(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". One neighbouring property to the north of the site (No. 16 Welwyn Avenue) was initially consulted for the proposed boundary wall. No comments were received from the landowner. The plan has since been amended to relocate this wall away from the boundary.

The owners of 14 residential properties surrounding the site (Nos. 1/17, 2/17, 19, 19A and 22 Bradshaw Crescent, Nos. 11A, 11B, 16 and 28 Welwyn Avenue and Nos. 17, 23, 23A, 1/25 and 2/25 Henning Crescent) were consulted as the applicant proposes non-residential development adjacent to residential development. No written submissions were received by the City during the consultation period. However, concerns expressed by adjoining residents during conversations with the Assessing Officer have been summarised below along with responses from the City:

Submitters' Comments	Officer Response
The development will result in additional vehicles parked within the road reserve as there is a shortfall of parking bays on site. These will obstruct traffic movement to the surrounding residential streets.	The site is zoned neighbourhood commercial and capable of being developed in the manner proposed. Additional parking is proposed to be provided within the road reserve to compensate for the shortfall in the on-site parking. The comment is <b>NOTED</b> .
The development will result in undesired levels of noise.	The City's Environmental Health Department has not identified noise as a matter that will be of concern. Noting that there are other non-residential developments in the vicinity which also adjoin Welwyn Avenue, listed as a local distributor road in the City's functional road hierarchy, it is expected that the level of noise will not be unusual to such a busy area. Additionally, the proposed mixed development will be required to comply with the Environmental Protection (Noise) Regulations. The comment is <b>NOTED</b> .
The scale of the building is not in keeping with the existing development in the proximity.	The development of this site will be different to residential properties as it has a non-residential zoning (Neighbourhood Centre Commercial) and use. The proposed building is compliant with TPS6 requirements for maximum plot ratio, setbacks and building height. The comment is <b>NOTED</b> .
There will be visual privacy concerns due to the proximity of the proposed development to residential developments.	The proposed development has been set back sufficiently from the boundary and complies with the relevant provisions of the R-Codes. The comment is <b>NOTED</b> .

**(c) Engineering Infrastructure comments**

Comments were invited from the Manager, Engineering Infrastructure in relation to car parking and traffic generated from the proposal. The following comments were provided:

- (i) bays 29, 30, 31 and 32 are considered acceptable for small cars only;*
- (ii) difficult to access bays 30 and 31;*
- (iii) the existing crossovers are to be removed and the path and kerbing is to be reinstated;*
- (iv) all materials during construction will need to be stored on site;*
- (v) a Traffic Management Plan is required for all works within the street system;*
- (vi) no part of the footpath is to be raised or lowered;*
- (vii) soak wells will need to be installed to cater for stormwater drainage; and*
- (viii) the driveway crossover is to be constructed to the City's specifications.*

Acceptable dimensions for small car bays are not identified in TPS6. However, the applicant has since amended the plans to ensure that all car parking bays meet the minimum dimensions required by TPS6. Planning conditions and important notes are accordingly recommended to deal with matters raised by Engineering Infrastructure.

**(d) City Environment comments**

The department provided comments with respect to the proposed landscaping plan. It was recommended that:

- “(i) a tree is to be planted on the street verge at the developer's cost where there is sufficient space; and*
- (ii) some of the selected species as exceptional landscaping are not considered to be suitable based upon the City's Green Plan of 2002.”*

Planning conditions and important notes are accordingly recommended to deal with matters raised by City Environment.



**(c) Environmental Health comments**

The Manager, Environmental Health Services provided comments that the development is to comply with Environmental Health legislation and regulations. The department did not raise specific matters that require attention. The department requires compliance with the following requirements:

- (i) *Health Act 1911;*
- (ii) *Health Act (Laundries and Bathrooms) Regulations;*
- (iii) *Regulations relating to Sewerage, Lighting, Ventilation and Construction;*
- (iv) *City of South Perth Health Local Laws 2002;*
- (v) *Health Act (Carbon Monoxide) Regulations 1975; and*
- (vi) *Environmental Protection (Noise) Regulations 1997.*

**(d) Building Services comments**

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.

**(e) External agencies**

No comments from external agencies have been invited.

**Policy and Legislative Implications**

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

**Financial Implications**

The determination has no financial implications.

**Strategic Implications**

This matter relates to Goal 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**

The proposed development is observed to be sustainable as it proposes a mix of housing types and non-residential uses within the area which will potentially cater to the social needs while adding vibrancy in the locality. The outdoor areas for the dwellings have access to north-easterly sunlight, hence sustainable.

**Conclusion**

The proposal is observed to be compatible with the neighbouring development and compliant with either the acceptable development or discretionary provisions of the Scheme, R-Codes and policies. Accordingly, it is considered that the application should be granted planning approval subject to conditions. Where the proposal requires the exercise of discretion, it is considered that the applicant has adequately demonstrated that there will be no adverse amenity impact.

**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 three-storey mixed development on Lot 616 (No. 16) Bradshaw Crescent, Manning, **be approved** subject to the following conditions:

**(b) Standard Conditions**

427	External materials - Colours	508	Landscaping plan
353	Car parking - Marking of bays	512	Landscaping - Outstanding
354	Car parking - Maintenance	513	Outstanding landscaping - Detail
375	Clothes drying - Provision	550	Plumbing fittings
377	Clothes drying - Screening	470	Retaining walls
390	Proposed crossover - Construction	471	Retaining - Lot boundaries
393	Existing crossovers - Removal	560	Bin storage / rubbish
416	Street trees	660	Validity - 24 Months
457	Boundary fencing - Replacement		

**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) the dimensions and setbacks of the support columns for the upper stories of the dwelling within the ground floor car park, are to be provided to the City on a site plan to demonstrate that all car parking bays comply with the minimum dimensions listed in Figure 1 or Figure 2 of Schedule 5 of Town Planning No. 6; and
  - (B) the store rooms for the multiple dwellings (Units 1 and 3) are to be increased in size to have a minimum dimension of 1.5 metres and a minimum area of a least 4.0 square metres, in accordance with Clause 6.10.3.A3.1 of the Residential Design Codes.
- (ii) The applicant is to pay the City a cash-in-lieu payment of \$171,500.00 for the provision of seven car parking bays off-site, prior to the issuing of a building licence.
- (iii) End of trip facilities for cyclists shall be provided for the use of staff of the non-residential tenancies. The design and location of those facilities shall be provided at the following ratios:
  - (A) number of secure clothes lockers - Seven; and
  - (B) number of showers - One male shower and one female shower; in separate change rooms, in accordance with the requirements of Clause 6.4(5) of Town Planning Scheme No. 6.
- (iv) The on-site car parking bays shall be allocated to occupancies in the following manner on the approved strata plan:
  - (A) residential dwellings - Two bays per multiple dwelling and one bay per single bedroom dwelling; and
  - (B) non-residential development - 37 bays for office tenancies and two bays for the shop tenancy.
- (v) This planning approval does not permit the display of any signage on the building or on the site. A new application for planning approval will be required if signage is proposed to be displayed.

- (vi) A tree is to be planted on the street verge adjacent to the site in liaison with the City Environment Department. The selected location and species of the proposed street tree is to be included in the landscaping plan for the site.
- (vii) A Traffic Management Plan is to be submitted to the City for any works conducted within the street system.
- (viii) This planning approval does not permit any alteration to the existing levels of the footpaths.

(c) **Standard Advice Notes**

648	This is not a building licence	649A	Variations
647	Revised drawings	651	Appeal rights - SAT
645	Landscaping plan		

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

- (i) The applicant is advised of the need to comply with the relevant requirement of City's Environmental Health, City Environment and Engineering Infrastructure Departments.
- (ii) The applicant is advised that insufficient room is available on the street verges for the storage of construction materials. These materials will need to be stored on-site.

AMENDED OFFICER RECOMMENDATION

Moved Cr Trent, Sec Cr Best

That the officer recommendation be amended by the addition of the following "Specific Advice Note":

- (d)(iii) The applicant is advised that, prior to the issuing of a building licence, certification is required to be provided that the site has been remediated (soil and groundwater) to the satisfaction of the Department of Environmental Protection.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Trent opening for the Motion

- important to have certification on ground remediation

Cr Best for the Motion

- would like to thank officers for the amendment

AMENDED MOTION

Moved Cr Ozsdolay, Sec Cr Burrows

That the condition (b)(ii) in the officer recommendation be deleted.

Cr Ozsdolay opening for the Motion

- there is a need for adequate parking, officers require 49 car parking bays and proposed is 39 car parking bays
- office requirements for parking could be less down to 7 bays
- up to 4 car parking bays could be used up to Jarman Avenue
- 3 bays short, can that area carry 3 bays other than Welwyn shops, Jarman Avenue to Welwyn Avenue half full at most times
- can area carry 7 bays if required

Cr Burrows for the Motion

- Cr Ozsdolay summed it up well
- there are other parking options available

Cr Trent point of clarification – the money received for cash in lieu of parking \$175,000 where would it be expended.

Chief Executive Officer responded the money would be spent on community land opposite the proposal, in conjunction with the Manning Hub project.

Mayor point of clarification – Money spent to go to parking close to Manning Hub development in 4 years time.

CARRIED (9/0)

**COUNCIL DECISION ITEM 10.3.3**

The Mayor put the Motion

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for a three-storey mixed development on Lot 616 (No. 16) Bradshaw Crescent, Manning, **be approved** subject to the following conditions:

**(c) Standard Conditions**

427	External materials - Colours	508	Landscaping plan
353	Car parking - Marking of bays	512	Landscaping - Outstanding
354	Car parking - Maintenance	513	Outstanding landscaping - Detail
375	Clothes drying - Provision	550	Plumbing fittings
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416	Street trees	660	Validity - 24 Months
457	Boundary fencing - Replacement		

**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) the dimensions and setbacks of the support columns for the upper stories of the dwelling within the ground floor car park, are to be provided to the City on a site plan to demonstrate that all car parking bays comply with the minimum dimensions listed in Figure 1 or Figure 2 of Schedule 5 of Town Planning No. 6; and
  - (B) the store rooms for the multiple dwellings (Units 1 and 3) are to be increased in size to have a minimum dimension of 1.5 metres and a minimum area of a least 4.0 square metres, in accordance with Clause 6.10.3.A3.1 of the Residential Design Codes.
- (ii) End of trip facilities for cyclists shall be provided for the use of staff of the non-residential tenancies. The design and location of those facilities shall be provided at the following ratios:
  - (A) number of secure clothes lockers - Seven; and
  - (B) number of showers - One male shower and one female shower;in separate change rooms, in accordance with the requirements of Clause 6.4(5) of Town Planning Scheme No. 6.

- (iii) The on-site car parking bays shall be allocated to occupancies in the following manner on the approved strata plan:
  - (A) residential dwellings - Two bays per multiple dwelling and one bay per single bedroom dwelling; and
  - (B) non-residential development - 37 bays for office tenancies and two bays for the shop tenancy.
- (iv) This planning approval does not permit the display of any signage on the building or on the site. A new application for planning approval will be required if signage is proposed to be displayed.
- (v) A tree is to be planted on the street verge adjacent to the site in liaison with the City Environment Department. The selected location and species of the proposed street tree is to be included in the landscaping plan for the site.
- (vi) A Traffic Management Plan is to be submitted to the City for any works conducted within the street system.
- (vii) This planning approval does not permit any alteration to the existing levels of the footpaths.

(c) **Standard Advice Notes**

648	This is not a building licence	649A	Variations
647	Revised drawings	651	Appeal rights - SAT
645	Landscaping plan		

**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 is advised of the need to comply with the relevant requirement of City's Environmental Health, City Environment and Engineering Infrastructure Departments.
- (ii) The applicant is advised that insufficient room is available on the street verges for the storage of construction materials. These materials will need to be stored on-site.
- (iii) The applicant is advised that, prior to the issuing of a building licence, certification is required to be provided that the site has been remediated (soil and groundwater) to the satisfaction of the Department of Environmental Protection.

CARRIED (9/0)

Reason for change

The item was amended as Council were of the view that the applicant did not need to pay the cash in lieu for car parking and certification from the Department of Environmental Protection would need to be sought regarding the remediation of the site.

**10.3.4 Proposed Two-Storey Single House - Lot 155 (No. 93) Banksia Terrace, Kensington**

Location:	Lot 155 (No. 93) Banksia Terrace, Kensington
Applicant:	Ms I Langenbach
Lodgement Date:	4 January 2010
File Ref:	11.2010.2                      BA2/93
Date:	3 May 2010
Author:	Cameron Howell, Statutory Planning Officer
Reporting Officer:	Vicki Lummer, Director, Development & Community Services

**Summary**

To consider an application for planning approval for a two-storey single house on Lot 155 (No. 93) Banksia Terrace, Kensington. The proposal complies with the City’s Town Planning Scheme No. 6 (TPS6), the 2008 R-Codes and City policies.

However, the proposed skillion roof form on the ground floor towards the rear of the dwelling conflicts with Clause 7.5(i), (j) and (n) of TPS6. The skillion roof is not compatible with the significantly visible pitch roof over the two-storey dwelling. The roofs for all of the neighbouring dwellings have a hip / pitched / gable form and are constructed from either metal sheeting or tiles.

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

Element on which discretion is sought	Source of discretionary power
Design of the dwelling	TPS6 Clause 7.5 and to a lesser extent, the intent of Policy P350.4 “Additions to Existing Dwellings”

It is recommended that the proposal be approved subject to standard conditions, and the skillion roof be replaced with a pitched roof as this is considered compatible with the upper floor roof and adjoining properties.

**Background**

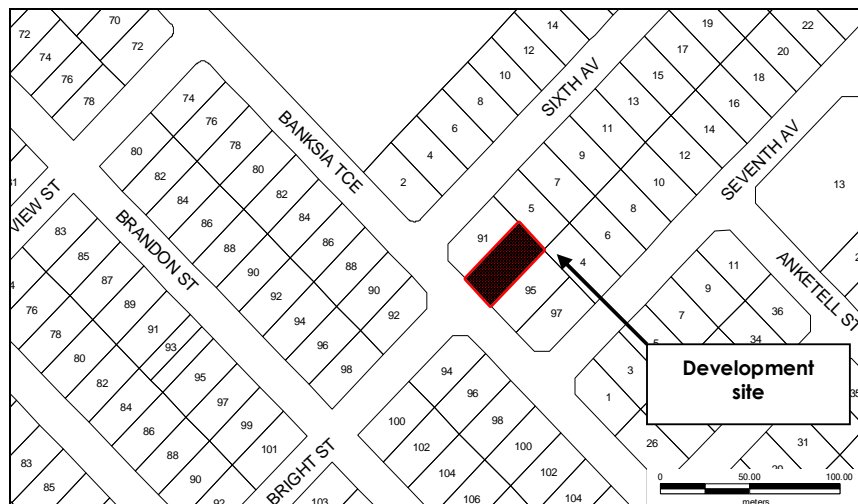
The development site details are as follows:

<b>Zoning</b>	Residential
<b>Density coding</b>	R15
<b>Lot area</b>	847 sq. metres
<b>Building height limit</b>	7.0 metres
<b>Development potential</b>	1 Dwelling
<b>Plot ratio limit</b>	Not applicable

This report includes the following attachment:

- Confidential Attachment 10.3.4(a)** Plans of the proposal.
- Attachment 10.3.4(b)** Letter of justification from the applicant

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:

**6. Amenity impact**

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

In relation to Item 6 above, the extent of adverse amenity impact arising from the skillion roof component of the proposal is considered unacceptable (see “Comments” below).

**Comment**

**(a) Description of the surrounding locality**

The subject site has a frontage on Banksia Terrace, located adjacent to single-storey single houses to the north, east and south of the site. The roofs for all of the neighbouring dwellings have a hip / pitched / gable form and are constructed from either metal sheeting or tiles.

**(b) Existing development on the subject site**

The subject site is currently vacant. The former development on the site featured the land use of single house.



Site photograph : Lot 155 (No. 93) Banksia Terrace, Kensington

**(d) Description of the proposal**

The proposal involves the construction of a two-storey single house on Lot 155 (No. 93) Banksia Terrace, Kensington (the site), as depicted in the submitted plans referred to as **Confidential Attachment 10.3.4**.

The following component of the proposed development does not satisfy the Scheme, Residential Design Codes and planning policy requirements:

*“(i) The skillion roof on the ground floor of the dwelling.”*

The proposal complies with *Town Planning Scheme No. 6 (TPS6)*, the *Residential Design Codes of WA 2008* (the R-Codes) and relevant Council policies with the exception of the remaining non-complying aspects, all discussed below.

**(e) Design of the proposed dwelling**

The dwelling is proposed to have different roof designs for each storey of the building. The upper floor roof has a hip / pitched form, whilst the rear section of the ground floor roof has a skillion form. The skillion roof will be visible to all neighbouring properties. The roofs are to be constructed using colorbond metal sheeting.

The skillion roof is not compatible with the design of the upper storey of the dwelling and is not compatible with the design of neighbouring dwellings. The skillion roof will have a detrimental impact upon the visual amenity of the neighbouring properties. Therefore the proposed development does not comply with Clause 7.5(i), (j) and (n) of TPS6.

**(f) 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 does not meet the following objective:

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

The proposed skillion roof and pitched roof combination for the dwelling is observed to have an adverse visual amenity impact when viewed from the adjoining properties. Since the complete dwelling is being designed and built at the same time, unlike some other existing dwellings where additions may be made at a later date, it is the officer's view that a consistent roof form should be maintained. The Design Advisory Consultants have recommended that the proposed skillion roof form over the single storey portion at the rear should be amended to a roof form that is consistent with the proposed pitched roof form over the front two storey portion.

**(g) 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 proposal does not meet the following:

- (i) *The preservation of the amenity of the locality;*  
(j) *All aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*  
(n) *The extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details.*

**Consultation**

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

The design of the proposal was considered by the City's Design Advisory Consultants (DAC) at their meeting held on 10 May 2010. The Design Advisory Consultants have recommended that:

*"The proposed skillion roof form over the single storey portion at the rear should be amended to a roof form that is consistent with the proposed pitched roof form over the front two storey portion. Even though the proposed skillion roof will not be visible from the street or have an adverse amenity impact on the existing streetscape character, it is important for the development to have roof forms that are consistent and complimentary to each other, as it will have a visual impact on the adjoining developments."*

Attachment 10.3.4(b) provides applicant's justification with regards to the proposed roof form, as it is considered to maximise energy efficiency, whilst maintaining the visual aspects consistent with the area.

The officers recommend that the skillion roof form be amended to a pitch roof form.



**(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 Approvals”. The owners of properties at Nos. 91 and 95 Banksia Terrace, No. 5 Sixth Avenue and No. 4 Seventh Avenue were invited to inspect the application for information purposes only. A total of four neighbour information notices were mailed to individual property owners during the advertising period; no submissions were received.

**Policy and Legislative Implications**

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

**Financial Implications**

The determination has no financial implications.

**Strategic Implications**

This matter relates to Strategic Direction 6 “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**

The proposed development is observed to be sustainable in terms of its access to sunlight and ventilation. The design however, is observed to conflict with the existing streetscape character, hence not supported by officers.

**Conclusion**

The proposal will have an adverse visual impact on the adjoining residential neighbours, and does not meet all of the relevant Scheme, R-Codes and City policy objectives and provisions. Provided that the recommended conditions are applied, it is recommended 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 a two-storey single house on Lot 155 (No. 93) Banksia Terrace, Kensington, **be approved** subject to following conditions:

**(d) Standard Conditions**

427	Colours and materials - Details	471	Retaining walls - Timing
410	Crossover affects infrastructure	457	Dividing fence - Replacement
390	Crossover standards	377	Screened clothes drying
393	Verge and kerbing works	625	Fencing - Driveway truncation area
470	Retaining walls - If required	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:
- The proposed skillion roof over the single storey portion at the rear is to be modified to a pitched roof form to keep it consistent with the roof design over the two storey portion of the dwelling at the front.

- (ii) The site plan shall include at least one tree not less than 3.0 metres in height at the time of planting, and of a species approved by the City, shall be planted within the street setback area or elsewhere on the site prior to occupation of the dwelling. The tree/s shall be maintained in good condition thereafter.
  - (iii) Unless otherwise approved, fences of brick, timber, capped manufactured precoloured metal sheet, capped corrugated fibre-cement sheet or brushwood construction, maximum 1.8 metres in height, shall be provided along the side and rear boundaries of the site. Any fencing forward of the building line shall not be of fibre-cement sheet or metal sheet construction; and shall not exceed 1.2 metres in height unless “visually permeable” or otherwise required and approved by the City. The fence height at any point shall be measured from the natural ground level of the street adjacent to the fence, or where abutting a neighbouring property to the side / rear, then if the ground levels on each side of the fence are not the same at any point along the lot boundary, the fence height at that point shall be measured from the higher side.
- (c) **Standard Advice Notes**
- |      |                                 |      |                                  |
|------|---------------------------------|------|----------------------------------|
| 648  | Building licence required       | 649A | Minor variations - Seek approval |
| 647  | Revised drawings required       | 651  | Appeal rights - SAT              |
| 646  | Landscaping standards - General |      |                                  |
| 646A | Masonry fence requires BA       |      |                                  |

<b>Footnote</b>	A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.
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OFFICER RECOMMENDATION

Moved Cr Best, Sec Cr Doherty

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Best opening for the Motion

- no comment

AMENDED MOTION

Moved Cr Ozsdolay, Sec Cr Trent

That condition (b)(i) in the officer recommendation be deleted.

MEMBER COMMENTS FOR / AGAINST MOTION - POINTS OF CLARIFICATION

Cr Ozsdolay opening for the Motion

- no difference at the back of the building
- amenity impact due to skillion roof that is why it has been referred to Council
- no impact to the amenity of the area

Cr Trent for the Motion

- endorse Cr Ozsdolay’s comments
- support need for the skillion roof at the back

CARRIED (9/0)

**COUNCIL DECISION ITEM 10.3.4**

The Mayor put the Motion

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for a two-storey single house on Lot 155 (No. 93) Banksia Terrace, Kensington, **be approved** subject to following conditions:

**(e) Standard Conditions**

427	Colours and materials - Details	471	Retaining walls - Timing
410	Crossover affects infrastructure	457	Dividing fence - Replacement
390	Crossover standards	377	Screened clothes drying
393	Verge and kerbing works	625	Fencing - Driveway truncation area
470	Retaining walls - If required	660	Expiry of approval

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

Revised drawings shall be submitted, and such drawings shall incorporate the following:

- (i) The site plan shall include at least one tree not less than 3.0 metres in height at the time of planting, and of a species approved by the City, shall be planted within the street setback area or elsewhere on the site prior to occupation of the dwelling. The tree/s shall be maintained in good condition thereafter.
- (ii) Unless otherwise approved, fences of brick, timber, capped manufactured precoloured metal sheet, capped corrugated fibre-cement sheet or brushwood construction, maximum 1.8 metres in height, shall be provided along the side and rear boundaries of the site. Any fencing forward of the building line shall not be of fibre-cement sheet or metal sheet construction; and shall not exceed 1.2 metres in height unless “visually permeable” or otherwise required and approved by the City. The fence height at any point shall be measured from the natural ground level of the street adjacent to the fence, or where abutting a neighbouring property to the side / rear, then if the ground levels on each side of the fence are not the same at any point along the lot boundary, the fence height at that point shall be measured from the higher side.

**(c) Standard Advice Notes**

648	Building licence required	649A	Minor variations - Seek approval
647	Revised drawings required	651	Appeal rights - SAT
646	Landscaping standards - General		
646A	Masonry fence requires BA		

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

**CARRIED (9/0)**

**Reason for change**

The item was amended as Council were of the view that the skillion roof at the rear of the property should remain.

**Note:** The Manager Development Services retired from the meeting at 8.25pm

**10.4 STRATEGIC DIRECTION 4: PLACES**  
*Nil*

**10.5 STRATEGIC DIRECTION 5: TRANSPORT**  
*Nil*

**10.6 STRATEGIC DIRECTION 6: GOVERNANCE**

**10.6.1 Monthly Financial Management Accounts - April 2010**

Location: City of South Perth  
Applicant: Council  
File Ref: FM/301  
Date: 07 May 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 the suite of reports that were recognised with a Certificate of Merit in the last Excellence in Local Government Financial Reporting awards.

**Background**

Local Government (Financial Management) Regulation 34 requires the City to present monthly financial reports to Council in a format reflecting relevant accounting principles. A management account format, reflecting the organisational structure, reporting lines and accountability mechanisms inherent within that structure is considered the most suitable format to monitor progress against the budget. The information provided to Council is a summary of the more than 100 pages of detailed line-by-line information supplied to the City's departmental managers to enable them to monitor the financial performance of the areas of the City's operations under their control. This report also reflects the structure of the budget information provided to Council and published in the Annual Budget.

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

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

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

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

A summary of budgeted revenues and expenditures (grouped by department and directorate) is also provided each month. This schedule reflects a reconciliation of movements between the 2009/2010 Adopted Budget and the 2009/2010 Amended Budget including the introduction of the capital expenditure items carried forward from 2008/2009 (after August 2009).

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

#### **Comment**

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

- Balance Sheet - **Attachments 10.6.1(1)(A) and 10.6.1(1)(B)**
- Summary of Non Infrastructure Operating Revenue and Expenditure **Attachment 10.6.1(2)**
- Summary of Operating Revenue & Expenditure - Infrastructure Service **Attachment 10.6.1(3)**
- Summary of Capital Items - **Attachment 10.6.1(4)**
- Schedule of Significant Variances - **Attachment 10.6.1(5)**
- Reconciliation of Budget Movements - **Attachment 10.6.1(6)(A) and 10.6.1(6)(B)**
- Rate Setting Statement - **Attachment 10.6.1(7)**

Operating Revenue to 30 April 2010 is \$37.04M which represents 100% of the \$37.12M year to date budget. Revenue performance is close to budget expectations overall - although there are some individual line item differences. Following the Q3 Budget Review, interest revenues are within 2% of budget expectations - despite weak investment rates in the early part of the year. Rates revenue is right on budget. Property management revenue shows a small favourable variance after the Q3 Budget review adjustment for the final settlement sum for disputed prior year rental adjustments on a major commercial lease was finally agreed after very protracted negotiations.

Reflecting the positive tone of WA's economic climate, Planning & Building Services revenues are now right in line with the (upwards) revised revenue budget expectations after the Q3 Budget Review. Recreation revenue is slightly ahead of expectations due to a higher than expected use of the recreation centre. Collier Park Village revenue is now 2% behind budget expectations due to several units being vacant whilst the Hostel revenue is now slightly favourable after an unanticipated retrospective adjustment to commonwealth subsidies. The Q3 Budget Review adjustments for grant funding for events is now reflected in the management accounts – there will be offsetting expenditure on the related programs / events, meaning that there is no net financial benefit to the City as a consequence of receiving the larger grant allocations. Meter parking revenue is comfortably ahead of budget

and infringement revenue is now on target following the downwards revision to the budget in the Q3 Budget Review. Golf Course revenue is now 1% ahead of budget targets after the upwards revision to the target in the Q3 Budget Review. Similar adjustments to the plant nursery revenue and infrastructure engineering revenues are also now reflected in the accounts.

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

Operating Expenditure to 30 April 2010 is \$30.59M which represents 97% of the year to date budget of \$31.38M. Operating Expenditure to date is 3% under budget in the Administration area, 1% under budget in the Infrastructure Services area and 6% under budget for the golf course. For a portion of the year there have been budgeted (but vacant) staff positions (currently covered to some extent by consultants) in the CEO Office, Building Services and Rangers areas. The later two of these have recently been filled. Waste collection site fees have resulted in a favourable variance against budget to date due to the City having (correctly) budgeted for the increased State Waste Levy from 1 Jan 2010 but a lesser charge was incurred to date. Allowance has also been made in this area for \$40K for tub grinding of mulch but this cost has yet to be incurred.

Golf Course expenditure is impacted by a staff vacancy and favourable timing differences on promotions, pest and weed control activities and some minor maintenance activities. Most other items in the administration areas remain close to budget expectations to date other than minor timing differences.

Following the (cost neutral) re-distribution of parks maintenance budgets in the Q2 Budget Review to better reflect the in-use maintenance regimes at SJMP, EJ Oval and in the Manning Ward, this area is now on target. Streetscape maintenance reflects the Q3 budget review adjustment to allow for cleanup costs after the severe storm damage in late March. As previously noted, a complete summary of the storm related costs and any recoveries made against them will be prepared at a later date - but it will take some months before the various suppliers, agencies and insurers have settled and tallied these expenses.

Currently there are favourable variances relating to drainage maintenance but as these works are seasonal the variance is of a timing nature only and will reverse in the future. There are also favourable variances on street lighting and street sweeping but these are also expected to reverse later in the year. Cash fleet and mobile plant operating costs are very close to budget – but are currently being slightly under recovered. Operating overheads in the Infrastructure area are currently showing some improvement following adjustment during March and April.

The salaries budget (*including temporary staff where they are being used to cover vacancies*) is now around 2.50% under the budget allocation for the 217.6 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 \$2.94M at 30 April against a year to date budget of \$2.89M. Following the Q3 Budget Review adjustments to additional revenue from the UGP project and, the removal of the capital contribution towards landscaping at the Judd St on ramp, the major component of the variance is the favourable variance on lease premiums and refurbishment levies attributable to re-leased units at the Collier Park Village. This is after three units were settled during the month - with a further three vacant at present.

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

Capital Expenditure at 30 April 2010 is \$10.22M representing 83% of the year to date budget and some 56% of the full year budget (after the inclusion of carry forward works approved by Council in August). Management continues to closely monitor the delivery of the capital program - and is again using the staged capital program approach of running a 'Deliverable' and a 'Shadow' capital program to ensure that organisational capacity and expectations are appropriately matched. Delays attributable to public consultation and clashes with major events on certain high profile locations (eg: SJMP) have had an adverse impact on completion of some projects. The Library and Community facility project is currently showing a favourable variance of some \$0.6M (approximately 3% of the total capital expenditure 'under-spend') but this is a merely a timing difference because we have not yet been billed for some structural and roofing works. Updates on the individual capital project progress are included as Item 10.6.4 of this Council Agenda.

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	3,820,000	3,204,961	84%	7,130,000
Financial & Information Services *	367,000	252,799	70%	655,000
Planning & Community Services	642,500	455,215	71%	930,350
Infrastructure Services	7,148,868	5,954,703	83%	9,034,490
Golf Course	368,200	349,852	95%	418,200
<b>Total</b>	<b>12,346,568</b>	<b>10,217,530</b>	<b>83%</b>	<b>18,168,040</b>

\* Financial & Information Services is also responsible for the Library building project which constitutes the majority (\$6.96M) of the capital expenditure under the CEO Office

### 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.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.1</b>
--

That ....

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

CARRIED EN BLOC RESOLUTION

<b>10.6.2 Monthly Statement of Funds, Investments and Debtors at 30 April 2010</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	7 May 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 \$37.88M compare favourably to \$31.88M at the equivalent stage of last year. Reserve funds are some \$0.75M lower than at the equivalent stage last year - reflecting higher holdings of cash backed reserves to support refundable monies at the CPV & CPH (\$1.1M higher) but \$2.3M less holdings in the Future Building Works Reserve as monies are applied to the new Library & Community Facility project. The Waste Management Reserve is \$0.3M higher and several other Reserve balances are modestly changed.

Municipal funds are \$6.7M higher due to the additional \$1.9M in restricted funds (IAF & Lotteries grant relating to the Library & Community Facility) and the transfers back from Reserves for the same project (\$2.4M) - plus very favourable timing of cash outflows for other capital major projects (we still have \$7.9M of programmed works to be completed or carried forward). Collections from rates and reimbursements from the Office of State Revenue for pensioner rebates are also in advance of last year's cash position thanks to very successful and timely follow up actions from the Financial Services team.

Our convenient and customer friendly payment methods, supplemented by the Rates Early Payment Incentive Prizes (with all prizes donated by local businesses), have continued to have the desired effect in relation to 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 \$11.35M (compared to \$13.84M last month) It was \$6.68M at the same time in 2008/2009. **Attachment 10.6.2(1).**

**(b) Investments**

Total investment in money market instruments at month end was \$35.84M compared to \$31.53M at the same time last year. This is due to the higher holdings of Municipal Funds as investments as described above. In the current year we also have higher cash holdings in bank accounts as required by the grant funding obligations - although these were transferred back to general funds in May as we

have passed the requisite expenditure thresholds on the Library and Community Facility project..

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 95.6% 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)**.

Interest revenues (received and accrued) for the year to date total \$1.51M - well down from \$1.94M at the same time last year. This result is attributable to the substantially lower interest rates early in the year - notwithstanding higher levels of cash holdings. Rates were particularly weak during July and much of August but have strengthened progressively (albeit modestly) since late September as banks undertook capital management initiatives and the Reserve Bank lifted cash rates throughout the year.

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 4.59% with the anticipated weighted average yield on investments yet to mature now sitting at 5.32% (compared with 5.30% last month). Investment results to date reflect careful and 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 4.00% - although this is a significant improvement on the 2.75% on offer early in the year.

(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 March 2010 (after the due date for the fourth instalment) represent 96.3% of total rates levied compared to 95.8% at the equivalent stage of the previous year. This means that the year end KPI of 95% has already been achieved - the challenge now is to see how much it can be bettered by at year end.

This is a particularly pleasing result in spite of the improving economic climate. It reflects a good community acceptance of the rating and communication strategies applied by the City in developing the 2009/2010 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) has again been supported by timely and efficient follow up actions by the City's Rates Officer to ensure that our good collections record is maintained.

**(ii) General Debtors**

General debtors stand at \$1.64M at month end (\$1.86M last year) excluding UGP debtors - and compared to \$1.82M last month. Major changes in the composition of the outstanding debtors balances (year on year) are a \$0.20M decrease in the amount of GST refundable - and additional invoices raised for (confirmed) grants associated with the Australia Day Youth & Family Zone & Fiesta. The balance of parking infringements outstanding is now similar to last year. Debtors relating to pensioner rebates, outstanding CPH fees and other sundry debtors are substantially less than the previous year balances. 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.

**(iii) Underground Power**

Of the \$6.77M billed for UGP (allowing for adjustments), some \$5.64M was collected by 30 April with approximately 74.9% of those in the affected area electing to pay in full and a further 24.3% opting to pay by instalments. The remaining 0.8% has yet to make a payment. However, most of these 18 remaining properties are disputed billing amounts and are now the subject of escalating collection actions by the City as they have not been satisfactorily addressed in a timely manner. Collections in full are currently better than expected which had the positive impact of allowing us to defer UGP related borrowings until late in June 2009 but on the negative side, resulted in somewhat less revenue than was budgeted being realised from the instalment interest charge.

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 collectability 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 AND COUNCIL DECISION ITEM 10.6.2**

That Council receives the 30 April 2010 Monthly Statement of Funds, Investment & Debtors comprising:

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

CARRIED EN BLOC RESOLUTION

## **10.6.3 Listing of Payments**

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	7 May 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 April 2010 and 30 April 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 AND  
COUNCIL DECISION ITEM 10.6.3**

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

CARRIED EN BLOC RESOLUTION

**10.6.4 Capital Projects Review to 30 April 2010**

Location:	City of South Perth
Applicant:	Council
File Ref:	FM/301
Date:	9 May 2010
Author/Reporting Officer:	Michael J Kent, Director Financial and Information Services

**Summary**

A schedule of financial performance supplemented by relevant comments is provided in relation to approved capital projects to 30 April 2010. Officer comment is provided only on the significant identified variances as at the reporting date.

**Background**

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

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

### **Comment**

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

Overall, expenditure on the Capital Program represents 83% of the year to date target - and 56% of the full year's budget. During the earlier part of the financial year, capital works are designed, tendered and contractors appointed but most actual expenditure occurs from the second quarter on.

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

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

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

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

A number of projects have commenced but are unlikely to be fully expended by 30 June - as such have been recognised as likely carry forward works - the most significant of these being the 'in progress' construction work associated with the Library and Community Facility.

### **Consultation**

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

### **Policy and Legislative Implications**

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

### **Financial Implications**

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

### **Strategic Implications**

This report deals with matters of 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. It achieves this by promoting accountability for resource use through a historical reporting of performance. This emphasises the proactive identification of apparent financial variances, creates an awareness of our success in delivering against our planned objectives and encourages timely and responsible management intervention where appropriate to address identified issues.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.4</b>
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That the Schedule of Capital Projects complemented by officer comments on identified significant variances to 30 April 2010, as per **Attachments 10.6.4(1)** and **10.6.4(2)**, be received.

CARRIED EN BLOC RESOLUTION

<b>10.6.5 Applications for Planning Approval Determined Under Delegated Authority</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	GO/106
Date:	3 May 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 April 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 April 2010, fifty-eight (58) development applications were determined under delegated authority at **Attachment 10.6.5**.

### **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.

<b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.5</b>
--

That the report and **Attachment 10.6.5** relating to delegated determination of applications for planning approval during the month of April 2010, be received.

CARRIED EN BLOC RESOLUTION

<b>10.6.6 Use of the Common Seal</b>
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Location:	City of South Perth
Applicant:	Council
File Ref:	GO/106
Date:	6 May 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 as part of the Agenda, commencing at the November 2006 meeting, on the use of the Common Seal, listing seal number; date sealed; department; meeting date / item number and reason for use.”*

**Comment**

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

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

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

**Register**

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

**April 2010**

Nature of document	Parties	Date Seal affixed
Deed	CoSP and Edna Mary Bailey	8 April 2010
Deed	CoSP and Ruby Joyce Pollard	8 April 2010
Withdrawal of Caveat	CoSP	14 April 2010

Section 70A	CoSP and	16 April 2010
Deed of Lease	CoSP and Robert William Tuffin	29 April 2010
Deed of Agreement to Lease	CoSP and Robert William Tuffin	29 April 2010
Deed of Agreement to Lease	CoSP and Leslie Charles Allen and Linda Elizabeth Allen	29 April 2010
Deed of Lease	CoSP and Leslie Charles Allen and Linda Elizabeth Allen	29 April 2010
Deed of Agreement to Lease	CoSP and William Leslie Marrable and Roma Dawn Marrable	29 April 2010
Deed of Lease	CoSP and William Leslie Marrable and Roma Dawn Marrable	29 April 2010
Collier Park Village Hostel Deed	CoSP and Phyllis Semini	29 April 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.

<p><b>OFFICER RECOMMENDATION AND COUNCIL DECISION ITEM 10.6.6</b></p>
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That the report on the use of the Common Seal for the month of April 2010 be received.

CARRIED EN BLOC RESOLUTION

<p><b>10.6.7 Recommendations from CEO Evaluation Committee Meeting Held 30 March 2010</b></p>
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Location:	City of South Perth
Applicant:	Council
Date:	13 May 2010
Author:	Kay Russell, Executive Support Officer
Reporting Officer:	Cliff Frewing, Chief Executive Officer

**Summary**

The purpose of this report is to consider recommendations arising from the CEO Evaluation Committee meeting held 11 May 2010 in relation to progress of the CEO performance review which require a Council decision.

**Background**

This Committee oversees the reviews of the CEO's performance. The functions of the CEO Evaluation Committee are to:

- (i) review and ratify agreed performance areas;
- (ii) establish timelines for quarterly review periods;
- (iii) establish timelines for achievement of Performance Focus Areas;
- (iv) conduct first quarterly Evaluation Committee meetings;
- (v) conduct Annual Performance Reviews;
- (vi) review the remuneration package of the CEO;
- (vii) discuss performance issues with the CEO; and
- (viii) make recommendations and establish outcomes.

The Committee meets to progress and provide recommendations to Council in regards to:

- the CEO's annual performance review period;
- the development of Key Performance Indicators; and
- any appropriate remuneration changes for the CEO.

#### **Comment**

The Committee does not have Delegated Authority to make decisions but may make recommendations to Council to enable it do so. The following recommendations from the Committee Meeting held 11 May 2010 require Council's consideration:

#### Committee Recommendation (CEO Evaluation Committee Minutes 11.5.2010 Item 4.1)

That Council adopt the following Terms of Reference for the CEO Evaluation Committee:

- To oversee Council's only staff function, that being the performance review and management of the Chief Executive Officer.
- At all times to act in the best interests of the City whilst ensuring the principles of natural justice and procedural fairness are met.
- To ensure the appropriate leadership is in place to allow the City's strategic planning processes to be realised through the setting of appropriate performance criteria.
- To ensure equity and transparency in all dealings with the Chief Executive Officer's performance outcomes and remuneration obligations are met.
- To provide a safe forum for Council and the Chief Executive Officer to air any concerns or to discuss variances in any timelines that have been set as part of the performance criteria.
- To oversee the development of robust performance criteria that has a measurable return to the City.
- To set and oversee any changes in performance expectations for the review period
- To make recommendations to Council on all matters pertaining to the Chief Executive Officer Annual Review.

#### Comment

Following the review of the CEO Evaluation Committee 'Terms of Reference' by Consultant Anne Lake the Committee supported the modified functions list suggested by the Consultant and endorsed the Terms of Reference as presented by the Consultant.

#### Committee Recommendation (CEO Evaluation Committee Minutes 11.5..2010 Item 4.2)

That the 'six monthly' progress report on the CEO's 2009/2010 KPIs be received.

#### Comment

Following the report presentation by the CEO on the 6 monthly progress of his KPI's for the 2009/2010 period the Committee endorsed the report.

#### **Consultation**

Recommendations adopted by Committee for Council consideration.

#### **Policy and Legislative Implications**

The report and recommendations are made in accordance with the requirements of the *Local Government Act 1995*.

**Financial Implications**

Costs incurred by the City in relation to the remuneration for the Consultant.

**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**

This report addresses the City’s ongoing sustainability through the review of the CEO Evaluation process.

**COMMITTEE RECOMMENDATION ITEM 10.6.7**

That Council adopt the following Recommendations of the CEO Evaluation Committee Meeting of 11 May 2010.

That

- (a) the following Terms of Reference for the CEO Evaluation Committee be adopted:
- To oversee Council’s only staff function, that being the performance review and management of the Chief Executive Officer.
  - At all times to act in the best interests of the City whilst ensuring the principles of natural justice and procedural fairness are met.
  - To ensure the appropriate leadership is in place to allow the City’s strategic planning processes to be realised through the setting of appropriate performance criteria.
  - To ensure equity and transparency in all dealings with the Chief Executive Officer’s performance outcomes and remuneration obligations are met.
  - To provide a safe forum for Council and the Chief Executive Officer to air any concerns or to discuss variances in any timelines that have been set as part of the performance criteria.
  - To oversee the development of robust performance criteria that has a measurable return to the City.
  - To set and oversee any changes in performance expectations for the review period
  - To make recommendations to Council on all matters pertaining to the Chief Executive Officer Annual Review; and
- (b) the ‘six monthly’ progress report on the CEO’s 2009/2010 KPIs be received.

**COUNCIL DECISION 10.6.7**

That Council adopts the CEO Evaluation Committee Recommendations as contained in Report Item 10.6.7 of the May 2010 Council Meeting.

CARRIED EN BLOC RESOLUTION

**11. APPLICATIONS FOR LEAVE OF ABSENCE**

**11.1 Request for Leave of Absence Mayor Best**

I hereby apply for Leave of Absence from all Council Meetings for the period 15 to 19 June 2010 inclusive.

**11.2 Request for Leave of Absence Cr Skinner**

I hereby apply for Leave of Absence from all Council Meetings for the period 1 June and 6 to 17 September inclusive.

**COUNCIL DECISION ITEMS 11.1 TO 11.2**

Moved Cr Trent, Sec Cr Hasleby

That Leave of Absence from all Council Meetings be granted to:

- Mayor Best for the period 15-19 June 2010 inclusive; and
- Cr Skinner for the period 1 June and 6 to 17 September 2010 inclusive.

CARRIED (9/0)

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

**12.1 Naming of Roads/Rights-of-Way Within the City of South Perth Cr K Trent**

MOTION

That the CEO develop a list of suitable names for use on future roads and Rights-of-Way within the City of South Perth and the list be presented to Council for adoption.

MEMBER COMMENT

- The names suggested by Landgate in response to officers presenting a name for a Street or ROW or Street do not relate to South Perth.
- Landgate suggest that a 'theme' be used, ships that brought the early settlers to WA, war heroes, dignitaries in the City who have passed away.
- Acknowledge that there is a theme in the names of Azalea, Lily, Daisy, Iris, Poppy etc - suggestions that have come from Landgate.
- Landgate have guidelines to prevent the same name being used in a neighbouring suburb to help eliminate confusion for Emergency Services and the public.
- Residents could be asked for suggestions to assist the officers in recommending names to Landgate.

COMMENT CEO

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

The suggestion to develop a list of possible street and right-of-way names for further consideration by the Council in due course, is partially supported. Streets and rights-of-way within the City already follow many themes, including, among others:

Rights-of-way:

- floral/plants

Roads:

- war heroes (Como Avenues and others)
- Aboriginal words (Karawara)
- Irish/Christian Brothers names (Waterford)
- past Road Board/Council members and officers (Manning)
- early Town Planning and surveying (Salter Point)
- early South Perth settlers (various)

Names within most parts of the City follow a particular theme, developed as those areas developed, many years ago. The City's Senior Strategic Planning Officer maintains a document containing all street and place names, giving the background and meaning of each name. An updated document can be provided for reference at any time.

Most of the new names that the City will be considering in the future will relate to right-of-ways. It would be a relatively simple matter to develop a list of future right-of-way names, following the current floral theme.

New public streets are created only very rarely as the City is almost fully developed and the location of future streets is unknown. Therefore, for names of streets, it would not be practicable to develop a list of names for future use, being mindful of the need to follow the theme for the particular location. Under these circumstances, it is suggested that the list to be provided to Council for adoption should be confined to right-of-way names only. If the Motion is modified to this effect, following its adoption, in consultation with Landgate City officers would undertake research relating to suitable floral names for rights-of-way. As far as possible, the names selected would reflect the local flora of the City of South Perth.

<b>COUNCIL DECISION ITEM 12.1</b>
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Moved Cr Trent, Sec Cr Best

That the CEO develop a list of suitable names for use on future roads and Rights-of-Way within the City of South Perth and the list be presented to Council for adoption.

CARRIED (8/1)

Cr Hasleby voted against the Motion

**Note:** The Communications Officer retired from the meeting at 8.35pm

**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.**

**15.1.1 Review of the Collier Park Golf Course Lease *CONFIDENTIAL Not to be Disclosed REPORT***

Location: City of South Perth  
Applicant: Council  
File Ref: PR/301  
Date: 3 May 2010  
Author: Mark Taylor, Manager City Environment  
Reporting Officer: Stephen Bell, Director Infrastructure Services

***Confidential***

This report has been designated as ***Confidential*** under the *Local Government Act* Sections 5.23(2)(b)(c) as it relates to the personal affairs of a person and a contract entered into.

**Note:** *Confidential report circulated separately.*

**COUNCIL DECISION 15.1.1**

Moved Cr Ozsdolay, Sec Cr Hasleby

That ...

- (a) Council requests the Chief Executive Officer to initiate the required public consultation process for a new five (5) year lease with Rosetta Holdings Pty Ltd, to manage the commercial operations of the Collier Park Golf Course on behalf of the City, as prescribed under section 3.58 of the *Local Government Act (1995)* to the *Disposition of Property*; and
- (b) subject to no valid objections arising from the consultation process, Council delegate to the Chief Executive Officer authority to formalise the new lease with Rosetta Holdings Pty Ltd.

CARRIED (9/0)

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

For the benefit of the 4 members of the public gallery the Acting Minute Secretary read aloud the Council decision at Item 15.1.1.

**16. CLOSURE**

The Mayor closed the meeting at 8.51pm and thanked everyone for their attendance.

**DISCLAIMER**

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

The City advises that comments recorded represent the views of the person making them and should not in any way be interpreted as representing the views of Council. The minutes are a confirmation as to the nature of comments made and provide no endorsement of such comments. Most importantly, the comments included as dot points are not purported to be a complete record of all comments made during the course of debate. Persons relying on the minutes are expressly advised that the summary of comments provided in those minutes do not reflect and should not be taken to reflect the view of the Council. The City makes no warranty as to the veracity or accuracy of the individual opinions expressed and recorded therein.

**These Minutes were confirmed at a meeting on 22 June 2010**

**Signed** \_\_\_\_\_  
**Chairperson at the meeting at which the Minutes were confirmed.**



**17. RECORD OF VOTING**

**Note:** No record of voting due to technical difficulties.