

MINUTES

Ordinary Council Meeting

15 April 2014

To: The Mayor and Councillors

Minutes of the Ordinary Council Meeting of the City of South Perth Council held Tuesday 15 April 2014.



VICKI LUMMER
ACTING CHIEF EXECUTIVE OFFICER
17 April 2014

Our Guiding Values

Trust

Honesty and integrity

Respect

Acceptance and tolerance

Understanding

Caring and empathy

Teamwork

Leadership and commitment

Disclaimer

The City of South Perth disclaims any liability for any loss arising from any person or body relying on any statement, discussion, recommendation or decision made during this meeting.

Where an application for an approval, a licence or the like is, discussed or determined during this meeting, the City warns that neither the applicant, nor any other person or body, should rely upon that discussion or determination until written notice of either an approval and the conditions which relate to it, or the refusal of the application has been issued by the City.

Further Information

The following information is available on the City's website.

- **Council Meeting Schedule**

Ordinary Council Meetings are held at 7pm in the Council Chamber at the South Perth Civic Centre on the fourth Tuesday of every month. The exceptions for 2014 are the months of January, April and December.

Members of the public are encouraged to attend open meetings.

- **Minutes and Agendas**

As part of our commitment to transparent decision making, the City makes documents relating to council and its committees' meetings available to the public.

- **Meet Your Council**

The City of South Perth covers an area of around 19.9km² divided into four wards. Each ward is represented by two councillors, presided over by a popularly elected mayor. Councillor profiles provide contact details for each elected member.

www.southperth.wa.gov.au/Our-Council/

Contents

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS	6
2. DISCLAIMER	6
3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER	6
3.1 ACTIVITIES REPORT MAYOR / COUNCIL REPRESENTATIVES	6
3.2 PUBLIC QUESTION TIME FORM	6
3.3 AUDIO RECORDING OF COUNCIL MEETING	6
4. ATTENDANCE	7
4.1 APOLOGIES	7
4.2 APPROVED LEAVE OF ABSENCE	7
5. DECLARATION OF INTEREST	7
6. PUBLIC QUESTION TIME	8
6.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	8
6.2 PUBLIC QUESTION TIME: 15 APRIL 2014	8
7. CONFIRMATION OF MINUTES AND TABLING OF NOTES OF BRIEFINGS AND OTHER MEETINGS UNDER CLAUSE 19.1	9
7.1 MINUTES	9
7.1.1 Ordinary Council Meeting Held: 25 March 2014	9
7.2 BRIEFINGS	9
7.2.1 Agenda Briefing – Ordinary Council Meeting – 18 March 2014	9
7.2.2 Concept Briefing – Requested Amendment No.45 to Town Planning Scheme No. 6, Southcare Inc, Bickley Crescent, Manning – 8 April 2014	9
8. PRESENTATIONS	9
8.1 PETITIONS	9
8.2 PRESENTATIONS	10
8.3 DEPUTATIONS	10
8.4 COUNCIL DELEGATES REPORTS	10
8.4.1 Council Delegate: Local Implementation Committee Meeting held 31 March 2014	10
8.5 CONFERENCE DELEGATES REPORTS	10
9. METHOD OF DEALING WITH AGENDA BUSINESS	10
10. REPORTS	12
10.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS	12
10.0.1 SAT Request for Reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling - Lot 9 (No. 3) Gwentyfred Road, Kensington	12

10.1	STRATEGIC DIRECTION 1: COMMUNITY	19
10.2	STRATEGIC DIRECTION 2: ENVIRONMENT	20
10.3	STRATEGIC DIRECTION 3: HOUSING AND LAND USES	21
10.3.1	Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington	21
10.3.2	Proposed Change of Use from “Office / Shop” to “Consulting Room” and associated Signage – Tenancies 2 & 3 on Lot 97 (No.2) Downey Drive, Manning	46
10.3.3	Proposed Carport Addition to Single House. Lot 100 (No. 3) Elizabeth Street, South Perth.	56
10.3.4	Request for Amendment to Town Planning Scheme No. 6 to rezone Southcare site, Bickley Crescent, Manning, to Private Institution (R40) with performance-based increase in building height and plot ratio (Amendment No. 45)	64
10.4	STRATEGIC DIRECTION 4: PLACES	72
10.5	STRATEGIC DIRECTION 5: INFRASTRUCTURE AND TRANSPORT	73
10.6	STRATEGIC DIRECTION 6: GOVERNANCE, ADVOCACY AND CORPORATE MANAGEMENT	74
10.6.1	Local Implementation Committee Update	74
10.6.2	Applications for Planning Approval Determined Under Delegated Authority	80
10.7	MATTERS REFERRED FROM THE AUDIT AND GOVERNANCE COMMITTEE	82
11.	APPLICATIONS FOR LEAVE OF ABSENCE	83
11.1	REQUEST FOR LEAVE OF ABSENCE – CR LAWRANCE	83
11.2	REQUEST FOR LEAVE OF ABSENCE – MAYOR DOHERTY	83
11.3	REQUEST FOR LEAVE OF ABSENCE – COUNCILLOR CRIDLAND	83
12.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	83
12.1	COUNCILLOR TRENT – STREET SCAPE POLICY REVIEW	83
13.	QUESTIONS FROM MEMBERS	85
13.1.	RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS TAKEN ON NOTICE	85
13.2	QUESTIONS FROM MEMBERS	85
14.	NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	85
15.	MEETING CLOSED TO PUBLIC	85
15.1	MATTERS FOR WHICH THE MEETING MAY BE CLOSED	85
15.1.1	SAT Request for Reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling - Lot 9 (No. 3) Gwentyfred Road, Kensington - <i>Confidential</i>	85
15.1.2	Disposal of the Civic Triangle – Stage 1 – <i>Confidential</i> (Late Report)	86
15.2	PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC	87

15.2.1 SAT Request for reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling – Lot 9 (No. 3) Gwentyfred Road, Kensington	87
15.2.2 Disposal of the Civic Triangle – Stage I	87
16. CLOSURE	87
17. RECORD OF VOTING	89
Appendix 1 – Public Questions Taken On Notice – 25 March 2014	92
Appendix 2 – Public Questions Time – 15 April 2014	99
Appendix 3 – Questions From Members Taken on Notice – 25 March 2014	103

Ordinary Council Meeting Minutes

Minutes of the Ordinary Meeting of the City of South Perth Council held in the Council Chambers, Sandgate Street, South Perth, Tuesday 15 April 2014.

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Mayor opened the meeting at 7:00pm and welcomed everyone in attendance. She acknowledged we are meeting on the lands of the Noongar/Bibbulmun people and that we honour them as the traditional custodians of this land.

2. DISCLAIMER

The Mayor read aloud the City's Disclaimer.

3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

3.1 ACTIVITIES REPORT MAYOR / COUNCIL REPRESENTATIVES

The Mayor advised that the Mayor and Council Representatives Activities Reports for the month of March 2014 are attached to the back of the agenda.

3.2 PUBLIC QUESTION TIME FORM

The Mayor advised the public gallery that Public Question Time forms were available in the foyer and on the website for anyone wanting to submit a written question. She referred to clause 6.7 of the Standing Orders Local Law 'procedures for question time' and state that it is preferable that questions are received in advance of the Council Meetings in order for the Administration to have time to prepare responses.

The Mayor advised that in accordance with the Council resolution at the March 2014 Ordinary Council Meeting (Item 10.7.1 refers), the Council would be trialling for the next six months, a new practice of inviting those who have submitted written questions to read out their questions during public question time.

3.3 AUDIO RECORDING OF COUNCIL MEETING

The Mayor requested that all mobile phones be turned off. She then reported that the meeting is being audio recorded in accordance with Council Policy P673 "Audio Recording of Council Meetings" and Clause 6.16 of the Standing Orders Local Law 2007 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 the Presiding Member she gave permission for the Administration to record proceedings of the Council meeting.

4. ATTENDANCE

Mayor Doherty (Chair)

Councillors

G Cridland	Como Ward
V Lawrance, JP	Como Ward
C Cala	Manning Ward
C Irons	Mill Point Ward
M Huston	Mill Point Ward (from 7:55 pm)
F Reid	Moresby Ward
K Trent, OAM, RFD, JP	Moresby Ward

Officers

V Lummer	Acting Chief Executive Officer
M Kent	Director Financial and Information Services
M Taylor	Acting Director Infrastructure Services
P McQue	Manager Governance and Administration
D Gray	Manager Financial Services
R Bercov	Strategic Urban Planning Adviser
M Scarfone	Acting Manager Development Services
R Woodman-Povey	Corporate Project Officer
A Albrecht	Governance Officer

Gallery

There were 14 members of the public and 1 member of the press present.

4.1 APOLOGIES

Councillors

M Huston – advised that he would be a late attendee to the meeting

Officers

C Frewing	Chief Executive Officer
R Kapur	Manager Development Services

4.2 APPROVED LEAVE OF ABSENCE

Councillors

S Hawkins-Zeeb	Manning Ward
----------------	--------------

5. DECLARATION OF INTEREST

Conflicts of Interest are dealt with in the *Local Government Act, Rules of Conduct Regulations* and the *Administration Regulations* as well as the City's Code of Conduct 2008. Members must declare to the Chairperson any potential conflict of interest they have in a matter on the Council Agenda.

The Mayor advised that the following declarations had been received:

- A declaration of impartiality interest in Item 10.3.4 from Councillor Trent
- A declaration of impartiality interest in Item 10.3.4 from Mayor Doherty

- A declaration of impartiality interest in Late Item 15.1.2 from Councillor Lawrance
- A declaration of financial interest in Late Item 15.1.2 from Michael Kent, Director Financial and Information Services

The Mayor advised in accordance with Local Government (Rules of Conduct) Regulations 2007 these declarations would be read out immediately before these items were discussed.

6. PUBLIC QUESTION TIME

6.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the March 2014 Ordinary Council Meeting questions were taken on notice from:

1. Marcia Manolas
2. Geoff Defrenne
3. Lindsay Jamieson

A table of these questions, and the responses provided by correspondence can be found at **Appendix 1**.

6.2 PUBLIC QUESTION TIME: 15 APRIL 2014

The Mayor stated that public question time is operated in accordance with *Government Act* regulations and Standing Orders Local Law. She said that questions are to be in writing and questions received 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. Those that have submitted written questions will be invited forward to read out their questions one at a time.

The Mayor reminded the public gallery that she was available to meet with members of the community on the first Friday of each month in the Library Function Room. The next meeting day is Friday 2 May 2014, 10am – 12pm.

The Mayor then opened Public Question Time at 7:05 pm.

A table of public questions and the responses given can be found in **Appendix 2**.

The Mayor closed Public Question Time at 7:15 pm.

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

7.1 MINUTES

7.1.1 Ordinary Council Meeting Held: 25 March 2014

Recommendation and COUNCIL DECISION

Moved: Councillor Lawrance

Seconded: Councillor Cala

That the Minutes of the Ordinary Council Meeting held 25 March 2014 be taken as read and confirmed as a true and correct record.

CARRIED (7/0)

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 P672 "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 – Ordinary Council Meeting – 18 March 2014

Officers of the City presented background information and answered questions on items identified from the March 2014 Council Agenda. Notes from the Agenda Briefing are included as **Attachment 7.2.1**.

7.2.2 Concept Briefing – Requested Amendment No.45 to Town Planning Scheme No. 6, Southcare Inc, Bickley Crescent, Manning – 8 April 2014

External presenters from Southcare Inc provided information and answered questions regarding the requested Amendment No. 45 to Town Planning Scheme No. 6. Notes from this concept briefing are included as **Attachment 7.2.2**.

Recommendation and COUNCIL DECISION

Moved: Councillor Cridland

Seconded: Councillor Irons

That the attached notes under item 7.2.1 to 7.2.2 on Council Briefings be noted.

CARRIED (7/0)

8. PRESENTATIONS

8.1 PETITIONS

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

Nil.

8.2 PRESENTATIONS

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

Nil.

8.3 DEPUTATIONS

A formal process where members of the community many, with prior permission, address Council on Agenda items where they have a direct interest.

Deputations were heard at the Council Agenda Briefing held 8 April 2014.

8.4 COUNCIL DELEGATES REPORTS

8.4.1 Council Delegate: Local Implementation Committee Meeting held 31 March 2014

The minutes for the Local Implementation Committee Meeting held 31 March 2014 are at **Attachment 8.4.1.**

Recommendation and COUNCIL DECISION

Moved: Councillor Trent

Seconded: Councillor Irons

That the Council Delegates Report under item 8.4.1 be received.

CARRIED (7/0)

8.5 CONFERENCE DELEGATES REPORTS

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, will be adopted en bloc, i.e. all together.

The Mayor noted that report Item 10.0.1 (SAT Request for Reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling – Lot 9 (No. 3) Gwentyfred Road, Kensington), is the confidential report (15.1.1) that was contained in the Agenda Briefing Draft Agenda. The Mayor advised that while this report had now been made public, it would be debated and voted on under closed session, as it was likely that the debate would include reference to confidential material (under section 55 of the State Administrative Tribunal Act). The Mayor noted that the Council resolution would still be made public.

The Mayor noted that Councillors had been provided with a late report at Item 15.1.2 (Disposal of the Civic Triangle – Stage 1). The Mayor advised that this report had been the subject of a closed briefing session to Councillors on Monday 14 April 2014.

She then sought confirmation from the Acting Chief Executive Officer that all other report items were discussed at the Agenda Briefing held on 8 April 2014. The Acting Chief Executive Officer confirmed that this was correct.

Items withdrawn for discussion

- **Item 10.0.1 (15.1.1)** SAT Request for Reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling – Lot 9 (No. 3) Gwentyfred Road, Kensington)

To be debated and voted on during closed session.

- **Item 10.3.1** Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington
- **Item 10.3.3** Proposed Carport Addition to Single House. Lot 100 (No. 3) Elizabeth Street, South Perth.
- **Item 10.3.4** Request for Amendment to Town Planning Scheme No. 6 to rezone Southcare site, Bickley Crescent, Manning, to Private Institution (R40) with performance-based increase in building height and plot ratio (Amendment No. 45)
- **Item 10.6.1** Local Implementation Committee Update

COUNCIL DECISION - EN BLOC RESOLUTION

Moved: Councillor Reid

Seconded: Councillor Lawrance

That with the exception of Withdrawn Items 10.0.1, 10.3.1, 10.3.3, 10.3.4 and 10.6.1 the officer recommendations in relation to agenda items 10.3.2, and 10.6.2 be carried en bloc.

CARRIED (7/0)

10. REPORTS

10.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS

10.0.1 SAT Request for Reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling - Lot 9 (No. 3) Gwentyfred Road, Kensington

Location: Lot 9 (No. 3) Gwentyfred Road, Kensington
Ward: Moresby Ward
Applicant: Motus Architecture
Lodgement Date: 17 March 2014
Date: 17 March 2014
Author: Mark Scarfone, Senior Statutory Planning Officer, Development Services
Reporting Officer: Vicki Lummer, Director, Development and Community Services

Summary

The City received an application for planning approval for seven multiple dwellings at Lot 9 (No. 3) Gwentyfred Road, Kensington in October 2013. The application was recommended for approval, however was refused by Council at the December 2013 Council meeting. A full copy of the officer's report and Council's reasons for refusal are detailed in the minutes of the December 2013 meeting, Item 10.3.3.

In January 2014, the applicant lodged an application for review of Council's determination with the State Administrative Tribunal (SAT). The original proposal has been modified following mediation sessions, and as such, SAT issued an order on 17 March 2014, to enable Council to reconsider the matter.

Officer Recommendation

Moved: Councillor Cala

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and Metropolitan Region Scheme, this application for planning approval for five multiple dwellings and one grouped dwelling on Lot 9 (No. 3) Gwentyfred Road, Kensington, **be approved subject to:**

(a) Standard Conditions

427	Colours & materials - Details	354	Car bays - Maintained
340A	Parapet walls - Finish from street	470	Retaining walls - If required
340B	Parapet walls - Finish from neighbour	471	Retaining walls - Timing
508	Landscaping approved & completed	455	Dividing fences - Standards
353	Visitor bays - Marked & visible	456	Dividing fences - Timing
210	Screening - Permanent	550	Plumbing hidden
377	Screening - Clothes drying	445	Stormwater infrastructure
390	Crossover - Standards	425	Colours & materials - Matching
393	Verge & kerbing works	650	Inspection (final) required
625	Sightlines for drivers	578	New titles prior to building permit
352	Car bays - Marked & visible	660	Expiry of approval

10.0.1 SAT Request for Reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling - Lot 9 (No. 3) Gwentyfred Road, Kensington

(b) Specific Conditions

- (i) Revised drawings shall be submitted, and such drawings shall incorporate the following:
 - (A) Specifications and a detailed section of the proposed screens to the upper level balconies in order to demonstrate compliance with Clause 6.8.1 “Visual Privacy” requirements of the *Residential Design Codes of Western Australia*; and
 - (B) In accordance with Council Policy 350.5 “Trees on Development Sites and Street Verges”, a revised site plan shall be provided prior to the issue of a building permit which includes 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. This tree shall be planted within the street setback area or elsewhere on the site, prior to occupation of the dwelling, and shall be maintained in good condition thereafter.
 - (C) In accordance with Clause 6.4.6 of the R-Codes, external fixtures such as air-conditioning infrastructure, shall be integrated into the design of the building to not be visually obtrusive when viewed from the street, and to protect the visual amenity of residents in neighbouring properties.
 - (D) As required by the City’s Engineering Services, signage shall be installed on site to direct users of the property to exit the site in forward gear. Details of the signage should be provided to the City prior to application for a building permit. The signage shall be installed prior to the occupation of the approved dwellings and remain permanently unless further approval is granted by the City.

(c) Standard Advice Notes

700A	Building permit required	762	Landscaping - Plan required
705	Revised drawings required	709	Masonry fences require building approval
725	Fences note - Comply with that Act	790	Minor variations - Seek approval
		795B	Appeal rights - Council decision

(d) Specific Advice Notes

The applicant is advised:

- (i) To liaise with the City’s Environmental Health Services to ensure satisfaction of all of the relevant requirements.
- (ii) To liaise with the City’s Parks and Environment Services, with regard to the proposed landscaping plan and an appropriate tree species.
- (iii) To liaise with the City’s Engineering Infrastructure Services to ensure satisfaction of all the relevant requirements, including crossover design, signage and disposal of stormwater onsite.

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

LAPSED for want of a seconder

10.0.1 SAT Request for Reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling - Lot 9 (No. 3) Gwentyfred Road, Kensington

Alternative motion and COUNCIL DECISION

Moved: Councillor Reid

Seconded: Councillor Trent

1. That the Officer's Recommendation not be adopted and:
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 five multiple dwellings and one Grouped Dwelling on Lot 9 (No.3) Gwentyfred Road, Kensington **be refused** for the following reasons:
 - (i) Portions south-eastern side setbacks do not meet with the deemed to comply standards or design principles contained in Clause 6.1.4 "Lot Boundary Setbacks" of the *Residential Design Codes*.
 - (ii) The proposed overshadowing does not meet with the deemed to comply standards or design principles contained in Clause 6.4.2 "Solar Access for Adjoining Sites" of the *Residential Design Codes*.
 - (iii) The proposal conflicts with the Scheme objectives contained in Clause 1.6 of the *City of South Perth Town Planning Scheme No. 6*, specifically Objectives (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.'
 - (iv) The proposal does not meeting the Council Policy P351.5 Streetscape Compatibility - Precinct 5 'Arlington' and Precinct 6 'Kensington'.

CARRIED (5/3)

Please note: Further reasons for this motion are contained in the confidential minutes for report item 15.1.1.

Background

The development site details are as follows:

Zoning	Residential
Density coding	R80
Lot area	544 sq. metres
Building height limit	10.5 metres
Development potential	Permissible land uses, as listed in Table I of TPS6
Plot ratio limit	1.0

This report includes the following attachments:

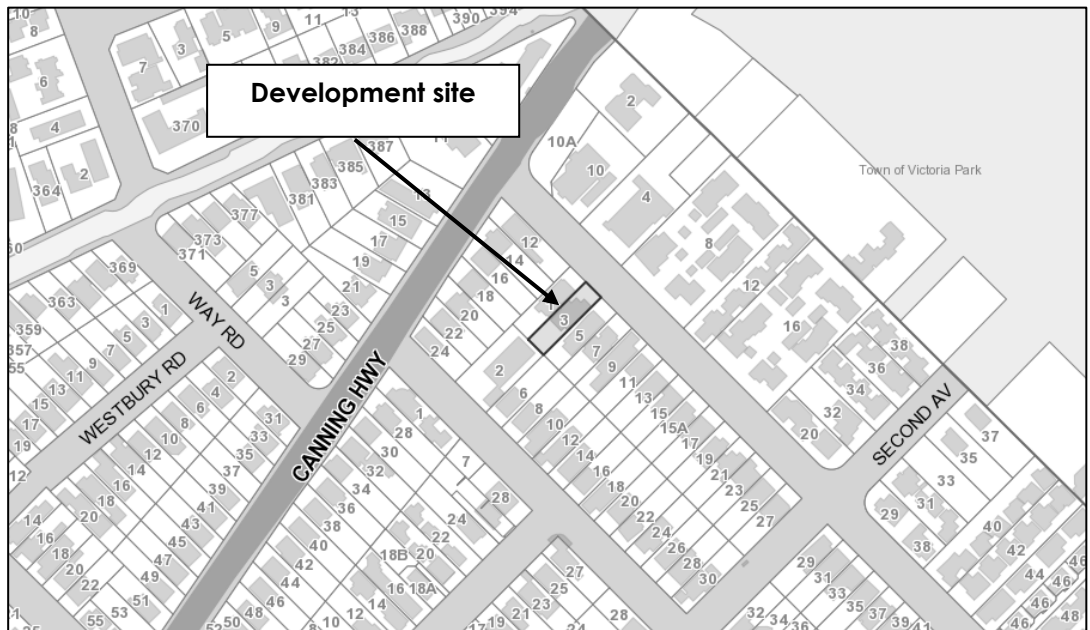
Confidential Attachment 10.0.1(a) Plans of the proposal

Confidential Attachment 10.0.1(b) Planning assessment by the planning consultant engaged by the City

Attachment 10.0.1(c) Comments from Engineering Infrastructure

10.0.1 SAT Request for Reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling - Lot 9 (No. 3) Gwentyfred Road, Kensington

The location of the development site is shown below:



In accordance with Council Delegation DC690, the proposal is referred to a Council meeting because it falls within the following categories described in the delegation:

2. Major developments

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

(b) Residential development which is 9.0 metres high or higher, or comprises 10 or more dwellings.

4. Applications previously considered by Council

This power of delegation does not extend to applications for planning approval previously considered by Council, where drawings supporting a current application have been significantly modified from those previously considered by Council at an earlier stage of the development process, including at an earlier rezoning stage or as a previous application for planning approval.

6. Amenity impact

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

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.

Comment

(a) Background

The City received an application for planning approval for seven multiple dwellings at Lot 9 (No. 3) Gwentyfred Road, Kensington in October 2013. The application was recommended for approval, however was refused by Council at the December 2013 Council meeting. A full copy of the officer's report and Council's reasons for refusal are detailed in the minutes of the December 2013 meeting, Item 10.3.3.

10.0.1 SAT Request for Reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling - Lot 9 (No. 3) Gwentyfred Road, Kensington

In January 2014, the applicant lodged an application for review of Council's determination with the State Administrative Tribunal (SAT). As per the provisions of Council Policy P677 "State Administrative Tribunal", the City engaged a lawyer and planning consultant, to assist in defending Council's decision. The elected members who moved and seconded the alternative recommendation attended the directions hearing and subsequent mediations sessions, along with the lawyer and planning consultant. The elected members are satisfied with the amended drawings, contained in **Confidential Attachment 10.0.1(a)**, and as such, the SAT issued an order on 17 March 2014 to enable Council to reconsider the matter.

The amended drawings propose the following changes to those considered by Council at the December 2013 meeting:

- (a) The front third of the site, adjacent to Gwentyfred Road, will comprise of one two storey grouped dwelling of approximately 143m². The rear two thirds of the site contain five multiple dwellings in a three storey dwelling;
- (b) The total number of dwellings on the site to six;
- (c) The street setback is reduced from 5.3 metres to 5.0 metres;
- (d) The proposed development has a plot ratio of 1.0;
- (e) The single bedroom dwelling at ground level has been increased to a two bedroom dwelling;
- (f) Apartments 4 and 5 have been increased from a two bedroom one bathroom, to a two bedroom two bathroom configurations;
- (g) In adding the new ensuite to Apartments 4 and 5, a small portion of the apartments is now at a reduced setback of 1.5 metres. This is in the rear corner of the site adjacent to the existing garden shed of 5 Gwentyfred Road; and
- (h) Overshadowing has been reduced from 37% to 34%.

The planning consultant engaged by the City has prepared correspondence which deals with the key issues of the appeal. This advice is contained in **Confidential Attachment 10.0.1 (b)**. The mediation process at SAT is confidential, and as such, the documents which are prepared to support a mediated outcome should also remain confidential. This will allow the relevant consultant to continue to provide professional services to the City in the event a full hearing is required.

As the elected members who attended the mediation sessions are satisfied with the modified drawings, City officers recommend the proposed application be approved with conditions.

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

In considering the application, Council is required to have due regard to and may impose conditions with respect to matters listed in Clause 1.6 of TPS6 which are, in the opinion of Council, relevant to the proposed development. Of the 12 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (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.*

10.0.1 SAT Request for Reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling - Lot 9 (No. 3) Gwenyfred Road, Kensington

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

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

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

- (a) *The objectives and provisions of this Scheme, including the objectives and provisions of a precinct plan and the Metropolitan Region Scheme.*
- (b) *The requirements of orderly and proper planning, including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought.*
- (c) *The provisions of the Residential Design Codes and any other approved Statement of Planning Council Policy of the Commission prepared under Section 5AA of the Act.*
- (d) *Any other Council policy of the Commission or any planning Council policy adopted by the Government of the State of Western Australia.*
- (f) *Any planning Council policy, strategy or plan adopted by Council under the provisions of Clause 9.6 of this Scheme.*
- (i) *The preservation of the amenity of the locality.*
- (j) *All aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance.*
- (k) *The potential adverse visual impact of exposed plumbing fittings in a conspicuous location on any external face of a building.*
- (n) *The extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details.*
- (w) *Any relevant submissions received on the application, including those received from any authority or committee consulted under Clause 7.4.*

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

Consultation

(a) Design Advisory Consultants' comments

The revised drawings were not presented to the DAC for comment prior to this report being prepared. The DAC was supportive of the previous design and, due to the reduced streetscape impact of the proposed design, it was not considered necessary to seek their comments on this occasion.

(b) Neighbour consultation

The consultation matrix contained in City of South Perth Planning Policy P301 "Consultation for Planning Proposals", provides comprehensive guidance for City officers. Under 1.1.2 of this matrix, where an application is lodged within

10.0.1 SAT Request for Reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling - Lot 9 (No. 3) Gwennyfred Road, Kensington

12 months of the previous determination and it does not depart further from the R-Codes, TPS6 or relevant policies, no neighbour consultation is required.

As described in the “Comment” section of this report, the modifications made by the applicant reduce the scale of the development compared with the previous proposal, and do not depart further from the relevant planning documents.

While further neighbour consultation is not required, the adjoining landowners at 5 Gwennyfred Road, Kensington have been granted leave by SAT to attend mediation. As such City officers facilitated a meeting to allow these landowners to view the amended drawings.

(c) Internal administration

Comments were invited from the Engineering Infrastructure and City Environment sections of the City’s administration.

The Manager, Engineering Infrastructure was invited to provide comment on the revised drawings, specifically in relation to the retention of the existing street tree at the front of the subject site. **Attachment 10.0.1(c)** contains an email from Engineering Infrastructure. This department is generally supportive of the proposal subject to the inclusion of a specific condition (i)(D) to ensure users of the site exit the property in forward gear.

The City Landscapes Officer, City Environment is also supportive of the retention of the street tree, subject to the crossover being located an appropriate distance from the tree. The applicant has been advised through the specific footnotes to liaise with City Engineering to ensure the crossover design is acceptable.

Policy and Legislative Implications

Comments have been provided elsewhere in this report in relation to the various provisions of the Scheme, R-Codes and Council policies where relevant.

Financial Implications

To date, the City has been invoiced for approximately \$20,000 for works undertaken so far. This includes legal and planning representation costs.

Strategic Implications

This report is consistent with the City’s [Strategic Plan 2013–2023](#), Direction 3 – Housing and Land Users “*Accommodate the needs of a diverse and growing population*”.

Sustainability Implications

This report is aligned to the City’s [Sustainability Strategy 2012–2015](#). The proposed development has generally been designed having regard to the provisions of Council’s “Sustainable Design” policy. The applicant has provided balconies on the northern side of the dwellings, as well as maximising glazing to the north and minimising glazing on the east and west. Hence, the proposed development is seen to achieve an outcome that has regard to the sustainable design principles.

Conclusion

It is considered that the proposal meets all of the relevant Scheme, R-Codes and / or Council policy objectives and provisions as it will not have a detrimental impact on adjoining residential neighbours and streetscape. Accordingly, it is considered that the application should be conditionally approved.

10.1 STRATEGIC DIRECTION I: COMMUNITY

Nil.

10.2 STRATEGIC DIRECTION 2: ENVIRONMENT

Nil.

10.3 STRATEGIC DIRECTION 3: HOUSING AND LAND USES

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

Location: Lot 80 (No. 36) Banksia Terrace, Kensington
Ward: Moresby
Applicant: J E N Lo Ting Lan
Lodgement Date: 21 October 2013
Date: 25 March 2014
Author: Siven Naidu, Senior Statutory Planning Officer, Development Services
Reporting Officer: Vicki Lummer, Director, Development and Community Services

Summary

To consider an application for planning approval for four multiple dwellings on Lot 80 (No. 36) Banksia Terrace, Kensington. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Streetscape compatibility	Town Planning Scheme No. 6 Clause 7.5(n)
Building setbacks	R-Codes Performance Criteria 6.1.4
Boundary walls	Council Policy P350.2 Clause 5 / 6 / 7 / 8

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

Officer Recommendation

Moved: Councillor Irons

That pursuant to the provisions of *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for planning approval multiple dwellings on Lot 80 (No. 36) Banksia Terrace, Kensington **be approved** subject to:

(a) Standard Conditions

340A	Parapet walls - Finish from street	456	Dividing fences - Timing
340B	Parapet walls - Finish from neighbour	416	Street tree - Not to be removed
427	Colours & materials - Details	470	Retaining walls - If required
210	Screening - Permanent	471	Retaining walls - Timing
390	Crossover - Standards	625	Sightlines for drivers
393	Verge & kerbing works	377	Screening - Clothes drying
445	Stormwater infrastructure	550	Plumbing hidden
352	Car bays - Marked & visible	560	Rubbish storage screened
353	Visitor bays - Marked & visible	650	Inspection (final) required
354	Car bays - Maintained	660	Expiry of approval
455	Dividing fences - Standards		

(b) Specific Conditions

- (i) Revised drawings shall be submitted to the satisfaction of the City as part of the building permit application, and such drawings shall incorporate the following:

Recommendation continued

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

- (A) Having regard to the built form compatibility to the streetscape character, the street setback of the patio on the 3rd storey shall be increased from 3.440 metres to 6.5 metres to decrease the visual bulk from the street.
- (ii) In accordance with Clause 6.4.6 of the R-Codes external fixtures, such as air-conditioning infrastructure, shall be integrated into the design of the building to not be visually obtrusive when viewed from the street and to protect the visual amenity of residents in neighbouring properties.

(c) Standard Advice Notes

700A	Building permit required	766	Landscaping - General standards
708	Boundary wall – Neighbours preference	725	Fences note - Comply with that Act
790	Minor variations - Seek approval	795B	Appeal rights - Council decision
709	Fencing		

(d) Specific Advice Notes

The applicant is advised to liaise with the City’s Engineering Infrastructure Services and to ensure satisfaction of all the relevant requirements, including crossover design and disposal of stormwater onsite.

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

LAPSED for want of a seconder

Alternative Motion and COUNCIL DECISION

Moved: Councillor Reid

Seconded: Councillor Trent

1. That the Officer’s Recommendation not be adopted and:
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 four multiple dwellings within a three storey building - Lot 80 (No.36) Banksia Road, Kensington **be refused** for the following reasons:
 - (i) Portions of the proposed side setbacks and boundary walls do not meet with the deemed to comply standards or design principles contained in Clause 6.1.4 “Lot Boundary Setbacks” of the Residential Design Codes.
 - (ii) The proposal conflicts with the Scheme objectives contained in Clause 1.6 and Clause 7.5 of the City of South Perth Town Planning Scheme No. 6, specifically Clause 1.6 (c) and (f), and Clause 7.5 (n), which state:

‘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.’ Clause 1.6 (c)

‘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.’ Clause 1.6 (f)

COUNCIL DECISION continued

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

‘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.’ Clause 7.5 (n)

- (iii) That the scale and bulk of the development proposed is totally out of character with the adjoining properties and existing streetscape as demonstrated by the three dimensional images provided.

CARRIED (7/0)

Reasons for change

While the subject lot doesn't fall under the requirements of Policy P351.5 "Streetscape Compatibility" because it is classified as a multiple dwelling and is adjacent to an R50 lot, Council is still required to take into consideration clauses 1.6 (c), 1.6 (f) and 7.5(n) of TPS6. The streetscape along both sides of Banksia, excluding the lots closest to Canning Highway, consists of a mixture of group and single dwellings varying between single and two storey. The nearest development on Banksia Terrace of the scale being proposed is 'Kensington Gardens' at the Highway end of the street which reduces in height from three storey's (closest to Canning Highway) to two storey's (adjacent to Banksia Terrace neighbour). Yet this development proposes three storeys in the middle of Banksia, surrounded by one level single residential homes.

Due to the height of the proposed Building and its proximity to the neighbouring two single level residential houses, these properties will be significantly impacted by the bulk and scale of the development and dominating boundary walls, as well as the southern property by the significant overshadowing, thereby reducing the amenity of the neighbouring properties, and the overall visual rhythm of the Banksia streetscape.

From the street the pitched roofing behind the 'balconies' cannot be seen from the street as demonstrated in Mr David Leigh's deputation and therefore does not ameliorate the developments bulk and scale in any way. Even though the officer's recommendation has requirement to setback the third story balcony a further six metres it is still unlikely, even then, that the rear pitched roofing will have any impact on the bulk and scale from the street. Additionally the balconies have fixed side walls and screens, with moveable privacy screens along the whole front of this balcony which would mean that should the applicant chose to close them they would form a solid wall, thereby further increasing the developments bulk and scale.

Notes:

There are number of inaccuracies stated in the WABCA Submission:

- (a) The corner site facing Canning Hwy has a 2-3 storey multiple dwelling, not a 3-4 multiple dwelling
- (b) The site is zoned residential, not Highway Commercial
- (c) The R-Codes require the front setback of an R80 site to be 2 metres, not 1 metre

Within the deputation provided on behalf of the applicant it was stated that two of the units are proposed to be 'Affordable Housing' units. However as there has been no evidence provided to demonstrate how these units would meet definitions of affordable housing these comments should not be taken into consideration.

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

Background

The development site details are as follows:

Zoning	Residential
Density coding	R80
Lot area	513 sq. metres
Building height limit	10.5 metres
Development potential	Permissible land uses, as listed in Table I of TPS6
Plot ratio limit	1.0

This report includes the following attachments:

Attachment 10.3.1(a)	Plans of the proposal.
Attachment 10.3.1(b)	Site photographs.
Attachment 10.3.1(c)	Applicant's supporting correspondence.
Attachment 10.3.1(d)	Street montage.
Attachment 10.3.1(e)	Engineering Infrastructure memo.

The location of the development site is shown below:



In accordance with Council Delegation DC690, the proposal is referred to a Council meeting because it falls within the following categories described in the delegation:

6. Amenity impact

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

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.

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

Comment

(a) Background

In 21 October 2013, the City received an application for four multiple dwellings in a three storey building on Lot 80 (No. 36) Banksia Terrace, Kensington (the site). Following the completion of the neighbour consultation period and an assessment of the proposal, the applicant responded on 20 February 2014 with written justification and revised drawings contained in **Attachment 10.3.1(a)**.

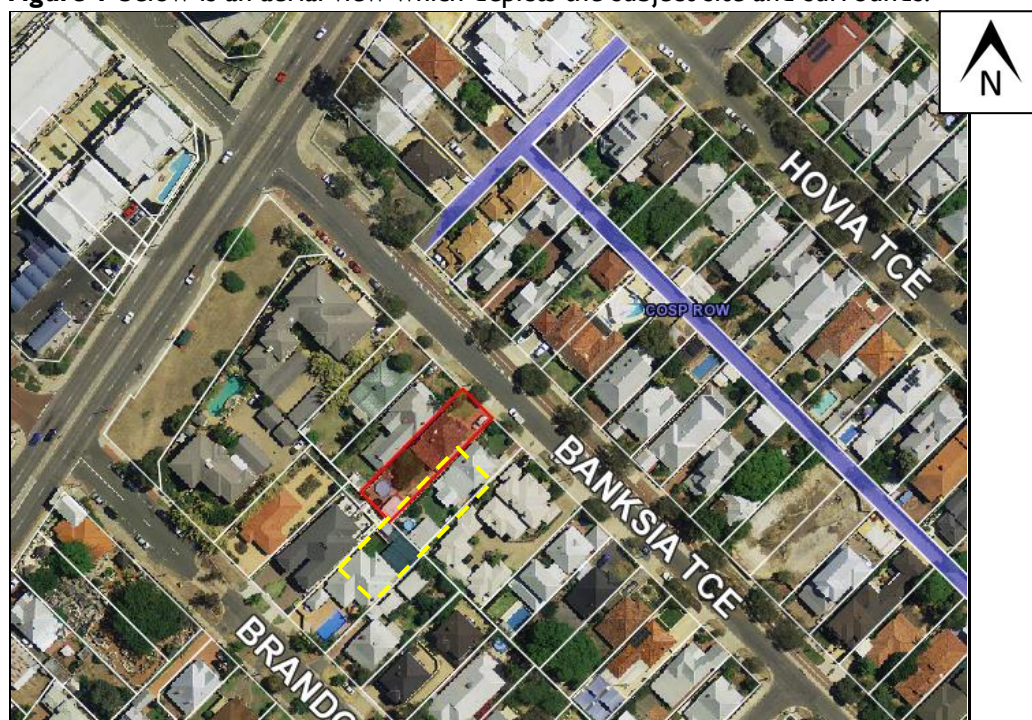
The applicant's correspondence relating to this matter is contained in **Attachment 10.3.1(c)**.

(b) Description of the surrounding locality

The site has a frontage to Banksia Terrace, approximately 80.0 metres north-west of Canning Highway. Development within the vicinity of Banksia Terrace is characterised by single storey and double storey single houses and double storey grouped dwellings, with a 20 unit multiple dwelling in a three storey building at the corner of Canning Highway and Banksia Terrace.

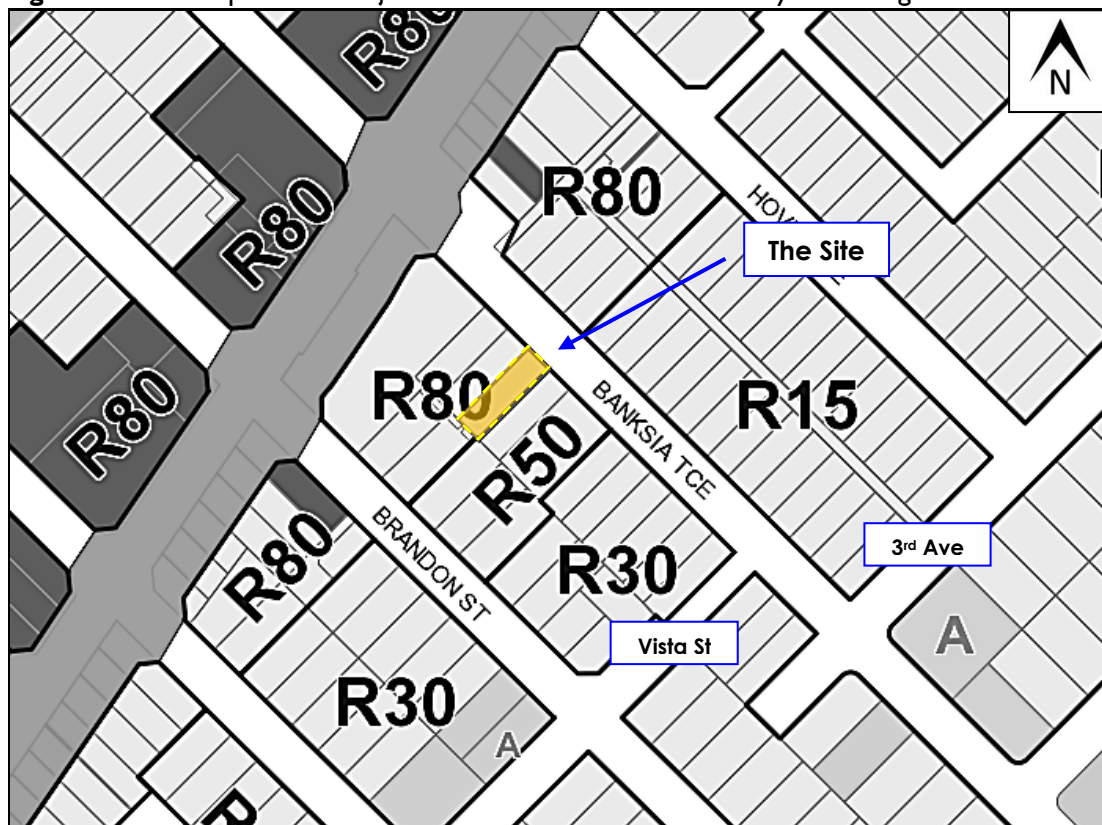
Under the provisions of *City of South Perth Town Planning Scheme No. 6 (TPS6)*, the subject site is zoned residential with a density coding of R80. The building height limit associated with the subject site is 10.5 metres, measured in accordance with Clause 6.1A. Multiple dwellings are a permitted land use on the subject site. The lots to the north-west and opposite the site have a density coding of R80, which extends all the way up to Canning Highway, while to the south-east properties are coded R50 and R30 down to Vista Street, as seen in Figure 2 below. The R50 and R30 coded lots have a building height limit of 7.0 metres. Diagonally on the opposite side of the street, the density coding is R15 with a building height limit of 7.0 metres, which extends down to Third Avenue, also as seen in Figure 2 below:

Figure 1 below is an aerial view which depicts the subject site and surrounds:



10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

Figure 2 below depicts the subject site and the surrounds density R-Coding:



(c) **Description of the proposal**

The proposal involves the demolition of the existing single storey dwelling and the construction of four multiple dwellings on the site, as depicted in the submitted plans referred to as **Attachment 10.3.1(a)**. The site photographs show the relationship of the site with the surrounding built environment, referred to as **Attachment 10.3.1(b)**.

The following planning aspects have been assessed and found to be compliant with the provisions of TPS6, the R-Codes and relevant Council policies, and therefore have not been discussed further in the body of this report:

- Land use – “Multiple Dwelling” is a “P” (Permitted) land use on the subject site zoned “Residential” with a density coding of R80 (Table 1 of TPS6);
- Plot ratio (R-Codes Clause 6.1.1 and Table 4);
- Building height limit (TPS6 Clause 6.1A);
- Street setback (R-Codes Clause 6.1.3);
- Side and rear boundary setbacks – Ground floor, 1st and 2nd floors, south-east and south-west (R-Codes Clause 6.1.4);
- Street surveillance and fences (R-Codes Clause 6.2.1, TPS6 Clause 6.7 and Council Policy P350.7 “Fencing and Retaining Walls”);
- Outdoor living area (R-Codes Clause 6.3.1);
- Landscaping (R-Codes Clause 6.3.2);
- Parking and vehicle access (R-Codes Clause 6.3.3, 6.3.4 and 6.3.5, TPS6 Clause 6.3(8) and Schedule 5, and Council Policy P350.3 “Car Parking Access, Siting and Design”);

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

- Minimum and maximum floor levels, site works and retaining walls (TPS6 Clause 6.9 and 6.10, R-Codes Clause 6.3.6 and 6.3.7, and Council Policy P350.7 “Fencing and Retaining Walls);
- Stormwater management (R-Codes Clause 6.3.8);
- Visual privacy (R-Codes Clause 6.4.1); and
- Solar access for adjoining sites (R-Codes Clause 6.4.2).

The following planning matters, which require further discussion, are listed below:

- Streetscape compatibility;
- Side boundary setbacks – 1st and 2nd floors, north-western side (R-Codes Clause 6.1.4); and
- Boundary walls (Council Policy P350.2 “Residential Boundary Walls”).

(d) Streetscape compatibility

During the neighbour consultation period, submitters raised concerns with regards to the streetscape, scale and setbacks of the proposed building, specifically indicating that the proposal would be out of character with the existing streetscape on Banksia Terrace.

Council Policy P351.5 “Streetscape Compatibility” – Precinct 5 “Arlington” and Precinct 6 “Kensington” applies to single houses and grouped dwellings only, and as such, does not apply to the subject development. In addition in the policy scope of P351.5, it is stated that the provisions of Council Policy P302 “General Design Guidelines for Residential Development” are not applicable to land within the “Arlington” and “Kensington” precincts. Despite the subject land not being subject to specific policy requirements, Council is required to take Clause 7.5(n) of TPS6 into consideration when undertaking its assessment. Clause 7.5(n) states:

“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.”

The following paragraphs expand upon the items listed in Clause 7.5(n) above. In general it is considered the proposed building does take into account the existing streetscape, and as such, is recommended for approval.

(i) Description of existing streetscape

Banksia Terrace along both street frontages is characterised by single storey and double storey single houses and double storey group dwellings, with a 20 unit multiple dwelling in a three storey building located at the corner of Canning Highway and Banksia Terrace.

The double storey group dwellings are located on the same side of the street and are approximately 12.0 metres south-east of the development site. The setbacks to the ground and upper floors are approximately 4.0 metre to the street alignment. The three storey multiple dwellings are also located on the same side of the street and are approximately 25.0 metres north-west of the development site. The setbacks to the upper floors are approximately 4.5 metre to the balconies and 6.0 metres to the building. A street montage can be seen at **Attachment 10.3.1(d)**.

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

The colours and materials utilised on the surrounding buildings are generally consistent, ranging from brick and tile with light to medium coloured painted walls and dark brick to the multiple dwelling.

(ii) Building height - Scale

The subject site has an assigned building height limit of 10.5 metres and the proposed building height is 8.8 metres which minimises the bulk impact of the development on the streetscape. Additionally it is noted that the site is bounded by R80 density coding to the north-west, rear and directly opposite the street, with an R50 density coding to the south east of the site.

The applicant has provided the following justification in support of their application:

“The scale of the property is commensurate with the zoning and substantially lessor than other development within the immediate vicinity. The proposal is sympathetic to the traditional roof lines and profiles of the area. Evidently the rezoning of an established area will result in some temporary inconsistencies with regards to the visual relationship to adjoining properties. The tapered zoning in the Scheme reflects this in reducing the adjoining lot to R50, gently transitioning into lower density residential sites.

Preliminary earthwork calculations have indicated that there is almost no net difference in fill being needed to be transport from site.

The proposal has demonstrated a desire to lessen the bulk and scale by breaking up the boundary walls and recessing higher levels. This lessens the appreciable scale when viewed from public spaces. With the retention of the mature peppermint tree on the verge this further reduces, ameliorates and softens the façade.”

The applicant has maintained a minimum 3.0 metres setback to the adjacent R50 lot in an effort to further reduce the bulk and scale impact on the adjoining lot and the street.

This aspect is considered compatible and is supported.

(iii) Form and shape, rhythm, colour and construction material, orientation, architectural details

As indicated in Point (i) above, the existing streetscape consists of mix dwelling types, and a light to medium range of construction materials, colours, and architectural details.

The applicant has provided the following justification in support of their application:

“The proposal is not in disharmony with other buildings on this block, as the lot located 25m to the west, include three levels without recessing bulk of upper levels and sides.

The proposal uses a range of materials as submitted with the application which are sympathetic to the surroundings. The colours have been selected by

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

using natural colours heavily influenced by surrounding natural and built palette.”

The dwellings have been designed to take advantage of northern sunlight, as encouraged by Council’s Sustainable Design Policy.

In respect of form and shape, rhythm, colour and construction material, orientation, architectural details, the proposed development is considered to be compatible with the streetscape.

(iv) Setbacks from street

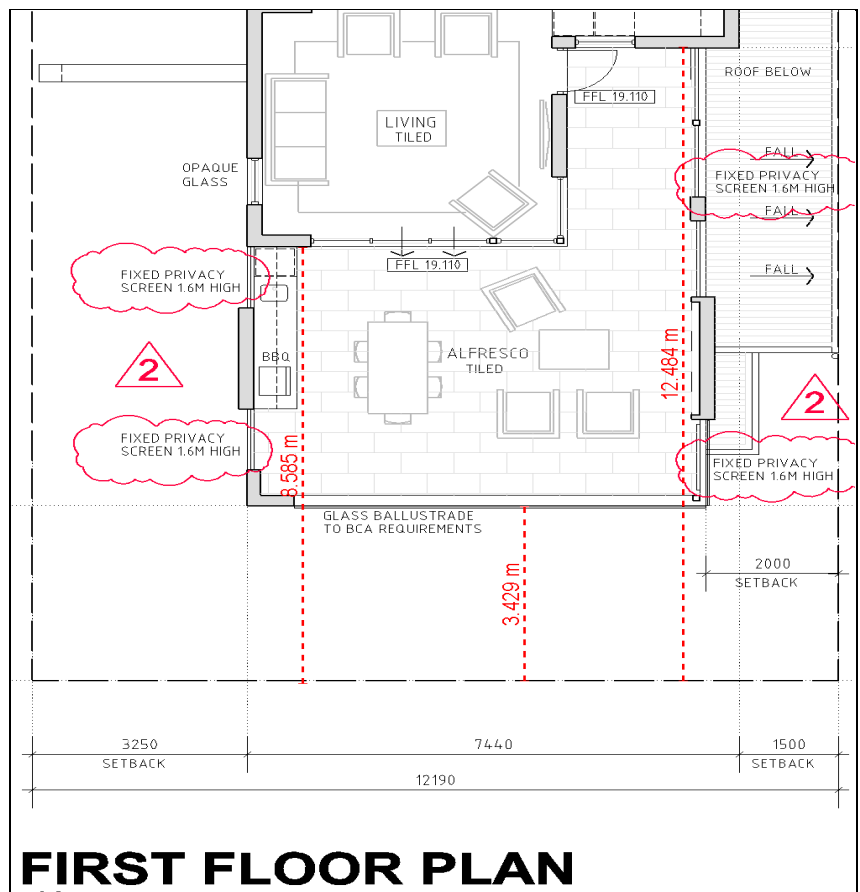
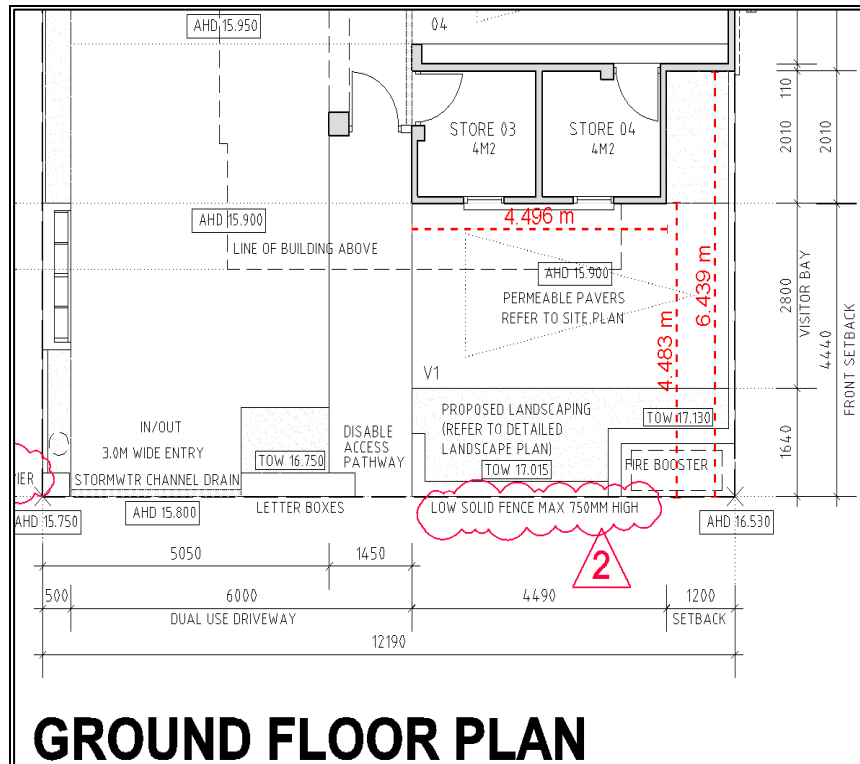
Setbacks from the street are considered an important way to minimise the bulk impact of a building on the street. In this regard, while Table 4 of the *Residential Design Codes* indicates that multiple dwellings on an R80 coded site can have a minimum street setback of 2.0 metres, Clause 7.5(n) requires the City to consider whether larger setbacks are required to achieve compatibility with the streetscape.

As identified in point (i) above, officers observe that existing street setbacks within the focus area consist of a group dwelling with an upper floor setback at approximately 4.0 metres and a 3-storey multiple dwelling with a setback of approximately 4.5 metres to the 1st and 2nd floor balconies, with the building setback of approximately 6.0 metres to these storeys, however as the multiple dwelling transitions further south east down Banksia Terrace from Canning Highway, the three storey building steps down gradually in height to a two storey building with a minimum 3.0 metre driveway to lessen the bulk impact on this portion of Banksia Terrace and on the adjoining lot. The roofs on the existing dwellings in the street are essentially setback a little more than that of the proposed development.

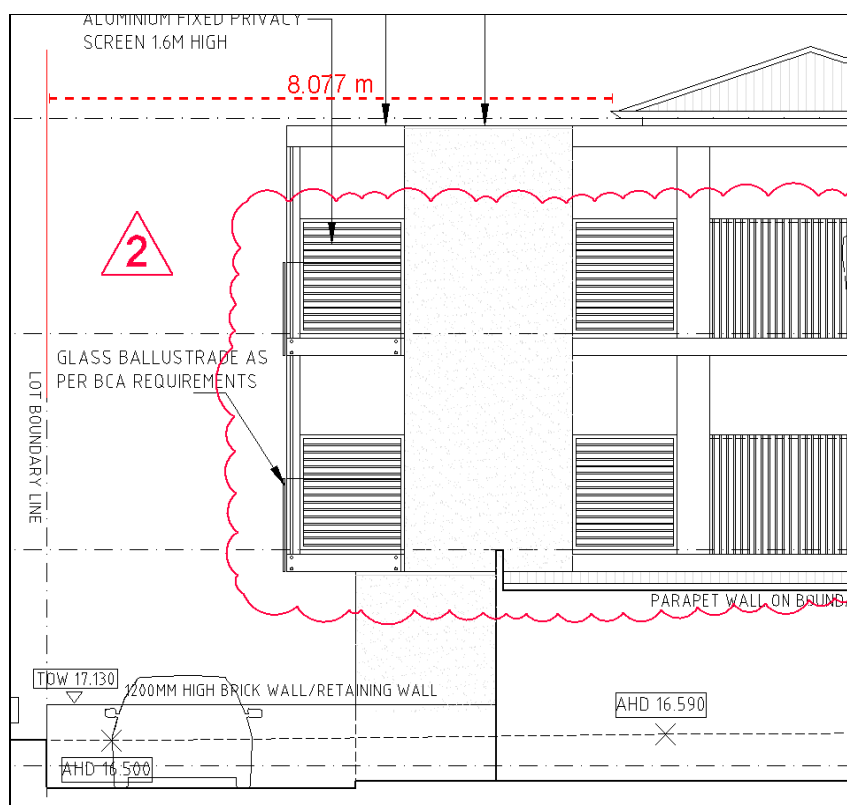
The development site proposes a ground floor setback at 4.440 metres with cantilevered balconies on the 1st and 2nd floors setback approximately 3.440 metres with the formal living area setback at approximately 8.0 metres and 12.0 metres from the street. The bulk impact to the street and the adjoining lots is further diminished as the proposed roof to the upper most balcony is a vergola (flat) roof (vergola being a structure which is capable of functioning as a pergola or a patio when required).

Below are diagrams which illustrate the ground and upper floor setbacks variations.

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington



10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington



The proposed front setbacks are seen as being approximately half-way between the 2.0 metre setback allowable under Table 4 of the R-Codes and the 7.5 metre setback of the adjoining dwellings. The applicant has indicated that these setbacks and roof form will assist in reducing the bulk of the building as viewed from the street, while taking into account the possibility of the adjacent sites being redeveloped at a later date.

While the proposed setbacks, the flat roof and a larger setback to the hip roof provides a building which is more consistent with the existing street setbacks to the ground and second storey, City officers consider that while the setback to the ground and 1st floors are seen to be appropriate, officers are of the view that a setback of 6.5 metres to the 2nd floor will assist in reducing the bulk impact on the street and on the adjoining lots, hence a condition to this effect is recommend.

This aspect of the streetscape is supported with conditions.

(v) Landscaping visible from the street

The surrounding dwellings generally have large areas of landscaping within the front setback areas due to the large front setbacks. As the proposed development must accommodate a visitor's parking bay within the front setback area, this minimises the available area for landscaping purposes. The applicant provided the following response to address landscaping:

“As this plan requires planning consent, a landscape plan has been supplied with this application. The landscape plan has been designed to complement the aesthetic of the structure, softening the impact of the development in the interim period of the area’s transitional development period. The plant selection has been made keeping in mind “Sustainable Design” Policy P350.1.

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

Unfortunately the only tree taller than three metres, located within the confines of the lot, could not be retained due to its unfortunate centrally located position. In contrast to this, the very mature peppermint tree located centrally to the 12.2 metre verge has been retained and given unencumbered access to continue to grow by being given a substantial clearance by the crossover. A significant amount of planting will compensate for the removal of the mature tree in the backyard.”

The applicant has proposed landscaping with vegetation, hard landscaped areas and architectural features, which will contribute to the overall building aesthetic.

It is considered that the proposed landscaping will make a positive impact on the streetscape and can be supported.

In relation to the overall streetscape compatibility, the applicant offers the following justification in support of their application:

“Areas of potential non-conformity to Clause 7.5(n) have been addressed and justified below. Variations to this clause are accepted via delegated authority after consultation with the Design Advisory Committee where the policy dominantly complies.

Intent of clause

‘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’.

A comprehensive landscape plan has also been submitted with this application which successfully reduces the bulk and impact of the proposal.

Council’s independently appointed advisory architects have advised the following:

‘The architects observed that the proposed development will enhance the existing streetscape character.’ Additionally, ‘The advisory architects observed that the subject development proposal contained dwellings of a high quality, appropriately designed for the adjoining R80 and R50 density coding lots.’

Policy 351.5 “Streetscape Compatibility” – Precinct 5 “Arlington” and Precinct 6 “Kensington” is not applicable in this instance. Regardless of this, the architect / owner has introduced a pitched roof which is required as part of the policy.

The owner in this instance is also the architect; he plans to reside in the premise with his family. The quality and appropriateness of the dwelling for this area is of a high level of importance, as it will remain as part of owner’s day to day life.”

The development application was presented to the Design Advisory Committee in November 2014 and was received favourably. A table of these comments and recommendations are summarised later in this report under the heading of “Consultation”.

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

Accordingly, the proposal is considered to be compatible with the streetscape and is supported by City officers with conditions.

(e) Wall setbacks

Side (North-western)

The deemed-to-comply criteria of Clause 6.1.4 of the R-Codes indicate walls on lots less than 14.0 metres wide should be setback 3.0 metres from the side and rear boundaries. If the walls do not meet these minimum setbacks, applicants are required to demonstrate that they meet the relevant design principles. In this instance, the 1st and 2nd floors along the north-western side of the building do not meet the minimum setback requirements, however it is considered the proposed variations may be supported.

The applicant offers the following justification in support of their application:

“The majority of this proposal is compliant with the exception of the ground level at the very rear of the lot, which represents a 17.0m² total incursion whilst remaining setback by 1.0 metre to 1.5 metres at all times.

In addition, a masonry clad steel cantilever is being utilised as a pillar, and is required by Engineering to be located both over the drive and on the southern boundary.

Approval will be granted if the following design principles are addressed in the design:

P4.1 *Buildings setback from boundaries or adjacent buildings so as to:*

- *ensure adequate daylight, direct sun and ventilation for buildings and the open space associated with them;*
- *moderate the visual impact of building bulk on a neighbouring property;*
- *ensure access to daylight and direct sun for adjoining properties; and*
- *assist with the protection of privacy between adjoining properties.*

The variation is proposed keeping in mind that the retention of natural light is imperative, the variation still maintains setback that does not include an eave, which has resulted in the variation not expanding on the shadow cast by the levels above. Ventilation is not impacted.

By limiting the ceiling height not including an eave, and proposing soft coloured external rendering, the bulk is reduced. The added width presented at the lower level assists in gently introducing the eye to the compliant levels of bulk above, rather than presenting a continuous 9.0 metre wall without definition.

The adjoining dwelling does not address this variation with any significance, as it is set quite far forward on the lot. The wall proposes no openings, which will maintain the privacy of the adjoining landowner.

The requirement for a structural support was not factored in during the early design phases of this project. The pier facilitates the cantilevered feature at the front of the dwelling. As it is a solitary feature, it will not be immediately obvious and will not cause any impact of significance. The landscaping plan demonstrates the intention to disguise this feature by utilising it as a pergola on which to grow a vine, either a star of jasmine or Japanese Wisteria.”

In considering the applicant’s justification and the proposed variation, it is noted that a variation is only proposed along one (north-western) side boundary. There are four major openings situated along this common

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

boundary on the adjoining lot. Only one major opening is partially affected by the setback variation, being the window closest to the street. As there is no overshadowing and approximately 2.5 metres distance between the buildings, this window would still receive defused light during the day. In relation to the outlook and bulk from this major opening, the full affect will not be felt as the outlook is partially obstructed when viewing up, due to the existing roof overhang which will restrict these views out of this window.

Additionally, officers note the following:

- the walls on the development site have been articulated with varying setbacks of 1.5 metres, 4.6 metres and 2.0 metres;
- the walls do not contain any major openings along this elevation, thus eliminating any visual privacy concerns for the adjoining lot;
- there are no issues of overshadowing on the adjoining lot; and
- the setback variation is along the common boundary of the adjoining lot which also has a density coding of R80.

The proposed setback variation along the north-western side of the lot is considered by officers to meet the relevant design principles, and as such is supported.

(f) Boundary wall

North-western boundary wall (Living area)

Under Council Policy P350.2, the permitted height of residential boundary walls (parapets), adjacent to neighbouring Outdoor Living Areas (OLA), is a maximum of 2.7 metres high from the neighbour's ground level. The proposed boundary wall height is 2.5 metres; therefore the proposed development complies with this element of Council policy. Additionally the proposed boundary wall on the site extends 1.5 metres along the adjoining lots outdoor living area, however, the length of this outdoor living area on the adjoining lot extends for 8.0 metres. The primary outdoor living area on the adjoining lot is situated on the opposite side of the property from where the boundary wall is being proposed, hence the impact is minimal.

In addition, the permitted setback for boundary walls is 6.0 metres and the proposed wall setback is approximately 26.0 metres from the front boundary. Therefore, the proposed development complies with this element of Council policy.

Finally, the boundary wall to the living area located along the north-western boundary has been found to not have an adverse effect on neighbouring amenity when assessed against the following "amenity test" referred to in this element of Council Policy P350.2 "Boundary Walls":

- The boundary wall has no effect on the existing streetscape character.
- There is no impact on the outlook from the front of the adjoining dwelling or garden forward of the proposed boundary wall.
- There is no impact on the outlook from the adjoining habitable room windows.
- There is no overshadowing of adjoining habitable room windows or outdoor living areas.
- The proposed boundary wall has minimal impact of bulk on the adjoining outdoor living areas. Additional comments as observed by City officers:

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

- due to the topography of the site in relation to the adjoining lot, the height of the proposed boundary wall visible from the neighbouring lot will be approximately 0.15 metres above the 1.8 metre dividing fence.
- Officers received no comments from the neighbour in relation to the proposed boundary wall.

North-western boundary wall (Garage)

The permitted setback for boundary walls is 6.0 metres and the proposed wall setback is approximately 6.45 metres from the front boundary. Therefore, the proposed development complies with this element of Council policy.

Additionally, the boundary wall to the garage located along the north-western boundary has been found to not have an adverse effect on neighbouring amenity when assessed against the following “amenity test” referred to in this element of Council policy:

- The boundary wall has no effect on the existing streetscape character.
- There is no impact on the outlook from the front of the adjoining dwelling or garden if forward of the proposed parapet wall.
- In relation to the outlook from the adjoining habitable room windows, officers observed the following:
 - just one major opening is affected, however the restriction on this window is minimal due to the topography of the adjoining site which is substantially higher (approximately 0.6 metres) than that of the development site; and
 - approximately 0.2 metres of the boundary wall will be seen above the 1.8 metre high dividing fence. Again also due to the topography of these lots.
- There is no overshadowing of adjoining habitable room windows or outdoor living areas;
- There is no impact of bulk on adjoining outdoor living areas.
- Officers received no comments from the neighbour in relation to the proposed boundary wall.

The applicant has provided further justification in support of their application:

“The policy attempts to ensure compliant dwellings limit the visual impact of building bulk where the proposed boundary wall is situated alongside an outdoor living area on an adjoining dwelling.

The northern adjoining dwelling provides an Outdoor Living Area (OLA) to the rear of the property which is identified to be impacted by the original drawings submitted. Figure 5 below demonstrates that a 1.5 metre wide verandah appears to be situated opposite the wall. The aerial demonstrates the west facing verandah wraps 90 degrees around this part of the house to face north. The boundary wall would be limited in the impact on the OLA, as it would possibly be seldom used due to its western facing aspect and immediate view of the outbuildings.

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

Figure 5 - Limited impact on northern adjoining OLA



Additionally, the topography demonstrates that the adjoining lot is elevated to a considerably higher level than the proposal.

Finally the proposal is unable to impact on natural light due to the relative location of the proposal to the south.

Despite these compelling factors, the architect has chosen to lessen the length of the proposed wall to limit the impact and respect the objectives of the City's Residential Boundary Walls Policy."

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

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

In considering the application, Council is required to have due regard to and may impose conditions with respect to matters listed in Clause 1.6 of TPS6 which are, in the opinion of Council, relevant to the proposed development. Of the 12 listed matters, the following are particularly relevant to the current application and require careful consideration:

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

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

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

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

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

- (a) *The objectives and provisions of this Scheme, including the objectives and provisions of a precinct plan and the Metropolitan Region Scheme.*
- (b) *The requirements of orderly and proper planning, including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought.*
- (c) *The provisions of the Residential Design Codes and any other approved Statement of Planning Council Policy of the Commission prepared under Section 5AA of the Act.*
- (d) *Any other Council policy of the Commission or any planning Council policy adopted by the Government of the State of Western Australia.*
- (f) *Any planning Council policy, strategy or plan adopted by Council under the provisions of Clause 9.6 of this Scheme.*
- (i) *The preservation of the amenity of the locality.*
- (j) *All aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance.*
- (n) *The extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details.*
- (w) *Any relevant submissions received on the application, including those received from any authority or committee consulted under Clause 7.4.*

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

Consultation

(a) Design Advisory Consultants' Comments

The design of the proposal was considered by the City's Design Advisory Consultants (DAC) at their meeting held in November 2013. The proposal was favourably received by the consultants. Their comments and responses from the applicant and the City are summarised below:

DAC Comments	Applicant's Response	Officer Comment
The advisory architects observed that the subject development proposal contained dwellings of a high quality, appropriately designed for the adjoining R80 and R50 density coding lots.	Nil.	Noted.
Large north-east facing balconies were observed to provide suitable space for outdoor activities.		
Additionally, the use of material with a transparent appearance on the street facing façade, as visible in the perspective drawings, provides a light-weight appearance to the building and contributes to achieving a visually balanced built form.		

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

The architects also asked the applicant to examine the possibility of extending portions of the development to a nil setback, thus having boundary walls where they comply with the relevant planning provisions.		
The architects observed that the proposed development will enhance the existing streetscape character.		

(b) Neighbour consultation

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 “Consultation for Planning Proposals”. Under the “Area 1” consultation method, individual property owners, occupiers and / or strata bodies were invited to inspect the plans and to submit comments during a minimum 14-day period.



During the advertising period, a total of 20 consultation notices were sent and eight submissions were received; all against the proposal. The comments of the submitters, together with the applicant’s and officer responses are summarised below:

	Submitters’ Comments	Applicant’s Response	Officer Comment
a.	<p><u>Front streetscape area</u> While a “hipped” colorbond roofing with eaves for the rear of the building (consistent with the local area), the addition of a large, industrial looking three storey high, “box” across the entire frontage dominates the building and streetscape and will directly impact the views from my front living spaces.</p> <p>The proposal is completely out of character with the surrounding area. Other higher density dwellings in the street have been well designed and are typically consistent with the area’s street frontage appeal.</p> <p>A more appropriate frontage with the 3rd storey set further back, a compatible roof line, and more open balcony without the metal slat screens, would be much better.</p>	<p>The advisory architects observed that the proposed development will enhance the existing streetscape character.</p> <p>Additionally, the use of material with a transparent appearance on the street facing façade, as visible in the perspective drawings, provides a light-weight appearance to the building and contributes to achieving a visually balanced built form.</p> <p>In response to these comments, the louvers have been reduced in height to limit their visual impact.</p> <p>The roofline is compatible with the streetscape and character. and was included in the design despite the relevant local planning policy specifically omitting the requirement for a hip and gabled roof to this class of dwelling.</p>	<p>Built form and streetscape compatibility have been discussed earlier in the report, and has also been supported by the DAC. Officers have recommended support with a condition to increase the setback to the 3rd storey.</p>
b.	<p><u>Building bulk and scale</u> In addition to the City’s objectives, the recently revised R-Codes include a like objective: <i>“To ensure that development of multiple dwellings occurs with due regard to the existing development context and / or the desired future built form for the locality as set out</i></p>	<p>The advisory architects observed that the subject development proposal contained dwellings of a high quality, appropriately designed for the adjoining R80 and R50 density coding lots.</p> <p>The proposal accurately reflects “desired future built form for the</p>	

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

<p><i>in the local planning framework.”</i></p> <p>The R-Codes put greater emphasis on the compatibility of the proposal with regard to the local area, and the City has done tremendous work to develop an understanding of what is important to the local community in regard to streetscape and amenity. Whilst Policy P351.5 “Streetscape Compatibility” – Precinct 5 “Arlington” and Precinct 6 “Kensington” is restricted to portion visible from the street for single and grouped dwellings, there is no limitation of the compatibility requirements for multiple dwellings.</p> <p>We will be directly impacted by this large building, in particular the three storey bulky box at the front of the building which could be ameliorated if the 3rd storey was setback further. Unfortunately the 3D perspectives with the soft colours do not adequately express how big and bulky this building will be.</p>	<p>locality”. The Planning Scheme, whilst attributing an R80 zoning to this site, has also increased the standard height provisions.</p> <p>Policy 351.5 “Streetscape Compatibility” – Precinct 5 “Arlington” and Precinct 6 “Kensington” is not applicable in this instance. Regardless of this, the architect / owner has introduced a pitched roof which is required as part of the policy.</p> <p>It is appreciated that the area is beginning a significant transition as the existing housing stock reflects an R15 zoning, however the proposal is sympathetic to its surrounds and does not propose to exceed the planning provisions in any significant manner.</p>	
<p>c. <u>Open space provisions</u></p> <p>Historically, the R-Codes required increased open space to offset the impact of the taller, bulkier buildings as dwelling density increased with minimum open space requirements of 60% specified for R80 developments. In the recent R-Codes, increased emphasis has been placed on Councils to ensure planning decisions are compatible with the neighbouring residential area. In the current R-Codes, the specification of open space provisions for multiple dwelling is set at 45% for lots up to R60, with the requirement for higher density lots referring to “local development plan which sets out development requirements”.</p> <p>While the applicant has included 35% open space, part of this open space is under upper floors or</p>	<p>The proposal is compliant with open space provisions as State Planning Policy 3.1 (R-Codes).</p> <p>Should the proposal have been for a single house or grouped dwelling, the open space provision could be lessened to only 30%.</p> <p>The plans provided in the comment do not accurately reflect the open space of the 2/3 level multiple dwelling. The aerial photo pictured several additional buildings that were omitted from the graphic supplied.</p>	<p>As there are no open space requirements for the R80 coding or local planning policy to address this requirement, the applicant was required to address the associated design principles. Officers observe that this requirement has been duly met.</p>

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

<p>behind high boundary walls, and doesn't effectively give "open" undeveloped land. The applicant's proposal of 35% open space falls well short of a reasonable requirement to offset the building bulk. It is extremely difficult to effectively build high density accommodation in narrow blocks and typically see amalgamation of lots to accommodate such developments, e.g. Number 30, Number 40 and 33/35 Banksia Terrace. Number 30, "Kensington Gardens" is a good example of a compatible multiple dwelling which abuts 32 Banksia Terrace. The development has a wide side setback, and the first dwellings are only built to two storeys. The three storey section being furthest away from the single storey houses.</p> <p>As seen from the City's map service, there is extensive open space for the multiple development at 30 Banksia Terrace.</p> <p>When compared to our house and the surrounding neighbouring buildings, the above drawings clearly show the considerable open space in other developments (including multiple and grouped dwellings) in the area compared to the proposed development.</p>	 	
<p>d. Setbacks from side boundaries The proposal does not meet the R-Codes minimum side setbacks of 3.0 metres.</p> <p>We will face a boundary wall down approximately 55% of our side boundary and on top of this we will have a 9.0 metre high white rendered wall setback half the required distance, also covering 55% of my side boundary.</p> <p>In addition to this 55% coverage of a 9.0 metre high wall, we will</p>	<p>The comment is somewhat incorrect in assuming the 3.0 metre side setback applies to both side boundaries.</p> <p>The R-Codes permit on boundary walls for 2/3's the length of the boundary behind the front setback (2.0 metres) for an average height of 6.0 metres.</p> <p>The proposal demonstrates the boundary wall, split into two, is only 55% of the side boundary, beginning 6.0 metres behind the front setback, and is only one level high rather than</p>	<p>Wall setbacks have been discussed earlier in the report.</p>

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

	<p>have an additional 20+% of the side setback with industrial looking louvers and unpainted concrete according to the drawings.</p> <p>Given that they are incompatibility with the existing neighbouring buildings and the required setback on a side boundary, we strongly oppose this variation.</p>	<p>the permissible two levels (6.0 metres). The bulk of the boundary wall is 40% of what is permissible.</p> <p>Whilst the comment is correct in saying that the setback is not compliant, Council's independently appointed advisory architects have advised the following. <i>"The architects also asked the applicant to examine the possibility of extending portions of the development to a nil setback, thus having boundary walls where they comply with the relevant planning provisions."</i></p> <p>It has been requested that the proposal include a significantly greater boundary wall, which would meet the deemed to comply requirements of the R-Codes.</p> <p>The proposal achieves many beneficial outcomes as a result of the minor length of wall, which are required to be either on the boundary or at 3.0 metre setbacks.</p> <p>A 3.0 metre setback would create the impression of a more "towered" appearance, as the height to width ratio would increase.</p> <p>Most homes in the street have a 1.0 to 1.5 metre side setback. To have 3.0 metre side setbacks, either side would not be harmonious with the existing character of the area.</p> <p>The applicant has limited the impact of the boundary wall to the adjoining neighbour. Should this variation not be adopted, the applicant would be forced to amend the design by increasing the boundary walls. An outcome that would be compliant with the R-Codes, yet unsuitable in this situation.</p>	
e.	<p><u>Increased traffic and street parking</u> While the proposed development does provide the minimum required car parking (four residents' bays and one visitor bay) in accordance with the R-</p>	<p>The proposal is compliant with the provision of parking.</p> <p>The comments argue that the immediate proximity to a dedicated cycle pathway should preclude "higher density" development.</p>	<p>Comments were sought from Engineering Infrastructure with no further information being required or any adverse impact being noted.</p>

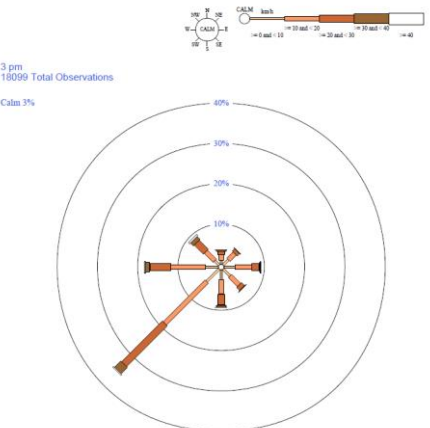
10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

	<p>Codes, we submit that there are some unique circumstances pertaining to Banksia Terrace that should be taken into consideration, not only in relation to amenity but also in relation to social issues, traffic and safety.</p> <p>Banksia Terrace provides a dual cycle way and an underpass beneath Canning Highway. As such, it is the main access route for families and children making their way to and from the Swan River, and also to and from Kensington Primary School on Banksia Terrace.</p> <p>In considering the impact of the development on the amenity of the residential environment, it should be taken into consideration that street parking is only available on one side of the street, and that when (as has occurred in the past) vehicles are unable to park on the southern side of the street, they will park in the cycleway and / or drive in the cycleway with the obvious safety implications.</p>	<p>Whilst ignoring the accepted logic that cycle paths and public transport become more viable as a population in the catchment increases, therefore decreasing dependency and use of private vehicles. Proximity to both a HF bus route and a dedicated cycle path make the proposal ideally located.</p> <p>To refuse development on the basis that increased density near public transport is dangerous, is counterproductive and illogical.</p> <p>The proposal is not attempting to alter the “deemed-to-comply” requirements of the R-Codes in this respect.</p> <p>Although not raised in comments by neighbours, the preliminary drawings did not provide adequate visual access to the driveway, however, the current drawings have been amended to reflect visual truncations compliant with the R-Codes and AS 2890.1.</p>	
<p>f.</p>	<p><u>Preservation of the amenity of the location</u> Policy P302 “General Design Guidelines for Residential Development” defines “amenity” as “those qualities and characteristics of a site and its neighbouring area that contribute to the comfort and pleasantness of the residential environment”. It also states that “building design compatibility is generally the most critical element in preserving or enhancing desired streetscape character”.</p> <p>In relation to the above, the proposed development is not seen to be compatible and will have a negative impact on the existing residential environment.</p> <p>The existing streetscape character is to a maximum of two</p>	<p>Council’s independently appointed advisory architects have advised the following: <i>“The architects observed that the proposed development will enhance the existing streetscape character.”</i> <i>Additionally; “The advisory architects observed that the subject development proposal contained dwellings of a high quality, appropriately designed for the adjoining R80 and R50 density coding lots.”</i></p> <p>The proposal is highly reflective of the desire to increase density in high amenity areas as established in Local, State and Federal Housing Strategies whilst enhancing the desired streetscape character.</p> <p>Despite subjective comments from adjoining residents, the proposal has included many successful attempts to both limit bulk and character of the</p>	<p>Policy P302 is not applicable to this development application, however officers have addressed this under streetscape compatibility earlier in the report.</p>

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

	storeys and even where a building has gone to three storeys close to Canning Highway, this has been through a transition from two storeys to three storeys in the same development and buffered from the adjoining single storey, single residential property by driveway and pedestrian access.	area. Whilst no additional setback is required by the policy, the proposal demonstrates a ground floor setback which is compliant with an R15 zoning. The proposal discretely houses vehicle's parallel to the street alignment to reflect the lack of garages included in the traditional housing stock of the area.	
g.	<p>The proposed “tower” design is highly incompatible with the existing residential built form in the surrounding area, which consists of single houses, grouped dwellings and even where there are multiple dwellings closer to Canning Highway. These have a sympathetic transition from the adjacent dwellings and provide considerable open space.</p> <p>While the height of the proposed development is within the building height limit provided by TPS6 for the narrow band towards Canning Highway, the artist’s impression clearly indicates that its height is a major contributing factor in its disharmony with the neighbouring existing buildings. It towers above all other buildings in the vicinity, and is higher than the nearby trees and power poles.</p>	<p>It is inaccurate to use the term “tower” in describing this proposal.</p> <p>The proposal shares the same R80 zoning as the corner lot site and presents a comparable level of bulk, being three stories in height.</p> <p>The proposal does not “tower” above all other buildings in the vicinity:</p> <ul style="list-style-type: none"> • the dwelling to the rear is two levels; • the dwellings opposite are two levels; • the multiple unit site on the corner is three levels as is the building behind it; and • the Metro Hotel is actually a tower in the vicinity and is of a height incomparable in scale to the height proposed. 	Streetscape compatibility has been discussed earlier in the report, and similar comments have been addressed at Points (a) and (b) of this table.
h.	<p>We believe that the proposed development is extreme and will not be consistent with the existing streetscape and residential density in the street.</p> <p>We do not support any setback variations or boundary walls.</p>	<p>The proposal is not attempting to exceed the “deemed-to-comply” provision on boundary walls. They are significantly less.</p> <p>The proposal has demonstrated whilst minor aspects do not meet the deemed-to-comply criteria of the R-Codes, it clearly meets the design principles (performance criteria) which still deems it as complying with the Codes.</p> <p>The local planning policies are met in instances where provisions are clearly dictated and quantitative. Where they are qualitative, it is felt</p>	The application is within the required plot ratio. Additionally, there is no restriction on the number of units that can be proposed on an R80 site. Officers are of the view that four dwellings is seen to be on the lower end of the number of units which could be proposed.

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

		by the applicant that these objectives are met.	
i.	My concern is the direct impact that a proposed three storey building will have on my home in relation to visual privacy and overshadowing.	<p>The building is compliant with the Scheme’s height requirements. The lot is not elevated, however, the general topography of the area is sloping.</p> <p>Overshadowing has not exceeded the deemed-to-comply criteria of the R-Codes as demonstrated by the overshadowing diagram supplied in the proposal.</p>	Visual privacy and solar access are compliant for this proposal.
j.	<p><u>Solar access</u> Additionally, if the minimum 3.0 metre setbacks were enforced we would have much better access to views of the open sky. Overshadowing is well defined and directly limited in the R-Codes, but access to open sky is also considered.</p> <p>The explanatory notes to the new R-Codes state: <i>“The building envelope impacts on the residential amenity or character, particularly with regard to overshadowing, solar access, ventilation and visual bulk. These requirements have interdependency, and meeting one requirement may impact on the ability to achieve the deemed-to-comply provision of another requirement. Therefore, in order to achieve an appropriate built form outcome, an alternative design option under the relevant design principles may be required in lieu of compliance with the deemed-to-comply provision under that design element.”</i></p> <p>Even the overshadowing of our property is the less than 50% limit, it is directly on our open living area at the back of the house. This directly affects our amenity and use of our property, particularly in the cooler months. In addition, while our lot is zoned R50, it has only been developed to R15 and we submit that the overshadowing directly impacting on our open space living area</p>	<p>Overshadowing has not exceeded the deemed-to-comply criteria of the R-Codes, as demonstrated by the overshadowing diagram supplied in the proposal.</p> <p>As such, the proposal is not requesting to be assessed upon the design principles.</p> <p>The comment cites ventilation as a reason to refuse the proposal.</p> <p>The image below demonstrates the direction of wind for Perth. Using historical data suggests the position of the dwelling against the neighbour’s dwelling will not be of actual concern.</p>  <p>3 pm 14009 Total Observations Calm 3%</p> <p>The adjoining dwelling at present does not make use of the zoning currently available to it. Eventually market forces will see this lot being developed to its highest and best use, which will see it being developed to a level commensurate to the proposal.</p>	Solar access is compliant for this proposal. Additionally, the 1 st and 2 nd storeys are compliant with the 3.0 metre setbacks to the south-east and south-west sides in relation to the site.

10.3.1 Proposed Four (4) Multiple Dwellings within a Three (3) Storey Building – Lot 80 (No. 36) Banksia Terrace, Kensington

<p>should be considered in this light.</p> <p>P2.2 of the R-Codes is relevant here as it refers to requirements for developments to be designed to protect solar access for neighbouring properties, taking account the potential to overshadow existing outdoor living areas.</p>		
--	--	--

(c) Internal administration

The Manager, Engineering Infrastructure was invited to comment on a range of issues relating to vehicular movement generated from the proposal. This section raised no objections and was generally supportive of the proposal subject to the inclusion of standard conditions relating to crossovers and stormwater drainage, as referred to in **Attachment 10.3.1(e)**.

Policy and Legislative Implications

Comments have been provided elsewhere in this report in relation to the various provisions of the Scheme, R-Codes and Council policies, where relevant.

Financial Implications

This determination has a no financial implications.

Strategic Implications

This report is consistent with the City's [Strategic Plan 2013–2023](#), Direction 3 – Housing and Land Users “Accommodate the needs of a diverse and growing population”.

Sustainability Implications

This report is aligned to the City's [Sustainability Strategy 2012–2015](#). The proposed development has generally been designed having regard to the provisions of Council's Sustainable Design Policy. The applicant has provided balconies on the north-eastern side of the dwellings to maximise the winter sun. The proposal makes significant effort to capture as much natural light as possible, whilst limiting its exposure to harsh western sun. A significant amount of operable windows have been located on the south-western boundary to take advantage of cooling summer breezes. Hence, the proposed development is seen to achieve an outcome that has regard to the sustainable design principles.

Conclusion

It is considered that the proposal meets all of the relevant Scheme, R-Codes and Council policy objectives and provisions as it will not have a detrimental impact on adjoining residential neighbours and streetscape. Accordingly, it is considered that the application should be conditionally approved.

10.3.2 Proposed Change of Use from “Office / Shop” to “Consulting Room” and associated Signage – Tenancies 2 & 3 on Lot 97 (No.2) Downey Drive, Manning

Location: Tenancies 2 & 3 on Lot 97 (No. 2) Downey Drive, Manning
 Ward: Manning Ward
 Applicant: Jasbir Nagi
 Lodgement Date: 24 January 2014
 Date: 18 March 2014
 Author: Mina Thomas, Statutory Planning Officer
 Reporting Officer: Vicki Lummer, Director, Development and Community Services

Summary

To consider an application for planning approval for a change of use from two approved “Office / Shop” tenancies into one proposed “Consulting Room” use (Exemplar Dental Surgery) at a previously approved and existing mixed use commercial development located at Lot 97 (No.2) Downey Drive, Manning. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Car parking provision - Table 6 of TPS6	TPS6 Clauses 7.8(1) and 6.3(4)

Officer Recommendation and COUNCIL DECISION

That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and *Metropolitan Region Scheme*, this application for planning approval for a change of use from an approved “Office / Shop” to a proposed “Consulting Room” and associated signage for tenancies 2 & 3 on Lot 97 (No. 2) Downey Drive, Manning, **be approved** subject to:

(a) Standard Conditions

660	Expiry of approval
-----	--------------------

(b) Specific Conditions

- (i) The applicant is to pay the City \$6,000 as a cash payment in lieu of the onsite car parking shortfall of one (1) bay in accordance with Council Policy P315 “Car Parking Reductions for Non-Residential Development” and Clause 6.3(5) of the City’s *Town Planning Scheme No. 6*. A tax invoice to this effect will be issued by the City.
- (ii) The hours of operation shall be limited to:
8:00am until 6:00pm – Monday to Saturday.

(c) Standard Advice Notes

700A	Building permit required	795B	Appeal rights – Council decision
720	Strata note - Comply with that Act	790	Minor variations - Seek approval

(d) Specific Advice Notes

The applicant is advised that all mechanical ventilation services, motors and pumps, e.g. air-conditioners, to be located in a position so as not to create a noise nuisance as determined by the *Environmental Protection Act 1986* and *Environmental Protection (Noise) Regulations 1997*.

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

CARRIED EN BLOC MOTION

10.3.2 Proposed Change of Use from “Office / Shop” to “Consulting Room” and associated Signage – Tenancies 2 & 3 on Lot 97 (No.2) Downey Drive, Manning

Background

The development site details are as follows:

Zoning	Highway Commercial
Density coding	R80
Lot area	1,445 sq. metres
Building height limit	7.0 metres

This report includes the following attachments:

Attachment 10.3.2(a) Plans of the proposal.

Attachment 10.3.2(b) Engineering Infrastructure email.

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

The subject site has an historic shortfall of onsite car parking bays available, as detailed in the “Car parking” section below. The proposed change of use proposes an additional car parking shortfall. The amenity impact in this instance is the cumulative effect of a shortfall of onsite parking bays, thus an increased reliance on the limited available street and incidental parking off-site for which a number of businesses and patrons / customers within the vicinity will then compete.

10.3.2 Proposed Change of Use from “Office / Shop” to “Consulting Room” and associated Signage – Tenancies 2 & 3 on Lot 97 (No.2) Downey Drive, Manning

Comment

(a) Background

In January 2014, the City received an application for a change of use of two “Office / Shop” tenancies into a proposed “Consulting Room” unit at a previously approved mixed use development comprising a combination of office, shop and residential land uses at Lot 97 (No. 2) Downey Drive, Manning.

The original development at 2 Downey Drive was subject to a car parking shortfall of eight bays onsite, and the developer funded works within the road reserve for additional bays. A further contribution was received that resulted in the freeing up of parking bays in the car park opposite by providing a suitable location for Western Power infrastructure.

This current application proposes a change of use for two of the ground level “Office / Shop” tenancies to a “Consulting Room” use. While this proposed change of use, following officer assessment, has resulted in an increased parking requirement for the site, some concessions to the car parking requirement were identified via Council Policy P315 “Car Parking Reductions for Non-Residential Development”.

As the change of use application affects only two of the previously approved uses onsite, the car parking assessment (as per Table 6 of TPS6) is based solely on the change in required parking for the existing “Office / Shop” tenancy to the proposed “Consulting Room” use. Parking requirements for the other uses on the site are to remain as previously approved.

This is discussed further in the “Car parking” section below.

(b) Existing development on the subject site

The subject site is located at Lot 97 (No. 2) Downey Drive, Manning. The existing development on the site currently features a mixed use development comprising shop, office, café / restaurant and residential land uses.

(c) Description of the surrounding locality

The development is on a corner site with frontage to Ley Street to the west, and Downey Drive to the south. The site is within the Ley Street Highway Commercial Centre, sited directly opposite public car park No. 33 (Manning Senior Citizens) and numerous food and retail outlets within the commercial centre. The site is surrounded by predominantly low to medium density residential developments, as highlighted on the following page:

10.3.2 Proposed Change of Use from “Office / Shop” to “Consulting Room” and associated Signage – Tenancies 2 & 3 on Lot 97 (No.2) Downey Drive, Manning



(d) **Description of the proposal**

The proposal involves a change of land use from “Office / Shop” to “Consulting Room” (Exemplar Dental Surgery), as depicted in the submitted plans referred to as **Attachment 10.3.2(a)**, on Lot 97 (No. 2) Downey Drive, Manning. The proposed land use of “Consulting Room” is classified as a “DC” (Discretionary with Consultation) land use within the “Highway Commercial” zone, as per Table 1 (Zoning - Land use) of TPS6. A “DC” land use is defined as follows:

“Indicates a Discretionary Use and means that the Use is not permitted unless Council has exercised its discretion by granting planning approval after giving special notice in accordance with Clause 7.3.”

The proposal generally complies with the *City of South Perth Town Planning Scheme No. 6* (Scheme; TPS6) and relevant Council policies, with the exception of car parking requirements. The following significant matters are discussed further in the body of this report:

- Scheme requirements for car parking (Clause 6.3 of TPS6);
- Car parking demand by the proposed “Consulting Room”;

10.3.2 Proposed Change of Use from “Office / Shop” to “Consulting Room” and associated Signage – Tenancies 2 &3 on Lot 97 (No.2) Downey Drive, Manning

- Availability of car parking bays and the existing shortfall; and
- Council Policy P315 “Car Parking Reductions for Non-Residential Development”.

(e) Car parking

- (i) Town Planning Scheme No. 6 requirements for car parking
Table 6 of *Town Planning Scheme No. 6* sets out the car parking requirements for land uses in the City of South Perth.

The car parking requirements for the existing use “Office / Shop” is one car bay per 20.0m² gross floor area. The GFA of both units combined is calculated to be 101m², and therefore results in a requirement of five car bays. Of these five car bays, two have been allocated by the developer onsite resulting in a shortfall of three bays.

The proposed use “Consulting Room” has the following car parking requirements:

- One bay for every 19.0m² of gross floor area with a minimum of six; plus
- One bay for every person employed on the premises.

There are three people employed on the premise at any one time, in addition to a minimum of six bays required. This will result in a total of nine car bays required for the proposed “Consulting Room” premise.

The parking shortfall from the original approval is therefore calculated to be four bays; (proposed use parking requirement) minus (existing use parking requirement).

- (ii) Car parking demand by the proposed “Consulting Room”

The proposal incorporates the merger of two units previously approved as “Office / Shop” into one “Consulting Room”. In this instance, these two units separately would have two separate entities; each unit would have at least one or two members of staff and its own customer base. By combining both these units into one “Consulting Room”, the parking demand is observed to be much less than the nine bays required under TPS6, and should be subject to special consideration by Council.

The applicant states that there will be a total of three people working at any one time at the proposed “Consulting Room”. The staff will include one nurse, one receptionist and one dentist. There will be one patient being treated at any one time, and one patient awaiting their appointment. This brings the total demand to five bays, which is much less than requirement set out under Table 6 of TPS6.

- (iii) Availability of car parking bays and the existing shortfall

The submitted plans referred to as **Attachment 10.3.2(a)**, indicate a total of two car parking bays available on the subject site for the sole use of tenants of the proposed change of use. The original “Office / Shop” use required five car bays, of which three were accounted for on the street as incidental bays.

There is shared incidental parking available at public car park No. 31, Manning Senior Citizens’ car park (61 bays), directly adjacent to 2

10.3.2 Proposed Change of Use from “Office / Shop” to “Consulting Room” and associated Signage – Tenancies 2 &3 on Lot 97 (No.2) Downey Drive, Manning

Downey Drive. A calculation of the number of car parking bays required for the existing use onsite, based upon TPS6 requirements, shows that a total of 28 car parking bays would be required for the currently approved uses. Hence, City officers consider that the currently approved uses are operating with an overall shortfall of eight bays onsite.

Clause 6.3(4) of TPS6 provides the discretionary power to approve the proposed variation to car parking for non-residential uses if Council is satisfied that the proposed number of bays is sufficient, having regard to the peak parking demand for different uses on the development site. Additionally, Clause 7.8.1(b) of TPS6 provides discretionary power to approve the proposed car parking if it is satisfied that all of the following requirements of this clause have been met:

- (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.*
- (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.*

In response to the above matters, the applicant has provided written justification which is supported by the officers:

(iv) Applying cash-in-lieu provisions of Council Policy P315

This parking shortfall of four bays, as a result of the change of use, has been assessed against Council Policy P315 “Car Parking Reductions for Non-Residential Development”. The objective of the policy is to allow a reduction of the number of car parking bays required for non-residential uses where there are significant opportunities to promote alternative modes of transport, or utilise existing transport and car parking infrastructure. Based on permitted car parking reductions of Table 1 of the policy, the following factors and features of the subject site provide allowable reductions in the parking requirements:

- (A) The proposed development is within 400 metres of bus stops along Manning Road, allowing a percentage reduction in required bays of 15%.
- (B) The proposed development is within 50.0 metres of the Manning Senior Citizens’ car park No. 33 (61 bays), allowing a percentage reduction in required bays of 20%.

Using the formula provided in Table 2 of the policy, and taking into account the various adjustment factors above, the figures used are as follows:

The resultant number of car parking bays subject to cash-in-lieu payment;

$$= R(9) \times A(0.68) - P(2) - S(3) = 1.12 (1).$$

$R =$ TPS6 car parking requirement, i.e. 9.

10.3.2 Proposed Change of Use from “Office / Shop” to “Consulting Room” and associated Signage – Tenancies 2 & 3 on Lot 97 (No.2) Downey Drive, Manning

A = Applying the total adjustment factor, i.e. 0.68 derived from Table 1 in the policy as the proposed development is within 400 metres of a bus stop / station and within 50.0 metres of a public car park.

P = Minus the car parking proposed to be provided onsite, i.e. 2 as explained under Item (ii) above.

S = The most recently approved onsite (or in this case, this particular tenancy) car parking shortfall (after taking into account relevant adjustment factors) unless the proposal is deemed to be a comprehensive new development.

Therefore, utilising the provisions and formulas of the policy, it can be deemed that one car bay should be subject to a cash-in-lieu payment.

(v) How will this cash-in-lieu payment be utilised?

Proposed Scheme Amendment 30 “Car Parking and Cash-in-lieu of Car Parking Bays” to TPS6 has been adopted by Council and is currently before the Minister for Planning for final approval.

Clause 6.3 currently restricts Council’s allocation of the cash-in-lieu payments to car parking related infrastructure, such as timed meters and additional car parks, which are in accordance with a firm proposal by Council and must be implemented within five years of the planning approval being granted. As a result, Council has not been able to effectively utilise TPS6’s cash-in-lieu provisions due to their restricted nature, instead opting to grant car parking variations in an ad hoc manner without always capturing any value from the approved car parking shortfall.

The proposed amended cash-in-lieu provision to TPS6 is as follows:

“6.3A Cash-in-lieu of car parking bays:

- (3) Before Council agrees to accept a cash payment in lieu of any deficit bays, it must have a reasonable expectation that the payment can be spent by the City:
 - (a) to provide additional transport infrastructure in the vicinity of the development site; or*
 - (b) to acquire land for the provision of additional transport infrastructure.**
- (4) The amount of the cash-in-lieu payment shall be the cost estimated by Council to provide the deficit bays. The cost may include:
 - (a) the value of land on which the deficit bays may be constructed, as estimated by a licensed valuer appointed by Council;*
 - (b) the cost to Council of constructing the deficit bays; and*
 - (c) the cost to Council of constructing and installing signs, facilities or equipment to regulate the permissible period during which a vehicle may occupy the deficit bays.**
- (5) Any costs incurred by Council in estimating the amount of a cash-in-lieu payment shall be paid by the applicant seeking planning approval.*
- (6) The cash-in-lieu payment shall be payable in such a manner, and at such time as Council determines.*
- (7) Cash-in-lieu payments received by Council under this clause shall be paid into appropriate funds to be used for the provision and maintenance of transport infrastructure within reasonable proximity to the development site. The cash-in-lieu payment may be used to*

10.3.2 Proposed Change of Use from “Office / Shop” to “Consulting Room” and associated Signage – Tenancies 2 &3 on Lot 97 (No.2) Downey Drive, Manning

reimburse Council for any related expenses, including loan repayments, which it incurs in providing and maintaining transport infrastructure.”

(vi) Comments from Engineering Infrastructure

The memorandum from Engineering Infrastructure, referred to as **Attachment 10.3.2(b)**, provides comment and further details in relation to the previous approval and intent for the previous cash-in-lieu payment, as was a condition of approval for the subject site development. The comments also provide guidance and pricing for any additional cash-in-lieu payment required for any additional bays eligible for cash-in-lieu payment as a result of this change of use proposal.

(vii) Conclusion

In this instance, it is considered that the proposal does not comply with the parking requirements of the City’s TPS6, however a condition of approval is recommended to demonstrate compliance and thereby rectify this matter.

Hence, in considering Sub-clauses (ii) and (iii) above, officers recommend the parking shortfall be approved provided the City requests a cash-in-lieu payment for one car bay at a cost of \$6,000 to the applicant / landowner as is reflected in the recommended Specific Condition b(i) of approval for this proposal.

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

In considering the application, Council is required to have due regard to and may impose conditions with respect to matters listed in Clause 1.6 of TPS6 which are, in the opinion of Council, relevant to the proposed development. Of the 12 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (a) *Maintain the City's predominantly residential character and amenity.*
- (e) *Ensure community aspirations and concerns are addressed through Scheme controls.*
- (f) *Safeguard and enhance the amenity of residential areas, and ensure that new development is in harmony with the character and scale of existing residential development.*
- (j) *In all commercial centres, promote an appropriate range of land uses consistent with:*
 - (i) *the designated function of each centre as set out in the Local Commercial Strategy; and*
 - (ii) *the preservation of the amenity of the locality.*

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

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

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

10.3.2 Proposed Change of Use from “Office / Shop” to “Consulting Room” and associated Signage – Tenancies 2 & 3 on Lot 97 (No.2) Downey Drive, Manning

- (a) *The objectives and provisions of this Scheme, including the objectives and provisions of a precinct plan and the Metropolitan Region Scheme.*
- (b) *The requirements of orderly and proper planning, including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought.*
- (f) *Any planning Council policy, strategy or plan adopted by Council under the provisions of Clause 9.6 of this Scheme.*
- (i) *The preservation of the amenity of the locality.*
- (p) *Any social issues that have an effect on the amenity of the locality.*
- (q) *The topographic nature or geographic location of the land.*
- (r) *The likely effect of the proposal on the natural environment, and any means that are proposed to protect or to mitigate impacts on the natural environment.*
- (t) *The amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety.*

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

Consultation

(a) Neighbour consultation

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 “Consultation for Planning Proposals”. Under the “Area 1” consultation method, individual property owners, occupiers and / or strata bodies within the vicinity of the proposed development were invited to inspect the plans and submit comments during a minimum 14-day period, however the consultation continued until this report was finalised.

During the advertising period, a total of 21 consultation notices were sent and despite a number of landowners phoning to request further details of the proposal, no formal submissions / objections to the proposal were received throughout the consultation period and to date.

(b) Internal administration

Comments were invited from the Engineering Infrastructure and Environmental Health sections of the City’s administration.

- The Manager, Engineering Infrastructure was invited to comment on vehicle movements and parking generated from the proposal. Comments are discussed in the “Car parking” section above, and a copy of the original email is contained in **Attachment 10.3.2(b)**.
- The Environmental Health Services department were asked to provide comments with respect to the “Consulting Room”. This department raises no objections, subject to the recommended conditions and important notes.

Accordingly, planning conditions and / or important notes are recommended to respond to the comments from the above officers.

Policy and Legislative Implications

Comments have been provided elsewhere in this report in relation to the various provisions of the Scheme, R-Codes and Council policies, where relevant.

10.3.2 Proposed Change of Use from “Office / Shop” to “Consulting Room” and associated Signage – Tenancies 2 &3 on Lot 97 (No.2) Downey Drive, Manning

Financial Implications

The recommended condition of approval for this proposal requires the applicant to pay \$6,000 to the City, in accordance with a cash-in-lieu payment required due to a parking bay provision shortfall of one bay. As stated by Engineering Infrastructure in an email dated 19 March 2014, the cash-in-lieu payment received by Council will be used to retain the number of public parking bays within the public car park opposite.

Strategic Implications

This report is consistent with the City’s [Strategic Plan 2013–2023](#), Direction 3 – Housing and Land Users “Accommodate the needs of a diverse and growing population”.

Sustainability Implications

This report is aligned to the City’s [Sustainability Strategy 2012–2015](#). Being non-residential land uses of a non-sensitive nature, it is considered that the development enhances sustainability by providing local businesses and employment opportunities.

Conclusion

It is considered that the proposal meets all of the relevant Scheme and / or Council policy objectives and provisions, as it will not have a detrimental impact on adjoining residential neighbours subject to a cash-in-lieu payment for one car bay shortfall. Accordingly, it is considered that the application should be conditionally approved in accordance with the recommended conditions of approval above.

**10.3.3 Proposed Carport Addition to Single House. Lot 100 (No. 3)
Elizabeth Street, South Perth.**

Location: Lot 100 (No. 3) Elizabeth Street, South Perth
 Ward: Mill Point Ward
 Applicant: Dennis Sheppard
 Lodgment Date: 4 February 2014
 Date: 17 March 2014
 Author: Erik Dybdahl, Planning Officer, Development Services.
 Reporting Officer: Vicki Lummer, Director, Development and Community Services

Summary

To consider an application for planning approval for a carport addition to an existing single house on Lot 100 (No. 3) Elizabeth Street, South Perth.

While the application relates only to the addition of a carport to the single house, due to an existing double garage already on site, the proposal conflicts with provisions of Council Policy P350.3 ‘Car Parking, Access, Siting and Design’, namely sub-clause 8(b)(iii):

“Where a carport is proposed to be sited within the front setback area of an existing dwelling, and two existing roof-covered bays complying with the minimum dimensions prescribed in TPS6 are already located behind a 4.5 metre street setback, or there is a practical location to provide such bays behind the 4.5 metre setback;

- (A) Neither of those existing bays is permitted to be converted to another use; and
- (B) A setback of less than 4.5 metres will not be permitted for the proposed carport, unless the focus area characterised by at least one-third of the lots already having carports in the front setback area.”

Due to no practical location for an additional carport behind a 4.5 metre setback and the existing double garage onsite, the proposal is in conflict with the above sub-clause and therefore, Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Carport Addition / Setback of Carport	P350.3 sub-clause 8(b)(iii)

It is recommended that the proposal be refused.

Officer Recommendation

That pursuant to the provisions of *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for planning approval for a carport addition to a single house on Lot 100 (No. 3) Elizabeth Street, South Perth, **be refused** for the following reasons:

(a) Specific Reason

The proposal is in conflict with Sub-clause 8(b)(iii) of Council Policy P350.3 “Car Parking, Access, Siting and Design”. A double garage exists onsite, and the Elizabeth Street focus area is not characterised by at least one-third of the lots already having carports within the front setback area.

(b) Standard Advice Notes

795B	Appeal rights- Council decision
------	---------------------------------

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

LAPSED for want of a mover/second

Alternative Motion and COUNCIL DECISION

Moved: Councillor Irons

Seconded: Councillor Trent

1. That the Officer’s Recommendation not be adopted and:
2. That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for a carport addition to a single house on Lot 100 (no. 3) Elizabeth Street, South Perth be approved subject to:

Standard Conditions:

425 – External Materials and Colours of proposed addition to match existing dwelling	445 – Stormwater Infrastructure
416 – No Street trees are to be removed, pruned or disturbed in anyway	660 – Validity of Approval

Standard Advice Notes:

700A – Building Permit Required	790 – Minor variations – Seek approval
795B – Appeal rights – Council decision	

CARRIED (5/2)

Reasons for change

- I do not consider that the carport would be detrimental to the Streetscape, as the design is sympathetic to the house and is not an eyesore from the Street
- The neighbours support the carport at Elizabeth Street.
- In the evening there are cars parked on either side of Elizabeth Street which creates a narrow Street. Having cars off the Street would be an advantage.
- There is no solid wall/fence at this dwelling, hence no risk to pedestrians, even though at this end of Elizabeth Street there is very little pedestrian traffic.

Background

The development site details are as follows:

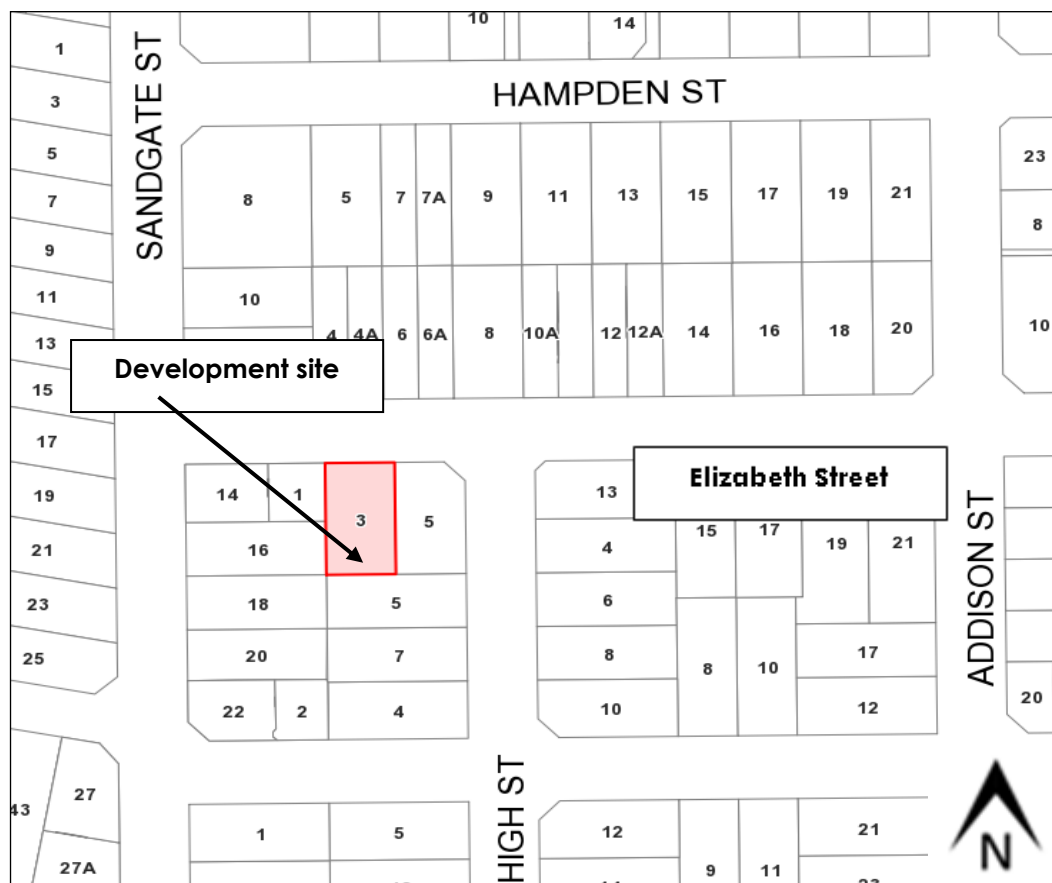
Zoning	Residential
Density coding	R15
Lot area	710 sq. metres
Building height limit	7.0 metres
Development potential	1 dwelling
Plot ratio limit	Not applicable

This report includes the following attachments:

- Confidential Attachment 10.3.3(a)** Plans of the proposal.
- Attachment 10.3.3(b)** Applicant’s supporting letter.
- Attachment 10.3.3(c)** Adjoining landowners’ signed consent letters.

10.3.3 Proposed Carport Addition to Single House. Lot 100 (No. 3) Elizabeth Street, South Perth.

The location of the development site is shown below:



In accordance with Council Delegation DC690, the proposal is referred to a Council meeting because it falls within the following categories described in the delegation:

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

- (b) *Applications, which in the opinion of the delegated officer, represents a significant departure from the Scheme, Residential Design Codes or relevant planning policies.*
- (c) *Applications involving the exercise of discretion under Clauses 6.1 or 6.11 of the Scheme.*

Comment

(a) **Background**

In February 2014, the City received an application for a carport addition to an existing two-storey single house at Lot 100 (No. 3) Elizabeth Street, South Perth (the site).

The property owner is applying for the carport addition so as to provide further roof-covered protection to the additional vehicles currently being parked on the open, unprotected section of his driveway in front of an existing double garage. The applicant's supporting letter, referred to as **Attachment 10.3.3(b)**, describes the need for the proposed structure and further justification for the proposal.

While the proposal is generally compliant with other elements of Council Policy P350.3, Sub-clause 8(b)(iii) prescribes that where two existing covered

10.3.3 Proposed Carport Addition to Single House. Lot 100 (No. 3) Elizabeth Street, South Perth.

car bays exist behind a 4.5 metre setback, a setback of less than 4.5 metres for any proposed carport shall not be accepted unless the focus area is characterised by at least one-third of lots already having carports in the front setback area.

Despite achieving the prescribed setback average (6.0 metres), the Elizabeth Street streetscape is comprised primarily of lots with garage parking structures setback at the minimum requirement of 4.5 metres. Additionally, it is evident that less than one-third of dwellings within the streetscape have carports within the front setback area. It is therefore deemed the proposal does not satisfy provisions of the above clause, and the proposed setback of the parking structure would represent a deviation from existing development within the Elizabeth Street focus area.

As there is no other practical location for a carport with a street setback of at least 4.5 metres on the site, or that would otherwise satisfy Council Policy, it is recommended the proposal be refused.

(b) Existing development on the subject site

Existing development on the site currently features a two-storey single house. The existing development includes an enclosed double garage setback at 6.1 metres from the street alignment as illustrated in Photo 1 below and the plans of the proposal, referred to as **Confidential Attachment 10.3.3(a)**. Given the existing development on the site and the position of other buildings, there is no practical location for an additional double carport (complying with the minimum dimensions prescribed in TPS6) to be located beyond a 4.5 metre setback from the street alignment.

Photo 1 – The image shows the existing two-storey single house on the subject site, including the double garage setback at 6.1 metres.



10.3.3 Proposed Carport Addition to Single House. Lot 100 (No. 3) Elizabeth Street, South Perth.

(c) Description of the surrounding locality

The site has frontage to Elizabeth Street to the north, and is located approximately 50.0 metres east from the intersection of Elizabeth and Sandgate Street. The surrounding area is characterised by predominantly single houses and lower density residential development as seen below:



(d) Description of the proposal

The proposal involves the construction and addition of a double carport (setback at 1.0 metres from the street alignment) to the existing two-storey single house on the subject site, as depicted in the submitted plans referred to as **Confidential Attachment 10.3.3(a)**.

(e) Car parking (Setback of carports)

As can be seen in the plans of the proposal contained within **Confidential Attachment 10.3.3(a)**, an existing double garage is a development feature already present on the subject site, setback at a distance of 6.1 metres from the street alignment.

In accordance with Council Policy P350.3, Sub-clause 8(b)(iii):

“Where a carport is proposed to be sited within the front setback area of an existing dwelling and two existing roof-covered bays complying with the minimum dimensions prescribed in TPS6 are already located behind a 4.5 metre street setback:

(B) A setback of less than 4.5 metres will not be permitted for the proposed carport, unless the focus area is characterised by at least one-third of the lots already having carports in the front setback area.”

[Note - Front setback area is defined via Council policy as “The portion of a lot situated between the primary street boundary and the front of the closest dwelling”.]

Given this, the proposal is seen to be in conflict with the relevant sub-clause, as the existing double garage is setback beyond a 4.5 metre street setback (6.1

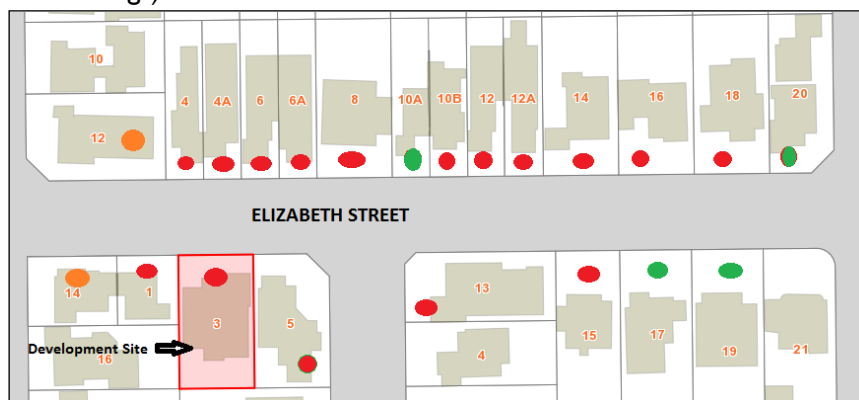
10.3.3 Proposed Carport Addition to Single House. Lot 100 (No. 3) Elizabeth Street, South Perth.

metres) and the proposed carport is to be setback at 1.0 metre in lieu of the required minimum 4.5 metre setback, as prescribed by the above clause.

Following a site visit and further investigation by the assessing officer, it was revealed that Elizabeth Street is not one characterised by developments with carport structures within the front setback area, (the portion of a lot situated between the primary street boundary and front of the closest dwelling) and while there are several developments with buildings forward of a 4.5 metre setback, a large majority of the streetscape is characterised by dwellings with garage style parking structures and other building(s) setback a minimum of 4.5 metres from the primary street boundary.

Photo 2 - The image below shows a portion of Elizabeth Street indicating respective parking structure arrangements for properties within the focus area of the subject site:

- Green dots denote dwellings with carports within the front setback area (4 out of 22 dwellings);
- Orange dots denote dwellings with carports appurtenant to the dwelling yet not within the “front setback area” (2 out of 22 dwellings); and
- Red dots denote dwellings with garage parking structures (16 out of 22 dwellings).



The ratio of dwellings within the Elizabeth Street streetscape that contain carports in the front setback area is less than one-third. Only four out of the 22 dwellings demonstrate development of carport structures within the front setback areas and therefore, it can be deemed that such development is not characteristic of the streetscape.

While it should be noted that there were several properties within the streetscape and immediate area that demonstrate development of carports within the front setback area (less than one-third) or attached to the side of the dwelling, these dwellings do not have existing or additional roof-covered parking bays behind a 4.5 metre setback, as is the case for the subject site. Policy also dictates that when considering the focus area it is only “the section of a street extending from one cross intersection to the next cross intersection, together with the residential properties fronting onto both sides of that section of the street” that is to be taken into account when assessing streetscape compatibility and the appropriateness of development.

In this instance, it is considered that the proposal does not comply with the discretionary clause, and is therefore not supported by City officers. As there is no other practical location for an additional parking structure beyond a 4.5

10.3.3 Proposed Carport Addition to Single House. Lot 100 (No. 3) Elizabeth Street, South Perth.

metre setback or that would otherwise satisfy Council policy, it is recommended the proposal be refused.

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

In considering the application, Council is required to have due regard to and may impose conditions with respect to matters listed in clause 1.6 of TPS6 which are, in the opinion of Council, relevant to the proposed development. Of the 12 listed matters, the following are particularly relevant to the current application and require careful consideration:

- (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 development is considered unsatisfactory in relation to the above items.

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

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

- (a) The objectives and provisions of this Scheme, including the objectives and provisions of a precinct plan and the Metropolitan Region Scheme;*
- (f) Any planning Council policy, strategy or plan adopted by Council under the provisions of Clause 9.6 of this Scheme.*
- (i) The preservation of the amenity of the locality.*
- (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.*
- (x) Any other planning considerations which Council considers relevant.*

The proposed development is considered unsatisfactory in relation to the above items.

Consultation

(a) Neighbour consultation

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 "Consultation for Planning Proposals". Under the standard consultation method, individual property owners, occupiers and / or strata bodies at Nos. 1 and 5 Elizabeth Street were invited to inspect the plans and to submit comments during a minimum 14-day period

During the advertising period, a total of two consultation notices were sent to potentially affected landowners however, no formal submissions or objections were received and the applicant did indicate both adjoining neighbours are supportive of the proposed addition.

10.3.3 Proposed Carport Addition to Single House. Lot 100 (No. 3) Elizabeth Street, South Perth.

Separate to the City's efforts, the property owner and applicant have provided Officers with a series of signed consent letters from the adjoining and nearby landowners of six (6) properties, Nos 6A, 6, 5, 4A, 2 and 1 Elizabeth Street. Scanned copies of the consent letters can be viewed as part of **Attachment 10.3.3(c)**.

(b) Internal administration

No comments were seen to be required or were invited from the City's administration.

Policy and Legislative Implications

Comments have been provided elsewhere in this report in relation to the various provisions of the Scheme, R-Codes and Council policies, where relevant.

Financial Implications

This determination has no financial implications.

Strategic Implications

This report is consistent with the City's [Strategic Plan 2013–2023](#), Direction 3 – Housing and Land Users “*Accommodate the needs of a diverse and growing population*”.

Sustainability Implications

This report is aligned to the City's [Sustainability Strategy 2012–2015](#). While the proposed carport does not comply with planning regulations discussed above, the officers observe that this proposal has minor sustainability implications in terms of preserving the existing streetscape character.

Conclusion

It is considered that the proposal does not meet all of the relevant Council policy objectives and provisions, as it has the potential to have a detrimental impact upon the existing character of the Elizabeth Street streetscape. Due to the proposal's conflict with Council Policy P350.3, it is considered that the application should be refused as there is no other practical location for a carport behind a setback of at least 4.5 metres given the existing development onsite.

10.3.4 Request for Amendment to Town Planning Scheme No. 6 to rezone Southcare site, Bickley Crescent, Manning, to Private Institution (R40) with performance-based increase in building height and plot ratio (Amendment No. 45)

Declarations of Interest

The following declarations of interest were read out for this item:

Councillor Trent

"I wish to declare an impartiality interest in Agenda Item 10.3.4 (Request for Amendment to Town Planning Scheme No. 6 to rezone Southcare site, Bickley Crescent, Manning, to Private Institution (R40) with performance-based increase in building height and plot ratio (Amendment No. 45)) on the Council Agenda for the meeting to be held 15 April 2014.

I disclose that I am a member of the Board for Southcare (the owner of the site that is the subject of this report).

I will leave the Council Chamber when this item is discussed and voted on."

Mayor Doherty

"I wish to declare an impartiality interest in Agenda Item 10.3.4 (Request for Amendment to Town Planning Scheme No. 6 to rezone Southcare site, Bickley Crescent, Manning, to Private Institution (R40) with performance-based increase in building height and plot ratio (Amendment No. 45)) on the Council Agenda for the meeting to be held 15 April 2014.

I disclose that I am a member of the Board for Southcare (the owner of the site that is the subject of this report).

I will leave the Council Chamber when this item is discussed and voted on."

Please note: Councillor Trent and Mayor Doherty left the Council Chamber at 7:40 pm. Deputy Mayor Councillor Cridland chaired the meeting for this item.

10.3.4 Request for Amendment to Town Planning Scheme No. 6 to rezone Southcare site, Bickley Crescent, Manning, to Private Institution (R40) with performance-based increase in building height and plot ratio (Amendment No. 45)

Location: Lots 1 and 2 on Survey-Strata Plan 2946 and Lot 10 (Nos. 17, 19) Pether Road; and Lots 11, 12 and 342 (Nos. 49, 51, 51A and 53) Bickley Crescent, Manning
Ward: Manning Ward
Applicant: The Planning Group
Owner: Southcare Inc.
Date: 1 April 2014
Author: Gina Fraser, Senior Strategic Planning Officer
Reporting Officer: Vicki Lummer, Director Development and Community Services

Summary

The Southcare organisation owns land on both sides of Bickley Crescent between Pether Road and Manning Road. The site currently has two different zones. The purpose of Amendment No. 45 to Town Planning Scheme No. 6 (TPS6) is to rezone the whole Southcare site from 'Residential' and 'Public Assembly' with a density coding of R20, to 'Private Institution' with a density coding of R40; and to enable an increase in building height from 7 metres to 14 metres and an increase in plot ratio from 0.6 to 1.0 by satisfying a number of site-specific requirements. It is not proposed to amend the Building Height Limit on the Scheme Map, which will remain the 'default' height limit. A detailed explanation of the proposal is contained in the Amendment Report, provided as **Attachment 10.3.4**.

It is recommended that the proposed Amendment No. 45 to TPS6 be initiated and the draft Amendment proposals be endorsed to enable them to be advertised for community comment.

Officer Recommendation and COUNCIL DECISION

Moved: Councillor Cala

Seconded: Councillor Reid

That –

- (a) the Council of the City of South Perth, in pursuance of Section 75 of the *Planning and Development Act 2005*, amend the City of South Perth Town Planning Scheme No. 6 by:
- (i) inserting in clause 5.4, provisions allowing the Council to approve a development with a maximum building height of 14 metres and a plot ratio of 1.0 if specified requirements are met in relation to: land use, maximum building height on various parts of the site, optimising solar access and energy efficiency, visual articulation, quality of landscaping, modification of works within the adjoining portion of Bickley Crescent, and provision of public art. Site-specific minimum setbacks of buildings from all boundaries are also prescribed. Compliance with those requirements will ensure that neighbours' amenity and streetscape character are protected;
 - (ii) in Schedule 2, adding an 'Additional Use' to allow 'Shop' and 'Office' as incidental uses on the site;
 - (iii) rezoning:
 - (A) Lot 2 on Survey-Strata Plan 2946 (No. 17) Pether Road; and
 - (B) Lot 1 on Survey-Strata Plan 2946 and Lots 11, 12 and 342 (Nos. 49, 51, 51A and 53) Bickley Crescent, Manning; from 'Residential' with a density coding of R20, to 'Private Institution' with a density coding of R40;

Recommendation and COUNCIL DECISION continued

10.3.4 Request for Amendment to Town Planning Scheme No. 6 to rezone Southcare site, Bickley Crescent, Manning, to Private Institution (R40) with performance-based increase in building height and plot ratio (Amendment No. 45)

- (iv) rezoning Lot 10 Pether Road, Manning, from ‘Public Assembly’ with a density coding of R20, to ‘Private Institution’ with a density coding of R40; and
- (v) amending the Scheme Map (Zoning) for Precinct 10 ‘McDougall Park’, accordingly;
- (b) the Report on Amendment No. 45 to the City of South Perth Town Planning Scheme No. 6, containing the draft amending clauses, comprising **Attachment 10.3.4**, be adopted;
- (c) in accordance with section 81 of the *Planning and Development Act 2005*, Amendment No. 45 be forwarded to the Environmental Protection Authority for assessment under the Environmental Protection Act 1986;
- (d) Amendment No. 45 be forwarded to the Western Australian Planning Commission for information;
- (e) upon receiving clearance from the Environmental Protection Authority, advertising of Amendment No. 45 be implemented in accordance with the *Town Planning Regulations 1967* and Council Policy P301 ‘Consultation for Planning Proposals’; and
- (f) the following footnote shall be included by way of explanation on any notice circulated concerning this Amendment No. 45:
“FOOTNOTE: This draft Scheme Amendment is currently only a proposal. The Council welcomes your written comments and will consider these before recommending to the Minister for Planning whether to proceed with, modify or abandon the proposal. The Minister will also consider your views before making a final decision. It should not be construed that final approval will be granted.”
- (g) the applicants be invoiced for the estimated Planning Fee of \$20,000 including GST.

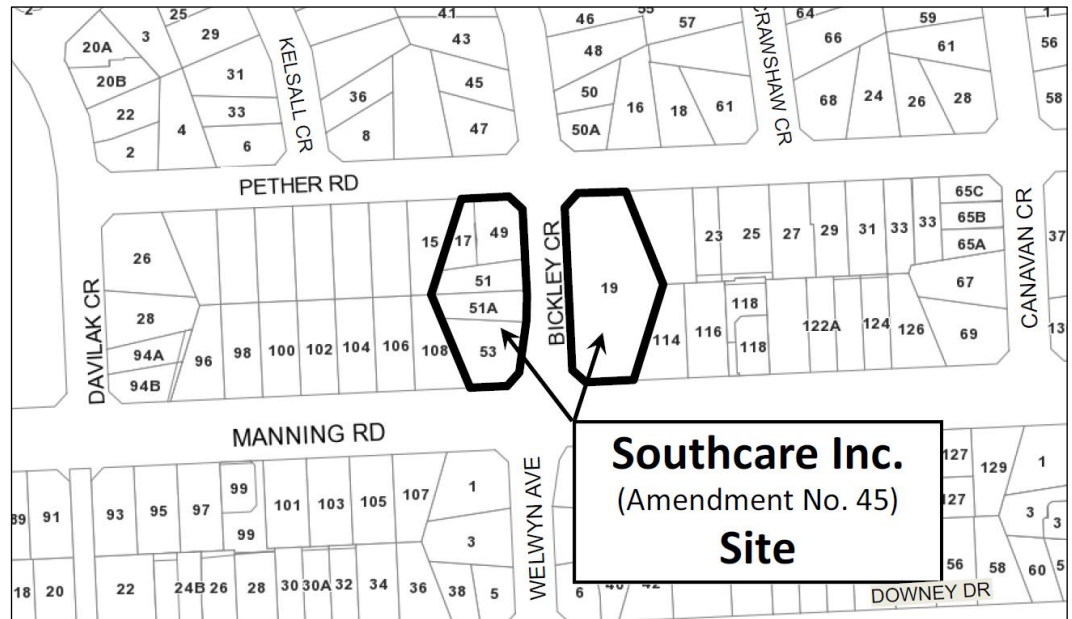
CARRIED (5/0)

Please note: Councillor Trent and Mayor Doherty returned to the Council Chamber at 7:42 pm.

Background

This report includes **Attachment 10.3.4**, being Draft Amendment No. 45 Report and amending text.

The location of the Amendment site is shown below:



10.3.4 Request for Amendment to Town Planning Scheme No. 6 to rezone Southcare site, Bickley Crescent, Manning, to Private Institution (R40) with performance-based increase in building height and plot ratio (Amendment No. 45)

The following general objectives of TPS6 listed in clause 1.6 (2) are considered relevant to this proposal:

- “(a) Maintain the City's predominantly residential character and amenity;*
- (b) Introduce performance-based controls supported by planning policies and Precinct Plans;*
- (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; and*
- (h) Utilise and build on existing community facilities and services and make more efficient and effective use of new services and facilities.”*

Amendment No. 45 also fulfils the requirement of clause 9.8 'Amendments to the Scheme', which includes the following:

- “(1) The Council shall keep the Scheme under constant review and where appropriate carry out investigations and study with a view to maintaining the Scheme as an up-to-date and efficient means for pursuing community objectives regarding development and land use.*
- (2) The Council may, from time to time, initiate an amendment to the Scheme in accordance with the Act and the Town Planning Regulations, 1967, made pursuant to the Act and shall give consideration to any application to have the Scheme amended.”*

Comment

The subject land is currently zoned as follows:

- (i) Lot 2 on Survey-Strata Plan 2946 (No. 17) Pether Road; and Lot 1 on Survey-Strata Plan 2946 and Lots 11, 12 and 342 (Nos. 49, 51, 51A and 53) Bickley Crescent, Manning: Residential with a density coding of R20; and*
- (ii) Lot 10 Pether Road, Manning: 'Public Assembly' with a density coding of R20.*

The proposal is to rezone all of this land to 'Private Institution' with a density coding of R40. The proposed zone best accommodates the current and intended future land uses. The existing 'Public Assembly' zone was originally allocated because of the church on Lot 10, but Southcare now proposes to eventually remove the church and replace it with accommodation for the elderly.

In addition to the change of zoning and density coding as requested by the applicant, the Scheme Amendment will allow an increase in the maximum permissible building

10.3.4 Request for Amendment to Town Planning Scheme No. 6 to rezone Southcare site, Bickley Crescent, Manning, to Private Institution (R40) with performance-based increase in building height and plot ratio (Amendment No. 45)

height from 7.0 metres to 14.0 metres, and an increase in plot ratio from 0.6 (applicable to both the R40 coding and the Private Institution zone), to 1.0. The building height is to be gradually increased from the current 7.0 metre limit at Pether Road by means of a 25-degree plane rising from that height until the maximum of 14 metres is achieved. This occurs approximately 22.5 metres south of Pether Road. From that point southwards, a building height of 14 metres is permissible, except on the portions of the site:

- within 10 metres of boundaries common to land in the Residential zone, where the current 7.0 metre height limit would still apply; and
- in the south-eastern corner of Lot 10, where, for the first 15 metres of the 10 metre strip with the lower height limit, buildings may be 10.5 metres in height.

This protects the amenity of the adjoining houses.

To qualify for the increased height and plot ratio, the proposed development must comply with eight special requirements which are being introduced by the Scheme Amendment to ensure that the development is of a high standard and that there will be minimal, if any, adverse effect on the amenity of neighbouring properties.

The Scheme Amendment also proposes the following variations to the setbacks:

Boundary	Proposed setback	Rationale for support
Pether Road	6.0 metres	In the Private Institution zone, the prescribed street setback is 7.5 metres. This was considered onerous in view of the Residential nature of the proposed development on Pether Road, where the R-Codes prescribe a primary street setback of 4.0 metres for land coded R40. The proposed 6.0 metre minimum setback is a reasonable compromise which also respects existing setbacks in this street..
Bickley Crescent	Nil	This portion of Bickley Crescent is mostly privately used by Southcare. The proposed development is intended to have a 'village-style' character. Therefore, there is no purpose in requiring setbacks from this portion of the street. It is also likely that the proposed shop and café would be located in this portion of the site. The nil setback would suit the intention to have some alfresco seating onto the street.
Manning Road	1.5 metres	In the Private Institution zone, the prescribed street setback is 7.5 metres. However, the proposed development along Manning Road will comprise predominantly non-residential uses and services which would not benefit from such a large setback. The proposed 1.5 metre setback is considered appropriate.
Common boundary with land in the Residential zone	As prescribed by the R-Codes for the R40 coding	In the Private Institution zone, the prescribed setback from boundaries other than streets is 7.5 metres. Due to the residential nature of any uses within close proximity to the adjoining house sites, it is considered that normal R-Code setbacks would be appropriate.

10.3.4 Request for Amendment to Town Planning Scheme No. 6 to rezone Southcare site, Bickley Crescent, Manning, to Private Institution (R40) with performance-based increase in building height and plot ratio (Amendment No. 45)

Another component of the Amendment is the introduction of 'Additional Uses' for the site to accommodate the proposed 'Shop' and 'Office'. While 'Private Institution' is the most appropriate zone considering the proposed long-term use of the site, it does not accommodate these two uses. However, since these land uses would form an integral and ancillary part of the overall development, the Additional Use mechanism is being used to permit these uses.

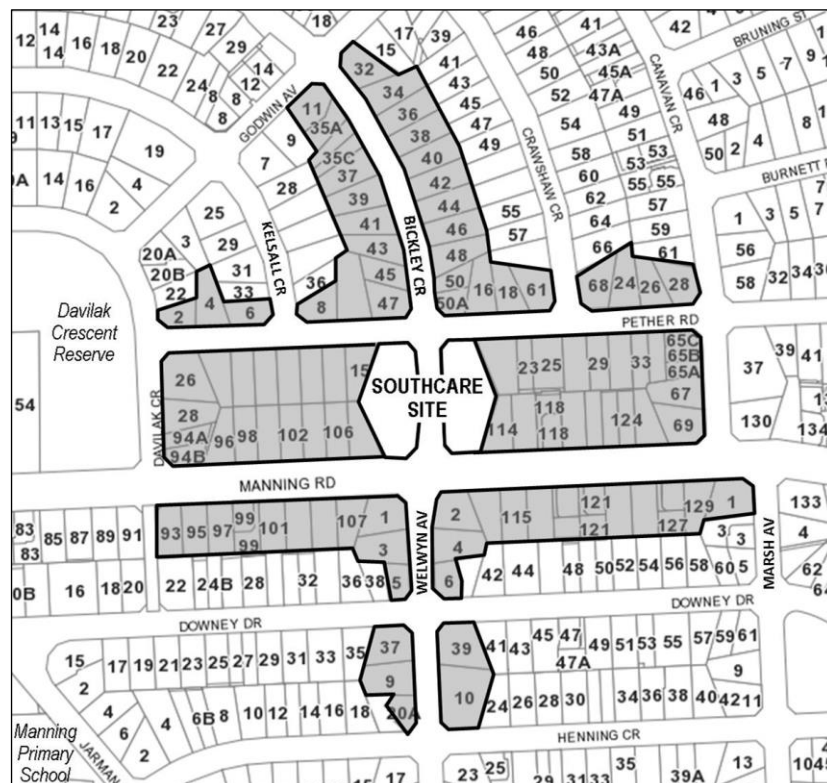
Consultation

(a) Environmental Protection Authority

The Amendment No. 45 proposals will be forwarded to the Environmental Protection Authority (EPA) for assessment following endorsement by the Council for community advertising.

(b) Consultation under Town Planning Regulations

The statutory community consultation will be initiated when the EPA has provided environmental clearance. The requirements for the community consultation process are contained in the *Town Planning Regulations* and in the City's Planning Policy P301 'Consultation for Planning Proposals'. The community consultation will involve a minimum 42-day advertising period during which site notices will be placed around the perimeters of the Amendment site, and notices displayed on the City's web site, in the Southern Gazette newspaper and in the City's Libraries and Civic Centre. Letters will also be mailed to landowners in the immediate vicinity of the Amendment site. Policy P301 defines the minimum consultation area as 'Area 2'. The extent of the consultation area proposed in the case of the Southcare proposal includes 24 more households than the minimum consultation area. The expanded Area 2 is shown below:



10.3.4 Request for Amendment to Town Planning Scheme No. 6 to rezone Southcare site, Bickley Crescent, Manning, to Private Institution (R40) with performance-based increase in building height and plot ratio (Amendment No. 45)

Any submissions received during the statutory community consultation period will be referred to a later Council meeting for consideration before the Council decides whether or not to recommend to the Minister that the requested Amendment be finally approved.

Policy and Legislative Implications

Amendment No. 45 will have the effect of:

- rezoning the Amendment site from the Residential and Public Assembly zones to Private Institution;
- increasing the density coding from R20 to R40;
- increasing the maximum permissible building height from 7.0 metres to 14 metres and plot ratio from 0.6 to 1.0, subject to listed requirements being met;
- prescribing site-specific setbacks from all boundaries; and
- allowing ‘Shop’ and ‘Office’ as Additional Uses.

When finally approved by the Minister for Planning, these changes will be incorporated into the Scheme Text and Scheme Map (Zoning) for Precinct 10 ‘McDougall Park’.

The statutory Scheme Amendment process as it relates to the proposed Amendment

No. 45 is set out below, together with an estimate of the likely time frame associated with each stage of the process:

Stage of Amendment Process	Estimated Time
Council resolution to initiate Amendment	15 April 2014
Council adoption of draft Amendment proposals for advertising purposes	15 April 2014
Referral of draft Amendment proposals to EPA for environmental assessment during a 28 day period, and copy to WAPC for information	Early May 2014
Public advertising period of not less than 42 days	June-July-August 2014
Council consideration of Report on Submissions	September or October 2014
Referral to WAPC and Planning Minister for consideration, including: <ul style="list-style-type: none"> • Report on Submissions; • Schedule of Submissions • Council’s recommendations on the proposed Amendment • Three signed and sealed copies of Amendment documents for final approval 	One week after the relevant Council meeting
Minister’s final determination of Amendment and publication in <i>Government Gazette</i>	Not yet known

In terms of the Scheme Amendment process, the *Planning and Development Act* was amended in 2010 to enable the Minister to order a local government to amend its Town Planning Scheme, in justified cases. Section 76 states that where the Minister is satisfied on any representation that the local government has failed to adopt (initiate) a proposal which “ought to be adopted”, the Minister may order the local government to do so, or may approve the Amendment subject to any modifications and conditions as he thinks fit.

10.3.4 Request for Amendment to Town Planning Scheme No. 6 to rezone Southcare site, Bickley Crescent, Manning, to Private Institution (R40) with performance-based increase in building height and plot ratio (Amendment No. 45)

Financial Implications

Financial costs (administrative and advertising) incurred by the City during the course of the statutory Scheme Amendment process will be covered by the Planning Fee which is payable in accordance with the Council's adopted fee schedule. In this case, an estimated Planning Fee of \$20,000 is proposed. The applicant will be invoiced following the Council's decision to initiate the Amendment process, with payment required within 7 days. At the conclusion of the Amendment process, the estimated fee will be adjusted to reflect the total actual costs incurred by the City.

Strategic Implications

This report is consistent with the City's [Strategic Plan 2013–2023](#), Direction 3 – Housing and Land Users "*Accommodate the needs of a diverse and growing population*".

Sustainability Implications

This report is aligned to the City's [Sustainability Strategy 2012–2015](#). The proposed Amendment No. 45 will provide for a greater housing capacity for local elderly residents together with a range of supporting services and facilities. It will make better use of the Southcare site and enable the organisation to better fulfil its charter. The Amendment meets the State Government strategy of allowing higher densities in appropriate areas, and will assist in accommodating the growing size of the elderly population within the City.

Conclusion

The Amendment No. 45 Report, comprising **Attachment 10.3.4**, contains a full description and justification of the Amendment proposals. The Council should now initiate the statutory process to enable the proposed Scheme Amendment No. 45 to be advertised for public inspection and comment.

10.4 STRATEGIC DIRECTION 4: PLACES

Nil.

10.5 STRATEGIC DIRECTION 5: INFRASTRUCTURE AND TRANSPORT

Nil.

10.6 STRATEGIC DIRECTION 6: GOVERNANCE, ADVOCACY AND CORPORATE MANAGEMENT

10.6.1 Local Implementation Committee Update

Location:	City of South Perth
Ward:	Not applicable
Applicant:	Council
Date:	28 March 2014
Author:	Amanda Albrecht, Governance Officer
Reporting Officer:	Cliff Frewing, Chief Executive Officer

Summary

This report provides an update on the activities of the Local Implementation Committee. It seeks Council agreement to a Memorandum of Understanding with the Town of Victoria Park, endorsement of ward boundaries for the new local government entity, and the election of a Deputy Elected Member to the Local Implementation Committee. It also outlines the process being followed for the establishment of a name for the new local government entity.

Officer Recommendation

That Council:

1. Endorses, for signing, the Memorandum of Understanding between the Town of Victoria Park and the City of South Perth;
2. Notes the process being followed for the establishment of a name for the new local government; and
3. Endorses, for inclusion in the Governor's Orders, the ward boundaries as detailed in **Attachment 10.6.1(b)**; and
4. Nominates and elects a Deputy Elected Member to the Local Implementation Committee, to attend meetings in the absence of the three existing Delegate Elected Members of the Committee.

Please note: Mayor Doherty advised that each part of the Officer Recommendation would be considered and voted on separately.

COUNCIL DECISION – Memorandum of Understanding

Moved: Councillor Reid

Seconded: Councillor Lawrance

That Council endorses, for signing, the Memorandum of Understanding between the Town of Victoria Park and the City of South Perth.

CARRIED (7/0)

COUNCIL DECISION – New local government name

Moved: Councillor Irons

Seconded: Councillor Cridland

That Council notes the process being followed for the establishment of a name for the new local government.

CARRIED (7/0)

10.6.1 Local Implementation Committee Update

COUNCIL DECISION – Deputy Elected Member to the LIC

Moved: Councillor Trent

Seconded: Councillor Reid

That Council elects a Deputy Elected Member to the Local Implementation Committee, to attend meetings in the absence of the three existing Delegate Elected Members of the Committee.

CARRIED (7/0)

COUNCIL DECISION – Deputy Elected Member to the LIC

Moved: Councillor Trent

Seconded: Councillor Irons

That Councillor Fiona Reid be elected as Deputy Elected Member to the Local Implementation Committee.

CARRIED (6/0)

Please note: Councillor Huston entered the Council Chamber at 7:55 pm.

COUNCIL DECISION – Ward boundaries

That Council endorses, for inclusion in the Governor's Orders, the ward boundaries as detailed in **Attachment 10.6.1(b)**.

LAPSED for want of a mover/seconded

Moved: Mayor Doherty

Seconded: Councillor Cridland

That Council defers consideration of the Local Implementation Committee recommendation pending a workshop to discuss local ward boundaries.

CARRIED (7/1)

Background

The Local Implementation Committee (the Committee) was established by the Town of Victoria Park and the City of South Perth (the Town and City) Councils in December 2013. The minutes of the Committee are provided on an ongoing basis to the Council for information on the Ordinary Council Meeting Agenda under 'Council Delegates' Reports'. The minutes of the latest meeting held Monday 31 March 2014, can be found at **Attachment 8.4.1**.

This report provides an update to Council on the activities and decisions of the Committee, and seeks Council approval and resolution on the following issues:

1. The Memorandum of Understanding (MoU);
2. The establishment of a new Local Government Name;
3. The establishment of new ward boundaries; and
4. The election of a Deputy Elected Member.

10.6.1 Local Implementation Committee Update

Memorandum of Understanding between the Town of Victoria Park and the City of South Perth

At the meeting held Monday 31 March 2014, the Local Implementation Committee resolved:

Local Implementation Committee Recommendation

Moved: Councillor Potter

Seconded: Councillor Hawkins-Zeeb

“That the LIC endorses the Memorandum of Understanding and commends it to the Councils of the City of South Perth and the Town of Victoria Park, with the following inclusion of an additional clause regarding the use of best practice Risk Management.”

CARRIED 5-0

The Local Implementation Committee now seeks Council approval and resolution on this matter.

Comment

The Town and City have developed a draft memorandum of understanding (MoU) to guide the Local Implementation Committee and the Executive Teams at the Town and City in preparing for the amalgamation of the two local government entities. The MoU is not a legally binding agreement and represents a ‘best endeavours’ agreement in principle to co-operate during the reform process between now and the end of June 2015.

The City of Canning has advised that, at this stage, it will not be a signatory to the MoU. The City of Canning has been kept informed during the development of the draft MoU, although it has not, at this stage, joined the Local Implementation Committee. A copy of the final MoU will be sent to the City of Canning for information once it has been signed.

Drafts of the MoU have been included on earlier LIC meeting agendas. The final draft MoU was distributed to all Councillors on 18 March 2014, and discussed at the joint Town of Victoria Park and City of South Perth forum held 19 March 2014. Two minor modifications were requested at this session and have since been made. These are, the term that the MoU is being established for, and a review period for the MoU.

The Local Implementation Committee has now endorsed this memorandum of understanding and seeks final approval of the MoU from both Councils. The MoU can be found at **Attachment 10.6.1 (a)**.

A new Local Government Name

At the meeting held Monday 31 March 2014, the Local Implementation Committee resolved:

Local Implementation Committee Recommendation

Moved: Councillor Potter

Seconded: Mayor Doherty

“That the LIC endorse the engagement of the community on this important topic and request an analysis of community response at the next available meeting of the LIC.”

CARRIED 5-0

Comment

A community workshop was held on Wednesday 12 March 2014, to consider possible names for the new local government entity. Invitees included representatives from P&C Groups, Local Chambers, Victoria Park Collective, Community Garden, Rotary, Chinese Community, Royal Perth Golf Club, Perth Zoo, South Perth Historical Society and others. Over 25 names were put forward by this group.

Councillors from the Town and City were then asked to assist in establishing a short-list of names for consultation with the broader community. Councillors considered and voted on the 25 names identified above, and the following short-list was prepared:

1. Curtin
2. Yaragan
3. Twin Rivers
4. South Bank

Consultation with the Town and City communities on a new name has now commenced. Feedback is being sought on the shortlist of names above, but is also open to suggestions regarding other possible names. The consultation period will be open until 22 April 2014. A report will be prepared for the Committee, with an analysis of the community responses, shortly after the completion of the consultation period.

New ward boundaries

At the meeting held Monday 31 March 2014, the Local Implementation Committee resolved:

Local Implementation Committee Recommendation

Moved: Mayor Vaughan

Seconded: Mayor Doherty

“That the LIC recommends to the Councils of the City of South Perth and the Town of Victoria park, that the ward map (identified as Option 4a), be adopted as the preferred Ward Boundary model for the amalgamation of the two local governments”.

CARRIED 6-0

The Local Implementation Committee now seeks Council approval and resolution on this matter.

10.6.1 Local Implementation Committee Update

Comment

The Local Implementation Committee has considered a number of ward mapping scenarios, as tabled at the LIC meeting on 10 March 2014. These scenarios included four main options (1a, 2a, 3a and 4a). These options were based on

- the establishment of 5 Wards, with 2 Councillors per ward;
- the inclusion of the Burswood Peninsula as part of the new local government entity; and
- the inclusion of the area from the City of Canning north of Leach Highway.

At a function held 19 March 2014, Councillors and senior staff from the Town and City were asked to indicate their preference regarding these ward options. Option (4a) was the preferred option (see **Attachment 10.6.1(b)**). The Committee has now endorsed this option, and submits it to Council for resolution. Once adopted by both Councils, consideration will be given to naming the wards. The naming of the wards and the election of the Mayor will be the subject of a future report to Council.

Nomination of a LIC deputy member

At the meeting held Monday 31 March 2014, the Local Implementation Committee resolved:

Local Implementation Committee Recommendation

Moved: Councillor Trent

Seconded: Mayor Doherty

“That the LIC recommends to the Councils that a Deputy member to the LIC is appointed from each the City of South Perth Council and the Town of Victoria Park Council.”

CARRIED 6-0

The Local Implementation Committee now seeks Council approval and resolution on this matter.

Comment

The Committee has been meeting on a regular basis over the last two months, and is likely to continue to meet every three to four weeks for the foreseeable future.

Given the time commitment required from Committee members over the next year, it is appropriate that a Deputy Elected Member be established to provide support to the existing Delegate Elected Members, on occasions when they are unable to attend the meetings. This action is consistent with normal Local Government custom and practice.

Consultation

The Committee has been extensively consulted in the preparation of the MoU and has endorsed it for approval by both Councils. The MoU was circulated to all Councillors for comment on 18 March 2014. Feedback received from Councillors has been incorporated in the final MoU.

10.6.1 Local Implementation Committee Update

At a function held 19 March 2014, Councillors from both the Town and City had an opportunity to provide input into both the name of the new local government entity and the new ward boundaries.

The Committee has requested both Councils elect a deputy member to provide representation on the Committee in the event that a delegate elected member is unable to attend.

Policy and Legislative Implications

The MoU is not a legal document or formal instrument of contract. The intent of the MoU is to provide a transparent and mutually agreed framework to assist with the ongoing relationship and communication between all Parties. By signing the MoU the Parties commit to putting in place a set of structural reform practices that are necessary to reflect the principles agreed to in the Memorandum of Understanding.

Once determined, the new name and ward boundaries will form part of the Town and City's proposal for Governor's Orders to establish the new local government entity. These are required by the LGAB in May 2014.

There are no policy and legislative implications associated with the establishment of a Deputy Elected Member to the Committee.

Financial Implications

The MoU is not a legal document or formal instrument of contract. However, in signing the MoU, the Parties agree to keep each other informed regarding reform and other budget requirements for the 2014-15 financial year. The budget for the 2015-2016 financial year for the new local government will need to be prepared on a consolidated joint basis.

There are administrative implications associated with the formation of a new name, and ward boundaries. At the moment these include public consultation and marketing costs, as well as internal staffing costs. These will become part of the ongoing costs of local government reform. The Council has previously made funding available for local government reform activities (Item 10.6.5 February 2014 Ordinary Council Meeting refers).

There are no financial implications associated with the establishment of a Deputy Elected Member to the Committee.

Strategic Implications

This report is consistent with the [Strategic Plan 2013–2023](#), Direction 6 – Governance, Advocacy and Corporate Management “Ensure that the City has the organisational capacity, advocacy and governance framework and systems to deliver the priorities identified in the Strategic Community Plan”.

Sustainability Implications

This report is aligned to the City's [Sustainability Strategy 2012–2015](#).

10.6.2 Applications for Planning Approval Determined Under Delegated Authority

Location: City of South Perth
Applicant: Council
Date: 1 April 2014
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 March 2014.

Officer Recommendation and COUNCIL DECISION

That the report and **Attachment 10.6.2** relating to delegated determination of applications for planning approval during the months March 2014, be received.

CARRIED EN BLOC RESOLUTION

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.”

As a result of the recent Audit and Governance Committee recommendation to the Council at its March 2014 meeting, the Council resolved as follows:

“That the list of applications for planning approval determined under delegated authority continue to be provided in a monthly report on the Council Agenda until such time that the list appears on the City website, when no further reports to Council are necessary.”

It is foreseen that this list of applications for the month of April and beyond will start appearing on the City’s website, and a monthly report to Council will not be necessary.

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 March 2014, thirty-four (34) development applications were determined under delegated authority at **Attachment 10.6.2**.

Policy and Legislative Implications

The issue has no impact on this particular area.

10.6.2 Applications for Planning Approval Determined Under Delegated Authority

Financial Implications

The issue has no impact on this particular area.

Strategic Implications

This report is consistent with the [Strategic Plan 2013–2023](#), Direction 6 – Governance, Advocacy and Corporate Management “*Ensure that the City has the organisational capacity, advocacy and governance framework and systems to deliver the priorities identified in the Strategic Community Plan*”.

Sustainability Implications

This report is aligned to the City’s [Sustainability Strategy 2012–2015](#). Reporting of applications for planning approval determined under delegated authority contributes to the City’s sustainability by promoting effective communication.

10.7 MATTERS REFERRED FROM THE AUDIT AND GOVERNANCE COMMITTEE

Nil

11. APPLICATIONS FOR LEAVE OF ABSENCE

11.1 REQUEST FOR LEAVE OF ABSENCE – CR LAWRENCE

I hereby apply for Leave of Absence from all Council Meetings for the period (inclusive):

- 17 to 28 April 2014

11.2 REQUEST FOR LEAVE OF ABSENCE – MAYOR DOHERTY

I hereby apply for Leave of Absence from all Council Meetings for the period (inclusive):

- 3 to 18 May 2014

Recommendation and COUNCIL DECISION

Moved: Councillor Cridland

Seconded: Councillor Reid

That Councillor Lawrence and Mayor Doherty's leave of absence requests as detailed in Items 11.1 and 11.2 in the April 2014 Ordinary Council Meeting Agenda be approved.

CARRIED (8/0)

11.3 REQUEST FOR LEAVE OF ABSENCE – COUNCILLOR CRIDLAND

I hereby apply for Leave of Absence from all Council Meetings for the period (inclusive):

- 18 to 24 April 2014

Recommendation and COUNCIL DECISION

Moved: Councillor Cala

Seconded: Councillor Irons

That Councillor Cridland's request for leave of absence from all Council Meetings for the period 18 to 24 April be approved.

CARRIED (8/0)

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12.1 COUNCILLOR TRENT – STREET SCAPE POLICY REVIEW

I hereby give notice that I intend to move the following motion at the Council Meeting to be held on 15 April 2014:

Motion and COUNCIL DECISION

Moved: Councillor Trent

Seconded: Councillor Reid

I move that Council requests that Officers review Policy P351.5 Streetscape Compatibility – Precinct 5 ‘Arlington’ and Precinct 6 ‘Kensington’ and provide a report back to Council in July 2014.

CARRIED (8/0)

Reasons for the motion

- Policy P351.5 Streetscape Compatibility – Precinct 5 ‘Arlington’ and Precinct 6 ‘Kensington’ has been in place since May 2012, and as with all policies it needs to be regularly reviewed.
- The review should take into account how many instances applications have been refused since the policy was adopted, how many car ports have been approved and how many carports have become "garages" since construction.
- Streetscape policies have not been considered for the rest of the City.
- If the current policy is to be strictly adhered to, the temptation will be to demolish existing homes, as is happening and constructing houses that are not in keeping with the current streetscape.

CEO comment

A review of the success of this policy is supported as it could provide Council and officers with guidance regarding the ongoing implementation of the policy.

The policy has been in operation for 23 months and given this amount of time, there may not be large numbers of completed developments which can be assessed. Accordingly, the review will be largely a “desk-top” exercise.

The notice of motion states that review should take into account the number of instances since adoption of the policy where:

- development applications (*of any kind*) have been refused;
- car ports have been approved (*presumably only those in front of an original dwelling*); and
- carports have become "garages" since construction (*presumably with approval, rather than unauthorised conversions*).

While the future Council report will include statistical data relating to the above categories, the review would be too narrow if confined to only these categories of Development Applications. The success of the whole policy should be reviewed rather than only the part relating to parking structures in front of dwellings.

The work will involve assembling and analysing the data, consideration of the landowners’ input at the 26 and 31 May 2011 workshops which led to the introduction of the existing policy provisions.

Given competing priorities in the planning section, the work may not be complete by July, however, a progress report will be provided if there is a delay in reporting to Council.

13. QUESTIONS FROM MEMBERS

13.1. RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS TAKEN ON NOTICE

At the March 2014 Ordinary Council Meeting questions were taken on notice from:

1. Councillor Huston
2. Councillor Cala

A table of these questions, and the responses provided by correspondence can be found at **Appendix 3**.

13.2 QUESTIONS FROM MEMBERS

Nil.

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

15. MEETING CLOSED TO PUBLIC

Please note: The Mayor closed the meeting to the public at 8:07 pm.

15.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

15.1.1 SAT Request for Reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling - Lot 9 (No. 3) Gwentyfred Road, Kensington - *Confidential*

Location: Lot 9 (No. 3) Gwentyfred Road, Kensington
Ward: Moresby Ward
Applicant: Motus Architecture
Lodgement Date: 17 March 2014
Date: 17 March 2014
Author: Mark Scarfone, Senior Statutory Planning Officer, Development Services
Reporting Officer: Vicki Lummer, Director, Development and Community Services

Please note: The Officer Report for this item is at I0.0.1. However, the Item was debated and voted on during the closed session of the Council Meeting, as it included reference to confidential material which, if released, could undermine the operation of the mediation system provided for under *section 55 of the State Administrative Tribunal Act 2004*.

15.1.2 Disposal of the Civic Triangle – Stage I – **Confidential** (Late Report)

Declarations of Interest

The following declarations of interest were read out for this item:

Councillor Lawrance

“I wish to declare an impartiality interest in Agenda Item 15.1.2 (Disposal of Civic Triangle – Stage I) on the Council Agenda for the meeting to be held 15 April 2014.

I disclose that my step-son works for one of the interested parties.

I declare that I will consider this matter on its merits and vote accordingly.”

Michael Kent, Director Financial and Information Services

“I wish to declare a financial interest in Agenda Item 15.1.2 (Disposal of Civic Triangle – Stage I) on the Council Agenda for the meeting to be held 15 April 2014.

I disclose that I hold shares with one of the interested parties. Given the immaterial nature of my investment with this party, I do not consider it to be necessary for me to leave the Council Chamber during the discussion and debate on this item.

I declare that any advice that I provide to Council on this matter will be impartial and in the best financial interests of the City of South Perth.”

Location:	City of South Perth
Applicant:	Council
Date:	15 April 2014
Author:	Phil McQue, Manager Governance & Administration
Reporting Officer:	Vicki Lummer, A/Chief Executive Officer

Confidential

This report is confidential in accordance with Section 5.23(2)(c)(e) of the *Local Government Act 1995*, which permits the meeting to be closed to the public for business relating to the following:

(c) a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting; and

(e) a matter that if disclosed, would reveal —

(i) a trade secret; or

(ii) information that has a commercial value to a person; or

(iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the local government.

Please note: **Confidential Report** circulated separately.

Please note: The Mayor re-opened the meeting to the public at 8:32 pm.

15.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

15.2.1 SAT Request for reconsideration: Proposed Five (5) Multiple Dwellings and One (1) Grouped Dwelling – Lot 9 (No. 3) Gwentyfred Road, Kensington

COUNCIL DECISION

Moved: Councillor Reid

Seconded: Councillor

1. That the Officer's Recommendation not be adopted and:
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 five multiple dwellings and one Grouped Dwelling on Lot 9 (No.3) Gwentyfred Road, Kensington **be refused** for the following reasons:
 - (i) Portions south-eastern side setbacks do not meet with the deemed to comply standards or design principles contained in Clause 6.1.4 "Lot Boundary Setbacks" of the *Residential Design Codes*.
 - (ii) The proposed overshadowing does not meet with the deemed to comply standards or design principles contained in Clause 6.4.2 "Solar Access for Adjoining Sites" of the *Residential Design Codes*.
 - (iii) The proposal conflicts with the Scheme objectives contained in Clause 1.6 of the *City of South Perth Town Planning Scheme No. 6*, specifically Objectives (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.'
 - (iv) The proposal does not meeting the Council Policy P351.5 Streetscape Compatibility - Precinct 5 'Arlington' and Precinct 6 'Kensington'.

CARRIED (5/3)

Please note: The Officer Report for this Item is at Agenda Item 10.0.1, as the reports itself is not confidential. Further reasons for the Council Decision above are contained in the confidential minutes for report Item 15.1.1.

15.2.2 Disposal of the Civic Triangle – Stage I

COUNCIL DECISION

Moved: Councillor Lawrance

Seconded: Councillor Trent

That the Council note the update on Stage I of the Civic Triangle sale process.

CARRIED (8/0)

16. CLOSURE

The Mayor thanked everyone for their attendance and closed the meeting at 8:35 pm.

DISCLAIMER

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 27 May 2014.

Signed _____

Chairperson at the meeting at which the Minutes were confirmed

17. RECORD OF VOTING

15/04/2014 7:16PM

Item 7.1

Motion Passed 7/0

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Cheryle Irons, Cr Kevin Trent, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb, Cr Michael Huston

15/04/2014 7:17 PM

Item 7.2

Motion Passed 7/0

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Cheryle Irons, Cr Kevin Trent, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb, Cr Michael Huston

15/04/2014 7:18 PM

Item 8.4

Motion Passed 7/0

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Cheryle Irons, Cr Kevin Trent, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb, Cr Michael Huston

15/04/2014 7:23 PM

Item 9 – En Bloc Method

Motion Passed 7/0

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Cheryle Irons, Cr Kevin Trent, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb, Cr Michael Huston

15/04/2014 7:31 PM

Item 10.3.1

Motion Passed 7/0

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Cheryle Irons, Cr Kevin Trent, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb, Cr Michael Huston

15/04/2014 7:39 PM

Item 10.3.3

Motion Passed 5/2

Yes: Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Cheryle Irons, Cr Kevin Trent

No: Mayor Sue Doherty, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb, Cr Michael Huston

15/04/2014 7:43 PM

Item 10.3.4

Motion Passed 5/0

Yes: Cr Glenn Cridland, Cr Colin Cala, Cr Veronica Lawrance, Cr Cheryle Irons, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb, Cr Michael Huston, Mayor Sue Doherty, Cr Kevin Trent

15/04/2014 7:45 PM

Item 10.6.1 - MoU

Motion Passed 7/0

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Cheryle Irons, Cr Kevin Trent, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb, Cr Michael Huston

15/04/2014 7:46 PM

Item 10.6.1 – Local government name

Motion Passed 7/0

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Cheryle Irons, Cr Kevin Trent, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb, Cr Michael Huston

15/04/2014 7:51 PM

Item 10.6.1 – Deputy Elected Member for the LIC

Motion Passed 7/0

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Cheryle Irons, Cr Kevin Trent, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb, Cr Michael Huston

15/04/2014 7:52 PM

Item 10.6.1 – Election of Councillor Reid as Deputy Elected Member for the LIC

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Cheryle Irons, Cr Kevin Trent

Absent: Cr Sharron Hawkins Zeeb, Cr Michael Huston, Cr Fiona Reid

15/04/2014 8:00 PM

Item 10.6.1 – Ward Boundaries

Motion Passed 7/1

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Michael Huston, Cr Cheryle Irons, Cr Fiona Reid

No: Cr Kevin Trent

Absent: Cr Sharron Hawkins Zeeb

15/04/2014 8:01 PM

Item 11.1 and 11.2

Motion Passed 8/0

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Michael Huston, Cr Cheryle Irons, Cr Kevin Trent, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb

15/04/2014 8:02 PM

Item 11.3

Motion Passed 8/0

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Michael Huston, Cr Cheryle Irons, Cr Kevin Trent, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb

15/04/2014 8:06 PM

Item 12.1

Motion Passed 8/0

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Michael Huston, Cr Cheryle Irons, Cr Kevin Trent, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb

15/04/2014 8:26 PM

Item 15.1.1 (also 10.0.1)

Motion Passed 5/3

Yes: Cr Veronica Lawrance, Cr Michael Huston, Cr Cheryle Irons, Cr Kevin Trent, Cr Fiona Reid

No: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland

Absent: Cr Sharron Hawkins Zeeb

15/04/2014 8:32 PM

Item 15.1.2

Motion Passed 8/0

Yes: Mayor Sue Doherty, Cr Colin Cala, Cr Glenn Cridland, Cr Veronica Lawrance, Cr Michael Huston, Cr Cheryle Irons, Cr Kevin Trent, Cr Fiona Reid

Absent: Cr Sharron Hawkins Zeeb

APPENDIX I – PUBLIC QUESTIONS TAKEN ON NOTICE – 25 MARCH 2014

ITEM 6.1 RESPONSE TO PREVIOUS PUBLIC QUESTIONS TIME TAKEN ON NOTICE

1. Marcia Manolas, 193 Mill Point Road, South Perth Received enquiries 25 March 2014	Response provided by: Mark Taylor, Acting Director Infrastructure Services Letter dated 2 April 2014
<p>With reference to a letter from Landgate dated 28 February 2014, and the issue of the new digital titles for the resumed land of Sir James Mitchell Park:</p> <p>1. Has Landgate extended the reference to the government gazette to all the Certificate of Titles making up Sir James Mitchell Park - Ellam St. to Mends St. or only to the few discussed in the correspondence.</p>	<p>The City will refer this question to Landgate for their consideration.</p>
<p>2. Is Administration and Councillors aware there is a discrepancy in the Sundry documentation currently attached to the digital Certificate of titles provided by Landgate in their letter dated 28.2.2014?</p> <p>I outline as follows:</p> <ul style="list-style-type: none"> (i) Digital Titles 2819 Folio 645 together with Sundry document M389615 XA, referring to Government Gazette April 1940 relates to ORIGINAL Title Vol. 247 Fol. 132; (ii) Digital Volume 2820 Folio 807, together with Sundry document relating to Government Gazette April 1940 which should relate to original Title Vol. 41 Fol. 34 however the Sundry document M386234 XA does NOT make reference to the original Certificate of Title Vol and Folio like in the first instance 4 (i); (iii) Digital title Vol. 2820 Folio 800 together with Sundry document referring to Government Gazette April 1940 which should relate to the original Title Volume 14 and Folio 304 , however, the Sundry document M380666 XA does not make reference to the original Certificate of Title vol. and Folio like in the first instance 4 (i); (iv) Digital title Volume 2820 Folio 806 together with the Sundry document referring to Government Gazette April 1940 which should relate to the original Title Volume 14 Folio 34, however, the Sundry document 	<p>The City will refer these discrepancies onto Landgate for their consideration.</p>

<p>M386235 XA does NOT make reference to the original Certificate of title volume and folio like in the first instance 4 (i);</p> <p>(v) Digital Title Volume 2820 Folio 805 together with the Sundry Document referring to the Government Gazette April 1940 which should relate to the original Title Volume 11 Folio 391, however, the Sundry document M380667 XA does NOT make reference to the original Certificate of Title Volume and Folio like in the first instance, 4 (i);</p> <p>(vi). Digital Title Volume 2820 Folio 808 together with the Sundry Document referring to the Government Gazette April 1940 which should relate to the original Title Volume 995 Folio 38, however, the Sundry document M386236 XA does NOT make reference to the original Certificate of Title Volume and Folio like in the first instance 4 (i).</p>	
<p>3. Therefore, is the City of South Perth going to write to Landgate and ask clarification as to why all the Sundry documents do not state the original Title details in the Volume and Folio section of the Sundry document annexed to the individual Digital Titles similar to the Sundry document M389615 XA relating to Digital Title 2819 Folio 645.</p>	<p>The City will refer this request for clarification onto Landgate for their consideration.</p>
<p>4. Is the City of South Perth prepared to obtain legal advice as to whether the Sundry documentation is valid, even if amended by Landgate to be uniform, to provide the protection being the purpose use of the resumed land as endorsed on the original Certificate of Titles.</p>	<p>The City will not be seeking legal advice given the advice received from Landgate 20 November 2013.</p>
<p>5. As custodians of the resumed land, will Council write to Landgate and request the annotations appearing on ALL the original Certificate of Titles be endorsed on ALL the digital titles of Sir James Mitchell Park (Ellam St to Mends St) ?</p>	<p>The City has received advice from Landgate (20 November 2013) that there is no legal requirement to endorse the purpose of the resumption as the legal status has not changed.</p>
<p>6. Landgate clearly states in its letter, <i>“whilst I am a lawyer, this is not legal advice”</i>. If Council chooses not to clarify the validity and lawfulness of the current annotation not being endorsed on all the Digital Titles, and the action of Landgate is only a reference to the Government Gazette 1940 which may place a third party at risk in dealing with the land, who will be held responsible and liable?</p>	<p>The City has received advice from Landgate (20 November 2013) that there is no legal requirement to endorse the purpose of the resumption as the legal status has not changed.</p>

2. Geoff Defrenne, 24 Kennard St, Kensington Received enquiries 25 March 2014	Response provided by: Cliff Frewing, Chief Executive Officer Letter dated 2 April 2014
<p>I note the following change in Members equipment of the inclusion of an iPad.</p> <p><i>Members Clothing Apparel and Equipment</i> <i>In order to assist members in the performance of their duties the following clothing and equipment will be provided to all members:</i></p> <ul style="list-style-type: none"> • A City of South Perth polo neck t-shirt; • A City of South Perth tie or neck scarf; • A four drawer filing cabinet with inserts; • A City of South Perth name badge; and, • 500 City of South Perth business cards. • iPad 	
1. As this policy has not been adopted, has any member of the council been provided with an iPad or similar device?	Policy P680 adopted by Council in December 2013 provides for the provision of an iPad.
2. If any councillor has been provided with an iPad has this been in breach of P667?	Policy P680 adopted by Council in December 2013 provides for the provision of an iPad.
3. If there has been a breach of P667, who is responsible for that breach?	Policy P680 adopted by Council in December 2013 provides for the provision of an iPad.
4. Who can breach council policy with impunity?	Not applicable.
5. The word iPad is a brand name (and registered trademark) for what is generally known as a tablet, is the city locking itself into a particular brand by using the word Ipad?	The iPad is considered the most appropriate technology for the purposes of the Council operations.
6. Will these questions and prepared answers be transmitted to all councillors by their city provided iPads?	Councillors receive all Agendas and Minutes as well as other Councillor documentation via their iPads.
<p>I note with interest agenda item 10.7.1</p> <p>10.7.1 MATTERS REFERRED FROM THE AUDIT AND GOVERNANCE COMMITTEE</p> <p>9) Review of Code of Conduct</p>	

<p>7. Does the city believe it is providing good governance by not providing the community with a copy of the proposed Code of Conduct before it is considered by the council?</p>	<p>The Code of Conduct is not normally a document that is provided to the public for comment prior to adoption.</p>
<p><i>That the Audit and Governance Committee recommends to Council that it adopt the revised Code of Conduct.</i></p> <p><i>10) Review of Public Question Time Procedures</i> <i>That the Audit and Governance Committee recommends to Council that it:</i></p> <ol style="list-style-type: none"> <i>1. continues the practice of requiring public questions to be submitted in writing prior to the commencement of the Council Meeting;</i> <i>2. adopts a six month trial period permitting individuals to ask their questions personally at the meeting; and</i> <i>3. notes that an overall review of the Standing Orders will be undertaken in 2015 as part of the City of South Perth and Town of Victoria Park local government amalgamation process.</i> <p>The Town of Victoria park local law in respect to (STANDING ORDERS LOCAL LAW 2011) in respect to question time is very simple</p> <p><i>5.3 Question time for the public</i> <i>Question time for the public is dealt with in the Act.</i></p> <p>And in practice I believe they actually hold two question times.</p>	
<p>8. Why does the council believe it is necessary to have a more complicated law in respect to question time?</p>	<p>The City considers the proposed amendment a fair and reasonable method for dealing with public question time.</p>
<p>9. Is the council afraid of holding an open question time?</p>	<p>The City considers the proposed amendment a fair and reasonable method for dealing with public question time.</p>
<p><i>Background</i> <i>The Audit and Governance Committee meeting was held on 4 March 2014 with the following items listed for consideration on the agenda:</i></p> <ol style="list-style-type: none"> <i>1) Recent Changes to the DLGC Perspective of the responsibilities of audit and governance committees</i> <i>2) Auditors Management Report for the period ended 30 June 2013</i> 	

<p>3) 2013 Compliance Audit Return 4) Risk Management 5) New Draft Planning Policy: Developer Contribution for Public Art 6) Reports on applications for Planning Approval determined under Delegated Authority 7) Review of Council Policies 2014 8) Review of Council Delegations 2014 9) Review of Code of Conduct 10) Review of public question time procedures</p> <p>The minutes and attachments of the Audit and Governance Committee are at Attachment 7.1.2</p> <p>There is no Attachment 7.1.2 published on the council website.</p> <p>10. Are any of these item confidential?</p>	
<p>11. If so, which item?</p>	<p>Attachment 7.2 was made available to the public on 25 March 2014. The Auditors Management Report for the period ended 30 June 2013 is marked confidential.</p>
<p>12. Is the Audit and governance Committee part of a “Secret Squirrel Society”?</p>	<p>The Auditors Management Report for the period ended 30 June 2013 is marked confidential.</p>
<p>13. Is the 2013 Compliance Audit Return going to be made public before the council votes on it?</p>	<p>The Audit and Governance Committee does not have delegated authority and is therefore a closed meeting under the Local Government Act 1995.</p>
<p>14. Is the 2013 Compliance Audit Return going to be made public after the council votes on it?</p>	<p>The 2013 Compliance Audit Return was made available to the public on 25 March 2014.</p>
<p>15. If there are any errors in the 2013 Compliance Report, how will the council correct them?</p>	<p>The 2013 Compliance Audit Return was made available to the public on 25 March 2014.</p>
	<p>If an error is found, it can be reported to the Department of Local Government.</p>

3. Lindsay Jamieson Received enquiries 25 March 2014	Response provide by: Cliff Frewing, Chief Executive Officer Letter dated 2 April 2014
<p>Following the Decision by the Information Commissioner to overturn the City rejection of my FOI request the City provided me with a set of documents on 14 October 2013 and closed the FOI request.</p> <p>On 18 November 2013 I sent an appeal to the City citing a number of classes of documents that were missing. The City subsequently sent me more than 50 more documents dated 03 Jan 2014, advised any other documents will be missing and no findable, an then, you guessed it, they again closed the FOI request.</p> <p>On 18 February 2014 I lodged an appeal to the Information Commissioner. In that appeal, among other things, I cited multiple documents where it is irrefutable they went via the CEO. One of these irrefutable documents was also listed to be sent to the email address “records for filing”. The City has been informed by the Information Commissioner and is now having to respond to my appeal.</p>	
<p>1. Has Council been fully informed of the progression on my FOI request? If yes, then please advise what communications have been made and when.</p>	<p>No, the processing of Freedom of Information requests is an administrative matter.</p>
<p>2. Was Council aware that after closing my FOI request on 14 October 2013 more than 50 additional documents were subsequently found and provided to me?</p>	<p>Mr Jamieson’s freedom of information request scope was extensive and over a number of years. The City conducted a comprehensive search in processing this request. A total of 188 documents were found, all of which were detailed in a schedule to Mr Jamieson.</p> <p>Upon receiving the request for further information different search criteria was used. An analysis of the 57 documents subsequently discovered is as follows and shows that only 10 new documents, within the scope of the original FOI application, were found.</p>

	<table border="1"> <thead> <tr> <th data-bbox="1205 260 1406 331">Number of Documents</th> <th data-bbox="1406 260 2101 331">Description</th> </tr> </thead> <tbody> <tr> <td data-bbox="1205 331 1406 475">10</td> <td data-bbox="1406 331 2101 475">Waiting on Third Party Consultation – All documents are between the City and the Office of the Information Commissioner in relation to Mr Jamieson’s FOI request.</td> </tr> <tr> <td data-bbox="1205 475 1406 507">2</td> <td data-bbox="1406 475 2101 507">Outside scope of the FOI request.</td> </tr> <tr> <td data-bbox="1205 507 1406 547">17</td> <td data-bbox="1406 507 2101 547">In relation to the FOI application itself.</td> </tr> <tr> <td data-bbox="1205 547 1406 587">12</td> <td data-bbox="1406 547 2101 587">To or from Mr Jamieson.</td> </tr> <tr> <td data-bbox="1205 587 1406 659">10</td> <td data-bbox="1406 587 2101 659">Not previously discovered, therefore not previously released</td> </tr> <tr> <td data-bbox="1205 659 1406 834">5</td> <td data-bbox="1406 659 2101 834">The main parts of these documents were previously released. A small section, i.e. forwarding the original document to others for information purposes etc. was not previously released.</td> </tr> <tr> <td data-bbox="1205 834 1406 898">1</td> <td data-bbox="1406 834 2101 898">Response to public question time from Council Meeting 24/09/2013.</td> </tr> </tbody> </table>	Number of Documents	Description	10	Waiting on Third Party Consultation – All documents are between the City and the Office of the Information Commissioner in relation to Mr Jamieson’s FOI request.	2	Outside scope of the FOI request.	17	In relation to the FOI application itself.	12	To or from Mr Jamieson.	10	Not previously discovered, therefore not previously released	5	The main parts of these documents were previously released. A small section, i.e. forwarding the original document to others for information purposes etc. was not previously released.	1	Response to public question time from Council Meeting 24/09/2013.
Number of Documents	Description																
10	Waiting on Third Party Consultation – All documents are between the City and the Office of the Information Commissioner in relation to Mr Jamieson’s FOI request.																
2	Outside scope of the FOI request.																
17	In relation to the FOI application itself.																
12	To or from Mr Jamieson.																
10	Not previously discovered, therefore not previously released																
5	The main parts of these documents were previously released. A small section, i.e. forwarding the original document to others for information purposes etc. was not previously released.																
1	Response to public question time from Council Meeting 24/09/2013.																
<p>3. Does Council believe the City was diligent in handling my FOI request up to 14 October 2013, given that more than 50 additional documents were subsequently found?</p>	<p>Please refer to the response given for Question 2.</p>																

APPENDIX 2 – PUBLIC QUESTIONS TIME – 15 APRIL 2014

1. Mr Lindsay Jamieson Received enquiries: 14 April 2014 (Please note: These questions were also submitted by Mr Geoff Defrenne, as Mr Jamieson was unable to attend the Council Meeting).	Response provided by: Mark Taylor, Acting Director Infrastructure Services
[Preamble] In the West Australian Page 9 Tuesday 25 March 2014 was a list of “The Ten Most Dangerous” bike paths. At Number 10: Henley Street Como. Also shown was “The Ten Most Neglected” bike paths. At number 7: Jackson Road Como.	
1. When did the City first become aware of such poor findings against the City’s bike paths?	<p>An article appeared in Tuesday’s West Australia newspaper (25 March 2014) about bicycle paths in Perth, and in particular it mentioned a smartphone ‘app’ designed to highlight flaws in Perth’s cycling network. The ‘app’ has identified the 10 ‘most dangerous’ and 10 ‘most neglected’ bike black spots. Two paths in the City of South Perth were report to be on the list. It was alleged that Henley Street is one of the ‘10 most dangerous’ paths, and Jackson Road is one of ‘10 most neglected’ category.</p> <p>This was the first time the City became aware of these findings.</p>
2. What specific locations on those bike paths were found to be deficient and what was the nature of the deficiencies? (For clarity, I am not after the City’s opinion, I am after the reasons for giving the City bike paths such a poor rating.)	<p>Jackson Road – The app highlighted three reports of the path section connecting Murray Street and Jackson Road as being in poor condition. This section of path along the surrounding area was the subject of a major upgrade approximately 12 months ago and is now in excellent condition.</p> <p>Henley Street – Officers could not find any information within the app regarding this street and its issues, but report that due to the large number of vehicles (especially buses) that utilise the section of Henley Street, it is not identified as a designated bicycle route. Cyclists are encouraged to use surrounding roads such as Cale Street, Davilak Street and Godwin Avenue that are identified as “Perth Bicycle Network” routes.</p>

<p>3. What is the City going to do about those deficiencies?</p>	<p>The answer to this question was included in the response given to question two.</p> <p>In addition, the City of South Perth has long been a leader in the development and construction of bicycle infrastructure and remains committed to promoting alternative modes of transport to the motor vehicle into the future.</p>
<p>4. How much money has the City paid out in liability payments for each of the last five financial years?</p>	<p>There have been no public liability claims received by the City in the last 5 financial years in relation to cyclists using the Jackson Avenue bike path or riding their bikes on Henley Street.</p>
<p>5. What is the City's liability assessment and risk given that the deficiencies of Henley St and Jackson Road for bicycle paths have been published?</p>	<p>Henley Street is not a designated cycle route and following a substantial upgrade of the highlighted sections of Jackson Road (and the surrounding area) it is the City's assessment that this path it is not deficient, therefore this question is not applicable.</p>
<p>2. Geoff Defrenne, 24 Kennard St, Kensington Received enquiries: 15 April 2014</p>	<p>Response provided by: Acting Chief Executive Officer, Vicki Lummer</p>
<p>ANZAC Day Commemorations [Preamble] Last week, the Prime Minister Tony Abbot stated that Japan was Australia's best friend in Asia along with agreeing to a Free Trade Agreement.</p> <p>A Japanese battle-cruiser was the only warship protecting the original fleet carrying the original Anzac's while the cruiser HMAS Sydney was off chasing the German raider Emden.</p> <p>Australia has just concluded a ballot to enable Australians to celebrate the 100th anniversary Australia's invasion of Turkey in 1915.</p>	
<p>1. Will (or has) the council invite representations of the Japanese Government and Japanese community to the city's ANZAC commemorations next week?</p>	<p>Invitations to the ceremony are coordinated by the Returned and Services League. The ceremony is open to the wider community, including the Japanese community.</p>

<p>Policy P667/680 Member Entitlements – iPads It appears difficult to get a straight answer on this matter:</p>	
<p>2. Does the city have a problem with providing straight forward answers to questions asked?</p>	No.
<p>3. Does the council realise that in providing straight forward answers it saves getting repeated questions in attempt a straight forward answer?</p>	Yes.
<p>4. Were the Ipads (belonging to the city); the councillors have in their possession <u>purchased</u> by the city before the adoption of the reviewed policy P667 in March 2014?</p>	Yes.
<p>5. Were the Ipads (belonging to the city); the councillors have in their possession <u>provided</u> to the councillors before the adoption of the reviewed policy P667 in March 2014?</p>	Yes.
<p>6. Were the Ipads (belonging to the city); the councillors have in their possession purchased by the city before the adoption of the reviewed policy P680 in December 2013?</p>	Yes.
<p>7. Were the Ipads (belonging to the city); the councillors have in their possession provided to the councillors before the adoption of the reviewed policy P680 in December 2013?</p>	Yes, as a trial.
<p>Council Changes The Minister for Local Government, Tony Simpson, recently stated local councils were not providing correct information about so-called “local government reform”.</p>	
<p>8. In the interests of providing a balanced view to the residents, will the city publish on its website all the correspondence it has received in relation to so-called “local government reform” from the Minister, from the Department of Local Government or from the Local Government Advisory Board?</p>	The City does not consider this to be necessary.

<p>9. In order to publish all the correspondence it has received in relation to so-called “local government reform” from the Minister, from the Department of Local Government or from the Local Government Advisory Board, does the city believe it requires permission from the sender?</p>	<p>No, the City would not require their permission. However, as a courtesy we would consult with these parties before releasing this information.</p>
<p>10. Will the city seek permission (if necessary) from Minister, from the Department of Local Government or from the Local Government Advisory Board, to publish all the correspondence it has received in relation to so-called “local government reform”?</p>	<p>The City does not consider this to be necessary.</p>
<p>11. If the city has been given any directives from the Minister for Local Government, has the Minister been acting “ultra vires” in issuing those directives?</p>	<p>At this stage no ‘directives’ have been issued by the Minister. The Local Government Advisory Board has not yet made a recommendation to the Minister, and no Governor’s Orders have been issued.</p>

APPENDIX 3 – QUESTIONS FROM MEMBERS TAKEN ON NOTICE – 25 MARCH 2014

ITEM 13.1 RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS TAKEN ON NOTICE

Councillor Huston Questions asked at the Ordinary Council Meeting	Response provided by the Director Financial and Information Services Letter dated 4 April 2014
I have some concerns and questions regarding Local Government Reform:	
<p>I. For the staff on contracts, what is the term for a payout, if the position is no longer required?</p>	<p>All senior staff (other than the CEO) have employment contracts that expire on 1 July 2017. The CEO's contract has recently been extended to 31 July 2015.</p> <p>Ultimately, the CEO of the new local government will have responsibility for recommending to the new Council the most appropriate organisational structure. The Local Government Regulations state that as a result of a Local Government Reform proposal the organisation cannot terminate or vary a contract - unless this is agreed by the employee.</p> <p>Under these circumstances negotiation between the local government and the senior employee must occur. Any such negotiation would need to be made within the limits permitted under Section 5.50 of the <i>Local Government Act 1995</i>.</p> <p>At this time it is difficult to quantify the financial obligation (over and above the standard employee entitlements noted in the response to Question 2 below) that would arise from such negotiations. It will be an issue for the new Local Government to resolve.</p> <p>The staff on contracts may be offered new contracts by the new Local Government in which case no liability arises. Alternatively, staff could apply for and be successful in gaining employment at other organisations and again no further liability would accrue from this outcome.</p> <p>Whilst there has been no firm commitment from the state government there had been some earlier suggestion that some funding may be available from the state to assist with implementing reform - and this may include a contribution towards redundancies (although this may be 'capped' to a maximum amount).</p>

	<p>Having said that, it is considered that at least for the most part of the two years following 1 July 2015, there will be a need for those staff to be gainfully employed in implementing the merger of the organisations.</p>				
<p>2. What unfunded liability does the City currently have in terms of sick leave, annual leave, and other accumulated leave?</p>	<p>The City records its full employee leave entitlements liability in the 'Provisions' line item of its monthly Statement of Financial Position. At the end of March 2014 the total organisational employee leave entitlements was as follows:</p> <table data-bbox="1084 432 1792 501"> <tr> <td>Annual Leave</td> <td style="text-align: right;">\$2,073,052</td> </tr> <tr> <td>Long Service Leave</td> <td style="text-align: right;">\$1,751,608</td> </tr> </table> <p>These amounts would become due and payable on termination of the relationship between the City and the employee irrespective of whether local government reform did or did not trigger the cessation of the employment relationship.</p> <p>The accumulated Annual Leave and Long Service Leave liability is backed by available municipal funds and the total amount accrued is considered to be well within generally accepted limits.</p> <p>The City does not pay out unused sick leave on termination of staff.</p>	Annual Leave	\$2,073,052	Long Service Leave	\$1,751,608
Annual Leave	\$2,073,052				
Long Service Leave	\$1,751,608				
<p>3. Does this exceed the maximum amount recommended in Local Government guidelines?</p>	<p>As indicated in relation to the answer to Question number 1, it is not possible to quantify any 'payout' over and above the standard entitlements note in the response to Question 2 at this time.</p> <p>The parties involved in the negotiation would need to give full and proper consideration to the provisions of Section 5.50 of the Local Government Act (which is reinforced in Policy P637) or any legislative capping that may be put in place through Governors Orders during the reform process.</p>				

Councillor Cala Question asked at the Ordinary Council Meeting	Response provided by the Director Development and Community Services Letter dated 2 April 2014												
<p>1. It appears that City Officers are not utilising the Design Advisory Committee as much as they used to. Is there any reason why they are being used less?</p>	<p>The Director of Development and Community Services responded that she was not aware that the Design Advisory Group was being used less. She advised that the Terms of Reference and Policy associated with the Group set out what should be considered by the Group.</p> <p>The details of the numbers and types of applications which are considered by the DAC are as follows:</p> <p>For the period 1 April 2013 to 31 March 2014:</p> <table border="1" data-bbox="936 523 1895 740"> <thead> <tr> <th>Applications for planning approval</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Total DAs</td> <td>46</td> </tr> <tr> <td>Council Items</td> <td>12</td> </tr> <tr> <td>Development Assessment Panel Items</td> <td>2</td> </tr> <tr> <td>Pre-lodgement Items (mostly future DAP applications)</td> <td>4</td> </tr> <tr> <td>Delegated Items</td> <td>28</td> </tr> </tbody> </table> <p>The criteria for referral to the DAC is in accordance with clause 3 “Terms of Reference to the DAC” subclause (a)(i) “Development applications” which states as follows: <i>“Applications for planning approval for proposed development (development applications) in the following categories, are to be referred to the DAC for their comments:</i></p> <ul style="list-style-type: none"> A. <i>non-residential development which, in the opinion of the delegated officer, is likely to have a significant impact on the City;</i> B. <i>residential development which is 9.0 metres high or higher, or comprises 10 or more dwellings;</i> C. <i>development of the kind referred to in items (A) and (B) above, comprising a mixture of non-residential and residential components;</i> D. <i>development not of the kind referred to in items (A) to (C) above, but which, in the opinion of the delegated officer, is contentious or likely to be of significant community interest; and</i> E. <i>minor development proposals which, in the opinion of the delegated officer, should be referred to the DAC due to unusual or unconventional design elements.”</i> <p>Additionally, in accordance with the Council resolution from the May 2008 meeting, certain development applications having skillion roofs are not referred to the DAC.</p>	Applications for planning approval	Total	Total DAs	46	Council Items	12	Development Assessment Panel Items	2	Pre-lodgement Items (mostly future DAP applications)	4	Delegated Items	28
Applications for planning approval	Total												
Total DAs	46												
Council Items	12												
Development Assessment Panel Items	2												
Pre-lodgement Items (mostly future DAP applications)	4												
Delegated Items	28												