

# AGENDA

## Ordinary Council Meeting

22 July 2014

### Notice of Meeting

To: The Mayor and Councillors

The next Ordinary Council Meeting of the City of South Perth Council will be held on Tuesday 22 July 2014 in the Council Chamber at the administration offices Sandgate Street, South Perth commencing at 7.00 pm.



CLIFF FREWING  
CHIEF EXECUTIVE OFFICER

18 July 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**  
Council Meetings are held at 7pm in the Council Chamber at the South Perth Civic Centre on the fourth Tuesday of every month between February and November. 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 19.9km<sup>2</sup> 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/](http://www.southperth.wa.gov.au/Our-Council/)

# Contents

<b>1.</b>	<b>DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS</b>	<b>5</b>
<b>2.</b>	<b>DISCLAIMER</b>	<b>5</b>
<b>3.</b>	<b>ANNOUNCEMENTS FROM THE PRESIDING MEMBER</b>	<b>5</b>
<b>3.1</b>	<b>ACTIVITIES REPORT MAYOR / COUNCIL REPRESENTATIVES</b>	<b>5</b>
<b>3.2</b>	<b>PUBLIC QUESTION TIME</b>	<b>5</b>
<b>3.3</b>	<b>AUDIO RECORDING OF COUNCIL MEETING</b>	<b>5</b>
<b>4.</b>	<b>ATTENDANCE</b>	<b>5</b>
<b>4.1</b>	<b>APOLOGIES</b>	<b>5</b>
<b>4.2</b>	<b>APPROVED LEAVE OF ABSENCE</b>	<b>5</b>
<b>5.</b>	<b>DECLARATION OF INTEREST</b>	<b>5</b>
<b>6.</b>	<b>PUBLIC QUESTION TIME</b>	<b>5</b>
<b>6.1</b>	<b>RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE</b>	<b>5</b>
<b>6.2</b>	<b>PUBLIC QUESTION TIME: 22 JULY 2014</b>	<b>5</b>
<b>7.</b>	<b>CONFIRMATION OF MINUTES AND TABLING OF NOTES OF BRIEFINGS AND OTHER MEETINGS UNDER CLAUSE 19.1</b>	<b>5</b>
<b>7.1</b>	<b>MINUTES</b>	<b>5</b>
<b>7.2</b>	<b>BRIEFINGS</b>	<b>6</b>
<b>8.</b>	<b>PRESENTATIONS</b>	<b>6</b>
<b>8.1</b>	<b>PETITIONS</b>	<b>6</b>
<b>8.2</b>	<b>PRESENTATIONS</b>	<b>6</b>
<b>8.3</b>	<b>DEPUTATIONS</b>	<b>7</b>
<b>8.4</b>	<b>COUNCIL DELEGATES REPORTS</b>	<b>7</b>
<b>8.5</b>	<b>CONFERENCE DELEGATES REPORTS</b>	<b>7</b>
<b>9.</b>	<b>METHOD OF DEALING WITH AGENDA BUSINESS</b>	<b>7</b>
<b>10.</b>	<b>R E P O R T S</b>	<b>8</b>
<b>10.0</b>	<b>MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS</b>	<b>8</b>
10.0.1	Amendment No. 44 to TPS6 to rezone the proposed Lot 2 Redmond Street cnr Roebuck Drive, Salter Point (Aquinas College). Consideration of Submissions ( <i>Item 10.3.1 Council meeting 10 December 2013 refers</i> )	<b>8</b>
<b>10.1</b>	<b>STRATEGIC DIRECTION 1: COMMUNITY</b>	<b>17</b>
10.1.1	Dog Amendment Regulations 2014	<b>17</b>

<b>10.3 STRATEGIC DIRECTION 3: HOUSING AND LAND USES</b>	<b>21</b>
10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.	21
10.3.2 Proposed Three-Storey Office Building - Lot 2 (No. 6) Lyall Street, South Perth.	37
10.3.3 Proposed Additions & Change Of Use To Cafe / Restaurant. Lot 145 (No. 147a-147c) Canning Highway, South Perth	50
<b>10.4 STRATEGIC DIRECTION 4: PLACES</b>	<b>59</b>
<b>10.5 STRATEGIC DIRECTION 5: INFRASTRUCTURE AND TRANSPORT</b>	<b>59</b>
<b>10.6 STRATEGIC DIRECTION 6: GOVERNANCE, ADVOCACY AND CORPORATE MANAGEMENT</b>	<b>60</b>
10.6.1 Monthly Financial Management Accounts - June 2014	60
10.6.2 Monthly Statement of Funds, Investments and Debtors at 30 June 2014	63
10.6.3 Listing of Payments	67
10.6.4 Draft planning policy P316 Developer Contribution for Public Art – final adoption following advertising for public comment	69
10.6.5 Salaries and Allowances of Local Government Elected Council Members	76
10.6.6 Inquiry into 'Proposals' for Metropolitan Boundary Changes under the <i>Local Government Act 1995</i>	79
<b>11. APPLICATIONS FOR LEAVE OF ABSENCE</b>	<b>81</b>
<b>12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN</b>	<b>81</b>
<b>13. QUESTIONS FROM MEMBERS</b>	<b>81</b>
<b>13.1. RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS TAKEN ON     NOTICE</b>	<b>81</b>
<b>13.2 QUESTIONS FROM MEMBERS</b>	<b>81</b>
<b>14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION     OF MEETING</b>	<b>81</b>
<b>15. MEETING CLOSED TO PUBLIC</b>	<b>81</b>
<b>15.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED.</b>	<b>81</b>
<b>15.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC.</b>	<b>81</b>
<b>16. CLOSURE</b>	<b>81</b>
<b>17. RECORD OF VOTING</b>	<b>81</b>
<b>APPENDIX ONE - ITEM 3.1 REFERS</b>	<b>82</b>
<b>APPENDIX TWO - ITEM 6.1 REFERS</b>	<b>84</b>

# Ordinary Council Meeting Agenda

## 1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

Chairperson to open the meeting.

## 2. DISCLAIMER

Chairperson to read the City's Disclaimer.

## 3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

### 3.1 ACTIVITIES REPORT MAYOR / COUNCIL REPRESENTATIVES

Attached to Agenda paper at **Appendix One**.

### 3.2 PUBLIC QUESTION TIME

### 3.3 AUDIO RECORDING OF COUNCIL MEETING

## 4. ATTENDANCE

### 4.1 APOLOGIES

### 4.2 APPROVED LEAVE OF ABSENCE

## 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.

## 6. PUBLIC QUESTION TIME

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

At the June 2014 Ordinary Council Meeting questions were taken on notice. A table of these questions, and the responses provided by correspondence can be found at **Appendix Two**.

### 6.2 PUBLIC QUESTION TIME: 22 JULY 2014

## 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: 24 June 2014

#### RECOMMENDATION

That the Minutes of the Ordinary Council Meeting held 24 June 2014 be taken as read and confirmed as a true and correct record.

**7.1.2 Special Council Meeting Held: 30 June 2014**

**7.1.3 Special Council Meeting Held: 8 July 2014**

**7.1.4 Special Council Meeting Held: 14 July 2014**

**RECOMMENDATION**

That the Minutes of the Special Council Meetings under Items 7.1.2, 7.1.3 and 7.1.4 be taken as read and confirmed as a true and correct record.

**7.1.5 Special Electors' Meeting Held: 14 July 2014**

**RECOMMENDATION**

That the Minutes of the Special Electors' Meeting held 14 July 2014 be taken as read and confirmed as a true and correct record.

**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: 24 June 2014 - Held 17 June 2014**

Notes from the Agenda Briefing are included as **Attachment 7.2.1**.

**7.2.2 Concept Briefing: Civic Triangle – Stage 2 – Held 18 June 2014**

Notes from the Concept Briefing are included as **Attachment 7.2.2**.

**7.2.3 Concept Briefing: Rivers Regional Council – Presentation on Results of Tender for Processing of Waste – Held 1 July 2014**

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

**7.2.4 Concept Briefing: Catalyse Community Perceptions Survey - Held 18 June 2014**

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

**7.2.5 Confidential Concept Briefing: Local Government Reform Legal Proceedings – Held 30 June 2014**

Notes from the Confidential Concept Briefing are included as **Attachment 7.2.5** in the Confidential Attachments document.

**RECOMMENDATION**

That the attached Notes under Items 7.2.1, 7.2.2, 7.2.3, 7.2.4 and 7.2.5 be received.

**8. PRESENTATIONS**

**8.1 PETITIONS**

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

**8.2 PRESENTATIONS**

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

### **8.3 DEPUTATIONS**

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

### **8.4 COUNCIL DELEGATES REPORTS**

#### **8.4.1 Council Delegate: Perth Airport Municipalities Group Meeting [PAMG] – Held 5 June 2014**

The Report is included at **Attachment 8.4.1.**

#### **8.4.2 Council Delegate: National General Assembly for Local Government – Held 16-19 June 2014**

The Report is included at **Attachment 8.4.2.**

#### **RECOMMENDATION**

That the Council Delegates Report at Item 8.4.1 and 8.4.2 be received.

### **8.5 CONFERENCE DELEGATES REPORTS**

#### **8.5.1 Council Delegate: 2014 Mid West Emergency Management Conference Held 30 June 2014**

The Report is included at **Attachment 8.5.1.**

#### **RECOMMENDATION**

That the Conference Delegates Report at Item 8.5.1 be received.

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

## 10. REPORTS

### 10.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS

#### 10.0.1 Amendment No. 44 to TPS6 to rezone the proposed Lot 2 Redmond Street cnr Roebuck Drive, Salter Point (Aquinas College). Consideration of Submissions (Item 10.3.1 Council meeting 10 December 2013 refers)

<b>Location:</b>	Lot 2 Redmond Street cnr Roebuck Drive, Salter Point (Aquinas College).
<b>Ward:</b>	Manning
<b>Applicants:</b>	Richard Noble and Burgess Design Group, representing the Christian Brothers
<b>File Ref:</b>	LP/209/44
<b>Date:</b>	1 July 2014
<b>Author:</b>	Gina Fraser, Senior Strategic Planning Officer
<b>Reporting Officer:</b>	Vicki Lummer, Director, Development & Community Services

#### Summary

The purpose of Amendment No. 44 is to rezone the proposed Lot 2 Redmond Street cnr Roebuck Drive, Salter Point (portion of the Aquinas College site), from 'Private Institution' with a density coding of R20, to 'Residential' with R25 coding. In January 2013, the Western Australian Planning Commission (WAPC) issued conditional approval for the excision of this land from the main Aquinas College site. The Amendment site is owned by the Christian Brothers. The Amendment proposal has been advertised for community comment, and 77 submissions were received. These are discussed in the 'Consultation' section of this report.

In view of the strong opposition to the proposed R25 density coding and the applicants' advice that the desired form of subdivision could be achieved at an R20 coding, it is recommended that the Council recommends to the Minister for Planning that Amendment No. 44 be approved **with modification**, and that the existing R20 coding continue to apply.

#### Officer Recommendation

That:

- (a) the Western Australian Planning Commission be advised that Council recommends that:
  - (i) Submissions 1.1 to 1.3 inclusive, supporting the proposed Amendment No. 44 be **PARTIALLY UPHOLD**;
  - (ii) Submission 2.1, conditionally supporting the proposed Amendment No. 44 be **PARTIALLY UPHOLD**;
  - (iii) Submissions 3.1 to 3.4 inclusive, from Government agencies be **NOTED**;
  - (iv) Submissions 4.1 to 4.69 inclusive, opposing the proposed Amendment No. 44, be **PARTIALLY UPHOLD**.
  - (v) Amendment No. 44 to the City of South Perth Town Planning Scheme No. 6, comprising **Attachment 10.0.1(b)**, be adopted **with modification**;
- (b) the Council of the City of South Perth under the powers conferred upon it by the Planning and Development Act 2005, hereby amends the above Town Planning Scheme by:
  - (i) rezoning the portion of Lot 18 (No. 58) Mount Henry Road, Salter Point, comprising Lot 2 Redmond Street cnr Roebuck Drive, Salter



10.0.1 Amendment No. 44 to TPS6 to rezone the proposed Lot 2 Redmond Street cnr Roebuck Drive, Salter Point (Aquinas College). Consideration of Submissions (Item 10.3.1 Council meeting 10 December 2013 refers)

- Point, identified on the subdivision plan conditionally approved by the Western Australian Planning Commission on 9 January 2013 (WAPC reference 146811), from 'Private Institution' to 'Residential'; and
- (ii) modifying the Scheme Map (Zoning) for Precinct 13 'Salter Point' accordingly.
- (c) the Council hereby authorises the affixing of the Common Seal of Council to three copies of the MODIFIED Amendment No. 44 document (**Attachment 10.0.1(b)**), as required by those Regulations;
  - (d) the Report on Submissions (**Attachment 10.0.1(a)**) and Schedule of Submissions containing the Council's recommendations, a copy of the submissions and three executed copies of the amending documents, be forwarded to the Western Australian Planning Commission for determination of the Submissions and for final determination of Amendment No. 44 by the Minister for Planning;
  - (e) the applicants and Western Australian Planning Commission be advised that owing to the strength of concern expressed by submitters on Amendment No. 44 and also felt by the Council, at the time of a later application for detailed subdivision of the site into single house lots, the Council will recommend that:
    - (i) any lots fronting onto Redmond Street and Roebuck Drive have a minimum width of 16 metres, in order to be more compatible with the established built form and wider lots which characterise the existing streetscapes of these streets;
    - (ii) having regard to:
      - (A) the City's commitment to the preservation of as much bushland as possible throughout the City; and
      - (B) the City's Public Open Space Strategy which identifies the residential area immediately to the east of the Amendment site as not being well served with open space within a 400 metre 'ped-shed':
        - (I) in accordance with the WAPC's Development Control Policy DC 2.3 'Public Open Space in Residential Areas', a minimum of 10% of the gross subdivisible area of the site be ceded to the Crown free of cost, as public open space in the form of a dry park containing remnant bushland and other native plants. The ceded land is to be located at the northern end of the site and continue to form part of the 'green corridor' of native vegetation at the northern end of the Aquinas College site alongside Roebuck Drive. This land will also form a vital link between other areas of remnant bushland throughout the City, supporting the health of these areas as valuable fauna habitat; and
        - (II) other than the two areas of land already in the process of being excised from the Aquinas College site, being Lots 1 and 2 as shown on the Aquinas College Masterplan dated 2 May 2014, the Council will not support any further subdivision involving excision of pockets of remnant bushland from the Aquinas College campus, particularly the land in the north-western corner of the campus and on Lots 4 and 9;

10.0.1 Amendment No. 44 to TPS6 to rezone the proposed Lot 2 Redmond Street cnr Roebuck Drive, Salter Point (Aquinas College). Consideration of Submissions (Item 10.3.1 Council meeting 10 December 2013 refers)

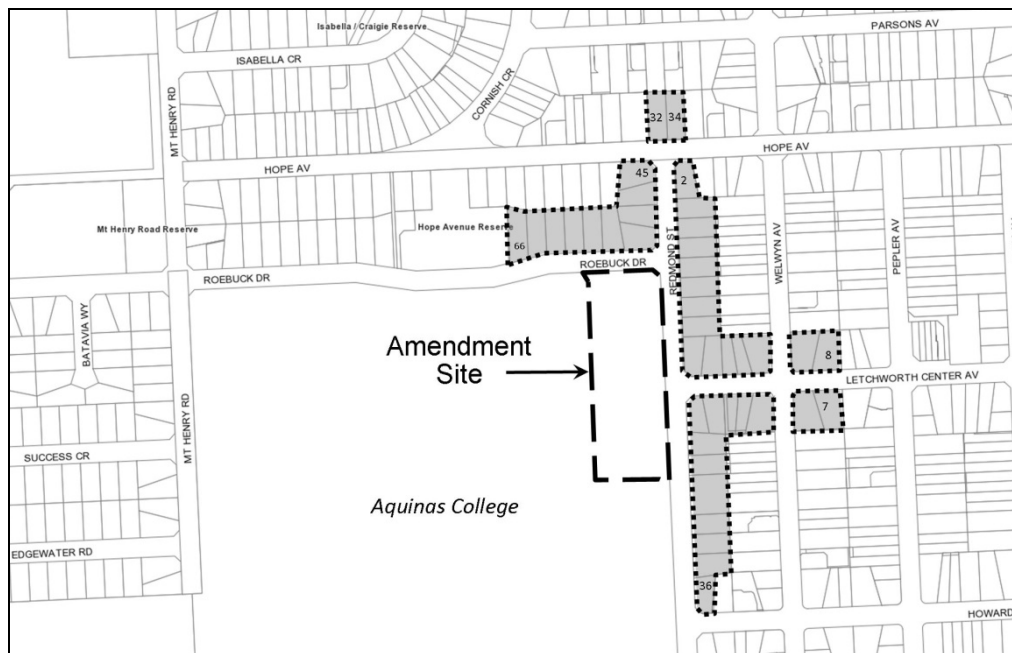
- (iii) prior to any of the proposed new lots being offered for sale, design guidelines will be prepared by the applicants or the City including the following, in addition to any other relevant provisions:
  - (A) having regard to the busy nature of Redmond Street and the narrow width proposed for the new access road, two visitor car bays to be provided on each lot, in addition to two occupiers' bays;
  - (B) car parking structures to be set back at least 6.0 metres from the street boundary, in order to provide space for additional vehicles to park on the driveway without encroaching onto the street reserve; and
  - (C) development of all lots to incorporate appropriate sustainable design measures drawn from Council Policy P351.14 'Cygna Cove Residential Design Guidelines'; and
- (f) the submitters be thanked for their participation in the Amendment No. 44 process and be advised of the above resolution.

**Background**

This report includes the following attachments:

- **Attachment 10.0.1(a)** Report on Submissions
- **Attachment 10.0.1(b)** Amendment No. 44 Report for final adoption

The location of the Amendment site is shown below:



The location map also shows (shaded) the extent of community consultation undertaken by the City by means of information mailed to landowners at the commencement of the statutory consultation period. Submissions were also invited by various other methods, as discussed further in the 'Consultation' part of this report and in the Report on Submissions (**Attachment 10.0.1(a)**).

10.0.1 Amendment No. 44 to TPS6 to rezone the proposed Lot 2 Redmond Street cnr Roebuck Drive, Salter Point (Aquinas College). Consideration of Submissions (*Item 10.3.1 Council meeting 10 December 2013 refers*)

Amendment No. 44 was initiated at the December 2013 Council meeting for the purpose of rezoning the subject site. The proposal is more fully described and explained in the Amendment No. 44 Report (**Attachment 10.0.1(b)**) which is presented for final adoption.

**Comment**

The 'Consultation' part of this report and the attached Report on Submissions describe the consultation process undertaken recently. During this period, 77 submissions were received, four being from government agencies and one from the *Salter Point Community Group Inc* representing all of their members.

All of the submissions have been placed in a bound volume in the Council Members' lounge and will be forwarded to the Minister for Planning along with the Council's recommendations.

The land which is the subject of Amendment No. 44 is identified as (proposed) Lot 2 on the Subdivision Plan (Ref. 146811) which was conditionally approved by the WAPC on 9 January 2013. The area of the Amendment site is 15,959 sq. metres. The subject land is situated at the corner of Redmond Street and Roebuck Drive, Salter Point. This land formerly formed part of the Aquinas College site. Edmund Rice Education Australia (EREA) now own Aquinas College. The Amendment site, having been excised from the College campus, continues to be owned by the Christian Brothers, a separate legal entity.

One other piece of land is being excised from the Aquinas College site. This land, located much further south, is identified as (proposed) Lot 1 on the Subdivision Plan (Ref. 146811) which was conditionally approved by the WAPC on 2 May 2013. Lot 1 does not relate to the current rezoning.

**Consultation**

As required by the *Town Planning Regulations*, on 12 December 2013 the Amendment No. 44 proposal was forwarded to the Environmental Protection Authority (EPA) for assessment. The EPA responded by letter dated 6 January 2014, advising that no assessment or conditions are required under Part IV Division 3 of the Environmental Protection Act.

Following receipt of the EPA advice, the statutory advertising required by the Regulations, TPS6 and Council Policy P301 'Consultation for Planning Proposals' was undertaken. The 60-day community consultation period commenced on 4 March and concluded on 2 May 2014.

The draft Amendment was advertised in the manner described below:

- Letters inviting comment sent to owners of 62 surrounding properties and affected government agencies;
- Notice published in two issues of the *Southern Gazette* newspaper: on 4 and 18 March 2014;
- Four signs containing relevant details placed on the Roebuck Drive and Redmond Street boundaries of the Amendment site; and
- Notices and Amendment documents displayed in the Civic Centre customer foyer, City Libraries and on the City's web site ('Out for Comment').

10.0.1 Amendment No. 44 to TPS6 to rezone the proposed Lot 2 Redmond Street cnr Roebuck Drive, Salter Point (Aquinas College). Consideration of Submissions (Item 10.3.1 Council meeting 10 December 2013 refers)

The required minimum advertising period is 42 days. It is the City's practice to extend community consultation for a few days to allow for late submissions and delays in postage and delivery. On this occasion, the actual advertising period was 60 days. As stated previously, 77 submissions were received during the advertising period. The submissions, together with Council responses, are summarised in the Report on Submissions provided as **Attachment 10.0.1(a)**.

The submissions have been categorised in the Report on Submissions, as follows:

1.	Submissions supporting Amendment No. 44	3
2.	Submissions conditionally supporting Amendment No. 44 rezoning	1
3.	Submissions from Government agencies	4
5.	Submissions opposing Amendment No. 44	69
<b>TOTAL</b>		<b>77</b>

The submission from the Salter Point Community Group Inc represents all of its members. One submission was received from a Council Member.

The Report on Submissions deals with the issues raised under the following categories:

- 1. Submissions 1.1 to 1.3 supporting Amendment No. 44**
  - (a) Need for additional housing [3 submissions]
  - (b) Preservation of single house character [1 submission]
  - (c) Road management [1 submission]
  - (d) Suggest wider extent of R25 coding [1 submission]
- 2. Submission 2.1 conditionally supporting Amendment No. 44**
  - Support subject to adequate green space [1 submission]
- 3. Submissions 3.1 to 3.4 Government submissions** [4 submissions]
- 4. Submissions 4.1 to 4.6I OPPOSING to Amendment No. 44**
  - (a) Opposing on grounds of increased traffic and strain on other infrastructure [55 submissions]
  - (b) Opposing on grounds that density coding is incompatible with existing Salter Point character [53 submissions]
  - (c) Opposing on grounds of loss of bushland and public open space [38 submissions]
  - (d) Oppose on grounds of loss of amenity – eg. reduction of pleasant outlook, noise [19 submissions]
  - (e) Opposing on grounds of precedent [16 submissions]
  - (f) Opposing on grounds of public interest [11 submissions]
  - (g) Opposing on grounds of inconsistency with Scheme objectives and community expectations [9 submissions]
  - (h) Opposing on grounds of devaluation of nearby properties [6 submissions]
  - (i) Opposing on grounds of profit motive [6 submissions]
  - (j) Opposing various aspects of subdivision design:
    - (i) No provision of open space [7 submissions]
    - (ii) Future subdivisions [2 submissions]
    - (iii) Safety and security [1 submissions]
    - (iv) Infill subdivisions v new subdivisions [1 submissions]

10.0.1 Amendment No. 44 to TPS6 to rezone the proposed Lot 2 Redmond Street cnr Roebuck Drive, Salter Point (Aquinas College). Consideration of Submissions (Item 10.3.1 Council meeting 10 December 2013 refers)

- (k) Opposing on grounds of process
  - (i) Lack of Masterplan [6 submissions]
  - (ii) Accountability of Aquinas College [3 submissions]
  - (iii) Local Planning Strategy [3 submissions]
  - (iv) Consultation process ineffective [2 submissions]
  - (v) Poor reporting [1 submission]
  - (vi) Ad hoc strategic planning in Salter Point [1 submission]
- (l) Other matters
  - (i) Lights on Aquinas sports ovals [1 submission]
  - (ii) Original purpose of the land [1 submission]
- (m) Submitters' suggestions
  - (i) Other subdivision design suggestions [9 submissions]
  - (ii) Site requirements [5 submissions]
  - (iii) Support for subdivision at density coding of R20 [21 submissions]

In relation to vehicular safety and practical vehicle movements in the vicinity of the Amendment site, comments have been obtained from the City's Manager, Engineering Infrastructure. Similarly, for issues relating to the environment, bushland, and open space, comments have been obtained from the City Environment department. Their relevant comments are contained in the attached Report on Submissions.

The main issues raised by submitters are listed above. The three issues which gave rise to the highest numbers of comments are: increased traffic, particularly on Redmond Street leading down towards Aquinas College; the change of residential character that would result from the R25 coding and the lack of justification for such coding; and the destruction of the bushland that would result from future development of the land.

The City's responses to submitters' comments on these three major issues are summarised below:

- **Traffic:** The concerns of the neighbouring residents have been considered by the Manager Engineering Infrastructure. He is generally satisfied that, with some modification, the local roads will be able to cope with the relatively small increase in traffic resulting from the future subdivision of the Amendment site. Redmond Street has been identified for traffic calming works during 2014-15.
- **Streetscape character:** This is dealt with in two ways:  
Firstly, having regard to the deep concern about the proposed R25 density coding expressed by many submitters, it is recommended that the existing R20 coding be retained. It is also noted that the applicant's desired form of subdivision could be accommodated within an R20 coding.

Secondly, at the time of subdivision of the land into individual house lots, design guidelines will be prepared addressing specific design issues raised by the submitters, together with any other matters that the applicants and the Council deem appropriate.

10.0.1 Amendment No. 44 to TPS6 to rezone the proposed Lot 2 Redmond Street cnr Roebuck Drive, Salter Point (Aquinas College). Consideration of Submissions (Item 10.3.1 Council meeting 10 December 2013 refers)

- **Bushland:** When dealing with subdivisions comprising more than 5 lots, the WAPC usually requires 10% of the land to be ceded to the Crown as public open space. After receiving advice from City Environment officers, it is being recommended to the WAPC that this usual POS contribution be required, with the intention that it be in the form of a dry park containing remnant bushland and other native plants. This would be located at the northern end of the subject land to enable it to continue to form part of the stand of native plants which already exist along the northern side of the playing fields in Roebuck Drive.

In connection with the bushland concerns, the Acting Director Infrastructure Services has confirmed that if retained as public open space, this area would not be treated as a cultivated pocket park, but as a wildlife / biodiversity corridor. Some maintenance of the area would be required, but not to the level of an irrigated reserve. The City's adopted POS Strategy depicts access to POS within the City by identifying areas of POS and their 400 metre 'ped-sheds', or walkable catchments. A distance of 400 metres is considered to be the equivalent of a five minute walk or two minute bike ride. The residential area immediately to the east of the Amendment site does not have access to POS within 400 metres. The subdivision itself is within 400 metre access to Roebuck Reserve and Hope Avenue Reserve – two small local parks – but not the established residential streets immediately to the east of it. Consequently, the local area is not particularly well serviced by POS, as demonstrated in the City's POS Strategy.

If the desired area is retained as POS at the later time of the more detailed subdivision into single house lots, the land would be reserved as such under TPS6.

If the Council supports the officer recommendations on the submissions, when the Council has adopted the Amendment document at **Attachment 10.0.1(b)**, it will be forwarded to the Western Australian Planning Commission with a recommendation that the Minister for Planning grant final approval **with modification**. The modification involves the deletion of the proposed R25 coding and retention of the existing R20 coding for the Amendment site.

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

Amendment No. 44 fulfils the requirement of clause 9.8 'Amendments to the Scheme', which includes the following provision:

*“(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.”*

The Scheme Amendment will have the effect of rezoning the Amendment site from 'Private Institution' to 'Residential'. If the officer recommendation is adopted, there will be no change to the existing density coding. The Building Height Limit will also remain unchanged.

The Council has undertaken public advertising as required by the Regulations, TPS6 and Council Policy P301, and must now consider whether to recommend to the Minister for Planning to finally approve Amendment No. 44 with or without modifications, or not approve it. The recommendation is to approve the Amendment proposal with modification. After the Minister has made the final decision on the Amendment, the City will arrange for Notice of the Minister's approval to be published in the *Government Gazette*. The Amendment provisions will then become operative. Notice of the Minister's decision will also be published in the *Southern Gazette* and all submitters will be notified by mail.

10.0.1 Amendment No. 44 to TPS6 to rezone the proposed Lot 2 Redmond Street cnr Roebuck Drive, Salter Point (Aquinas College). Consideration of Submissions (Item 10.3.1 Council meeting 10 December 2013 refers)

The statutory Scheme Amendment process is set out below, together with a date for each stage. The stages which have been completed, including the consideration at the 22 July Council meeting, are shaded:

<b>Stage of Amendment Process</b>	<b>Date</b>
Council decision to initiate Amendment No. 44	10 December 2013
Council adoption of draft Amendment No. 44 Report and Scheme Text for advertising purposes	10 December 2013
Referral of draft Amendment No. 44 documents to EPA for environmental assessment, and to WAPC for information	12 December 2013
Receipt of EPA comments advising that no environmental assessment or conditions are required	6 January 2014
Public advertising period of 60 days	4 March to 2 May 2014
Council consideration of Report on Submissions on Amendment No. 44	22 July 2014
Referral to WAPC and Minister for consideration of: <ul style="list-style-type: none"> <li>• All of the submissions</li> <li>• Report on Submissions and Schedule of Submissions</li> <li>• Council's recommendation on proposed Amendment No. 44</li> <li>• Three signed and sealed copies of Amendment documents for the Minister's final determination</li> </ul>	Within two weeks of the July 2014 Council meeting
Minister's final determination of Amendment No. 44	Not yet known
Publication of Notice of the Minister's final approval of Amendment No. 44 in <i>Government Gazette</i> and <i>Southern Gazette</i> newspaper	Not yet known

#### **Financial Implications**

All financial costs incurred during the course of the statutory Scheme Amendment process are being met by the applicants through payment of the required Planning Fee.

#### **Strategic Implications**

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

#### **Sustainability Implications**

This report is aligned to the City's Sustainability Strategy 2012–2015. The Scheme Amendment has been referred to the Environmental Protection Authority, who have had the opportunity to consider the impact of land clearing. The Scheme Amendment would assist in facilitating an infill residential development; and to a limited extent, would assist towards meeting the State Government's "Directions 2031" growth target for the City of South Perth in a manner that will be compatible with existing neighbourhood character and recent redevelopment in the locality.

- 10.0.1 Amendment No. 44 to TPS6 to rezone the proposed Lot 2 Redmond Street cnr Roebuck Drive, Salter Point (Aquinas College). Consideration of Submissions (*Item 10.3.1 Council meeting 10 December 2013 refers*)

### **Conclusion**

Having regard to the discussion contained in this report and the assessment of submitters' comments in the attached Report on Submissions, City officers are satisfied that Amendment No. 44 should now be adopted by the Council with a recommendation that the amendment be modified for the reasons discussed in the attached report and be forwarded to the Minister for Planning for his final determination. The Scheme Amendment process is designed by statute to be open and accountable, and inclusive of community input. With 69 of the 73 community submissions opposing the Amendment, this provides a clear mandate to modify the proposal. The retention of the current R20 coding will partly satisfy most of the objecting submitters, while enabling the applicants to achieve a subdivision which still meets their objectives.

Other submitters' comments relating to the loss of bushland cannot be entirely satisfied, being beyond the Council's control. However, at the later subdivision stage of dividing the land into individual house lots, these matters will be addressed.

Following the Council's final adoption of Amendment No. 44, the City's recommendations will be forwarded to the WAPC and the Minister for Planning for final processing and determination.



## 10.1 STRATEGIC DIRECTION 1: COMMUNITY

### 10.1.1 Dog Amendment Regulations 2014

Location:	South Perth
Ward:	All
Applicant:	Council
Date:	8 July 2014
Author:	Phil McQue, Manager Governance & Administration
Reporting Officer:	Cliff Frewing, Chief Executive Officer

#### Summary

The State Government published the *Dog Amendment Regulations 2014* on 20 May 2014, which removed a local government's ability to make or enforce local laws establishing dog exercise areas, or prohibiting dogs areas, under the local government's control.

This report recommends re-establishing these dog exercise areas and prohibited dog areas via a Council resolution, in accordance with section 31 of the *Dog Act 1976*.

There is only a minor change proposed in the re-establishment of the dog exercise areas and prohibited dog areas. It is proposed to declare Collier Reserve and Collins Oval, both located in Thelma Street Como as dog exercise areas (both presently prohibited dog areas) and to declare Neil McDougall Park in Como an on-lead dog area with only the wetlands to be a prohibited dog area (presently a wholly prohibited dog area).

#### Officer Recommendation

That the Council:

- a) declare the following (as shown in Schedule 2) as places where dogs are prohibited absolutely:
  - Collier Park Golf Course
  - Milyu Reserve area between the Narrows bridge abutment to the Northern border of the Royal Perth Golf club and the western side of the shared footpath/cycleway adjacent to the Kwinana Freeway
  - Royal Perth Golf Course
  - Salter Point Lagoon, Salter Point Pde, Salter Point
  - Sir James Mitchell Park:
    - Coode St to The Esplanade car park, river side of the pathway.
    - Wetland areas between Hurlingham Rd and Coode St car park (car park, pathways and bridges excluded)
    - South Perth Foreshore area between Queen St Jetty and The Esplanade car park
  - Waterford Foreshore Reserve, Bodkin and Sandon parks, Salter Point (wetlands area)
  - Neil McDougall Park, Como (wetlands area only).
- b) declare the following (as shown in Schedule 2) as places which are dog exercise areas (off lead areas):
  - Axford/Barker Reserve, Axford & Barker St, Como Bradshaw/Conochie Reserve
  - Bradshaw & Conochie Cres, Manning
  - Bill Grayden Reserve, Thelma St, Como
  - Bill McGrath Reserve, Kennard & Anketell St, Kensington
  - Bodkin Park, Waterford (excluding the wetlands area)
  - Canavan/Henley Reserve, Canavan & Henley St, Como

- Canning/Cloister Foreshore, North side of Canning Bridge
- Carlow/Kilbride Reserve, Waterford
- Challenger Reserve, Challenger Ave, Manning
- Collier Reserve, Thelma St, Como
- Collins Oval, Thelma St, Como
- Comer Reserve, Comer St, Como
- Coolidge Reserve, Como
- Craigie / Isabella Reserve, Manning
- Darling St Reserve, Brandon St, Kensington
- David Vincent Park, Pennington St, Kensington
- Davilak Reserve, Davilak St, Manning
- Doneraile Court Reserve, Waterford
- Elderfield Road Reserve, Manning
- Ernest Johnson Oval, Sandgate & Hensman St, South Perth
- George Burnett Park, Karawara
- George Street Reserve, Kensington
- George/Gwenyfred Reserve, Kensington
- Hensman Square, Hensman St, South Perth
- Hope Ave Playground, Hope Ave, Manning
- James Millar Oval, Jarman & Duckett Dve, Manning
- Jan-Doo Park Estate, Salter Point
- Karawara Greenways, Karawara
- Kilkenny Reserve, Kilkenny Circle, Waterford
- Mackie St Reserve, Mackie & Gwenyfred Rd, Kensington
- Meadowvale Avenue Reserve, South Perth
- Melville Parade Road Reserve North, South Perth
- Marsh Avenue Reserve, Marsh Ave, Manning
- Moresby St Reserve, South Perth
- Morris Munday Oval, Broad St, Kensington
- Mt Henry Road Reserve
- Narrows Bridge Reserve
- Queen St to Narrows Bridge
- Olives Reserve, Melville Pde, Como
- Richardson Park, Richardson St, South Perth
- Ryrie Avenue Reserve, Como
- Sandon Park, Salter Point
  - Area near Hope Ave (excluding wetlands area)
- Shaftsbury Avenue Reserve, South Perth
- Stone Street Reserve, South Perth
- Swanview Terrace Reserve, South Perth
- Warrego St Reserve, South Perth
- Windsor Park, Mill Point Rd, South Perth
- Sir James Mitchell Park:
  - Between Coode Street and the Esplanade car park (excluding the Wetlands area near Scented Gardens) and on the non-river side of cycleway.
  - Area between Hurlingham Rd and Ellam St

The above areas do not apply to:

- (i) an area within 5 metres of land which has been set apart as a children's playground;
- (ii) any area within 5 metres of the edge of playing fields being used for organised sporting or other activities, as permitted by the local government, during the times of such use;  
or
- (iii) a car park.

## 10.1.1 Dog Amendment Regulations 2014

*Within these areas, a dog must be on a lead and held by a person who is capable of controlling the dog as per the Dog Act 1976.*

- c) advertise by local public notice Parts A and B above, in accordance with section 31(3C) of the *Dog Act 1976*.
- d) note that this resolution is subject to any written law and any law of the Commonwealth about assistance with animals as defined in the *Disability Discrimination Act 1992 (Commonwealth)*.

BY ABSOLUTE MAJORITY

### **Background**

The City of South Perth, like most local governments, has a Dog Local Law, which establishes dog exercise areas or prohibits dogs from areas, under the local government's control.

Without industry consultation, the *Dog Amendment Regulations 2014*, published on 20 May 2014, removed a local government's ability to make or enforce local laws in respect to these two areas.

Also without industry consultation, the *Dog Amendment Regulations 2014* provided a sunset date of 31 July 2014 for the operation of these clauses within local laws, rendering these clauses inoperable from this date on.

Local government's wishing to establish exercise areas or specific places where dogs are prohibited, are now required to do so via a Council resolution, by absolute majority, in accordance with amended Section 31 of the *Dog Act 1976*, rather than a local law.

### **Comment**

The City recently most recently underwent a comprehensive review of the Dog Local Law in 2011.

The *Dog Local Law 2011* was primarily based on the Western Australian Local Government Association's Model Dog Local Law, with the primary objective of making provisions that ensure public safety and provide a safe co-operative community space, and to prescribe areas in which dogs are prohibited or required to be on lead.

The *Dog Local Law 2011* was the subject of extensive community consultation for over 12 months, and included several Council workshops and a Public Forum, attended by over 250 members of the public.

The City adopted best practice principles in the *Dog Local Law 2011*, prohibiting dogs being unleashed within 5 metres of a children's playground and 5 metres of the edge of playing fields being used for organised sporting or other activities.

Under the *Dog Act 1976*, on-lead areas are not required to be listed under Council Resolution. The control of dogs within these areas falls under Section 31 of the *Dog Act 1976*.

The *Dog Local Law 2011* has operated very effectively since its introduction and there are only minor changes proposed to the dog exercise areas and prohibited dog areas as part of this recommendation to Council.

Collins Oval and Collier Reserve, both located in Thelma Street Como, are presently declared dog prohibited areas. However, this is a very popular dog exercise precinct and it is proposed that both these two reserves be declared dog exercise areas.

## 10.1.1 Dog Amendment Regulations 2014

Neil McDougall Park in Como is presently a prohibited dog exercise area. However this is a very popular City park and it is proposed that this reserve be declared an on-lead only dog exercise area, with the wetlands to be a prohibited dog area to ensure protection of wildlife.

The dog exercise areas and dog prohibited areas are depicted in Schedule 2 (**Attachment 10.1.1**).

### **Consultation**

Under the Dog Act 1976, Local Governments are required to provide 28 days notice of the intention to specify dog exercise areas and dog prohibited area upon Council resolution.

### **Policy and Legislative Implications**

This report is in accordance with the amended section 31 of the *Dog Act 1976* and the *Dog Amendment Regulations 2014*.

### **Financial Implications**

There are minimal financial implications associated with updating signage and advertising .

### **Strategic Implications**

This recommendation contained in this report is consistent with the [Strategic Plan 2013–2023](#), Direction 1 – Community “*Create opportunities for an inclusive connected, active and safe community*”.

### **Sustainability Implications**

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

## 10.3 STRATEGIC DIRECTION 3: HOUSING AND LAND USES

### 10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

Location: Lot 70 (No. 10) First Avenue, Kensington  
 Applicant: Prestige Homes WA Pty Ltd  
 Lodgement Date: 9 April 2014  
 Date: 1 July 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 six multiple dwellings (two-storey) on Lot 70 (No. 10) First Avenue, Kensington. Although the proposal did generate a significant number of objections from adjoining landowners, the development is only proposed to and complies with an R60 standard and is well within the standards for R80 development in terms of bulk and scale. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Lot boundary setbacks	R-Code Design Principles 6.1.4 P4.1
Streetscape compatibility	Town Planning Scheme No. 6 Clause 7.5(n)

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

#### Officer Recommendation

That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for planning approval for six multiple dwellings (two-storey) on Lot 70 (No. 10) First Avenue, Kensington **be approved** subject to:

#### (a) Standard Conditions

427	Colours and materials - Details	354	Car bays - Maintained
416	Street tree not to be removed, disturbed	470	Retaining walls - If required
340A	Parapet walls - Finish from street	471	Retaining walls - Timing
340B	Parapet walls - Finish from neighbour	455	Dividing fences - Standards
508	Landscaping approved and completed	456	Dividing fences - Timing
353	Visitor bays - Marked and visible	550	Plumbing hidden
210	Screening - Permanent	445	Stormwater infrastructure
377	Screening - Clothes drying	425	Colours and materials - Matching
390	Crossover - Standards	650	Inspection (final) required
393	Verge and kerbing works	578	New titles prior to building permit
625	Sightlines for drivers	660	Expiry of approval
352	Car bays - Marked and visible	455A	Front fencing - Standard

#### (b) Specific Conditions

- (i) The surface of the boundary wall(s) to the garage, visible from the street on the northern side of the lot, shall be finished to match the external walls of the building(s) on the development site. Details in this respect are to be included on the plans submitted with a building permit application.

10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

- (ii) The surface of the boundary wall(s) not visible from the street on the northern side of the lot, the applicant is to obtain the adjoining owner's agreement as to the surface finish of the wall. If the adjoining owner's agreement is not obtained, the surface finish is to be compatible with the external walls of the neighbour's dwelling. Details in this respect are to be included on the plans submitted with a building permit application.
- (iii) 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.
- (iv) 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 (1) 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) 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:

- (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 and disposal of stormwater onsite.
- (iv) The applicant / owner are advised of the need to comply with the City's Engineering Infrastructure department requirements. Please find enclosed the memorandum dated 16 April 2014 to this effect.
- (v) That planning approval, or the subsequent issuing of a building permit by the City, is not consent for the construction of a crossing. As described in Management Practice M353, a "Crossing Application" form must be formally submitted to Infrastructure Services for approval prior to any works being undertaken within the road reserve.

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

10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

**Background**

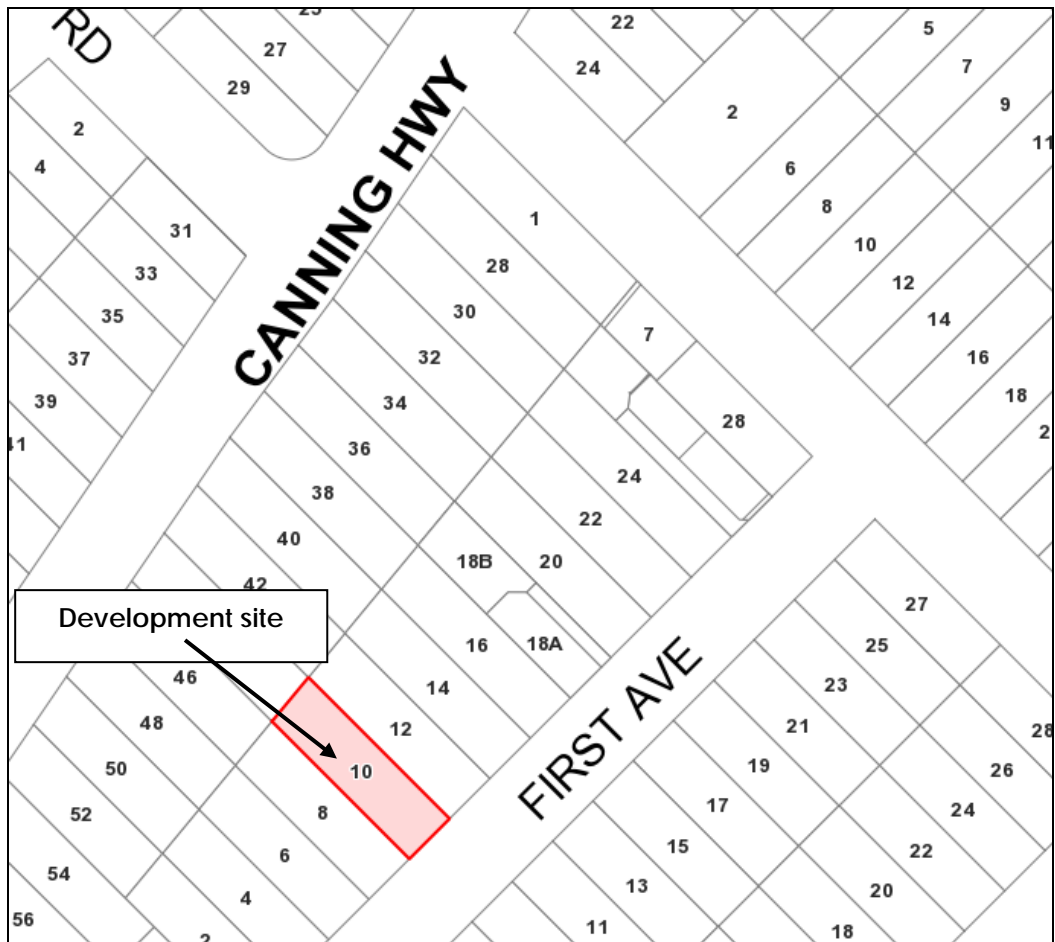
The development site details are as follows:

<b>Zoning</b>	Residential
<b>Density coding</b>	R80
<b>Lot area</b>	577 sq. metres
<b>Building height limit</b>	10.5 metres
<b>Development potential</b>	Permissible land use, as listed in Table I of TPS6
<b>Plot ratio limit</b>	1.0

This report includes the following attachments:

- Confidential Attachment 10.3.1(a)** Revised plans of the proposal.
- Attachment 10.3.1(b)** Officer’s further information letter and applicant’s response to submissions.
- Attachment 10.3.1(c)** Engineering memorandum.

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.*

10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

**7. Neighbour comments**

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

**Comment**

**(a) Background**

In April 2014, the City received an application for six multiple dwellings in a two-storey building on Lot 70 (No. 10) First Avenue, Kensington (the site).

Following completion of the neighbour consultation period and officer assessment of the proposal, a compilation of non-compliant design elements, neighbour submissions, and comments from the City's Design Advisory Consultants were issued to the applicant to address via amended plans or appropriate justification. The rationale is to negotiate an outcome which allows the site to be developed to a scale and density appropriate to R80, while at the same time respecting the existing streetscape. The applicant responded on 10 June with brief written justifications, where applicable, and revised drawings contained in **Confidential Attachment 10.3.1(a)**.

The officer's further information letter and applicant's brief response to neighbour submissions relating to this matter, are contained within **Attachment 10.3.1(b)**; please note additional justifications are notated on the revised drawings.

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

The site has a frontage to First Avenue, and is adjoined at the rear to lots which have frontage to Canning Highway. The site itself is located approximately 50.0 metres to the south-east of the highway as the crow flies. The eastern side of First Avenue is zoned R15 and is characterised predominantly by small, single houses. In contrast, the western side of First Avenue is zoned R80 and contains a mix of dwelling types, from single storey single residences to two-storey grouped dwellings of 2 to 5 dwellings.

Under the provisions of the *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. On the western side of First Avenue, all lots have a density coding of R80, while to the eastern side properties are coded R15 with a building height limit of 7.0 metres.

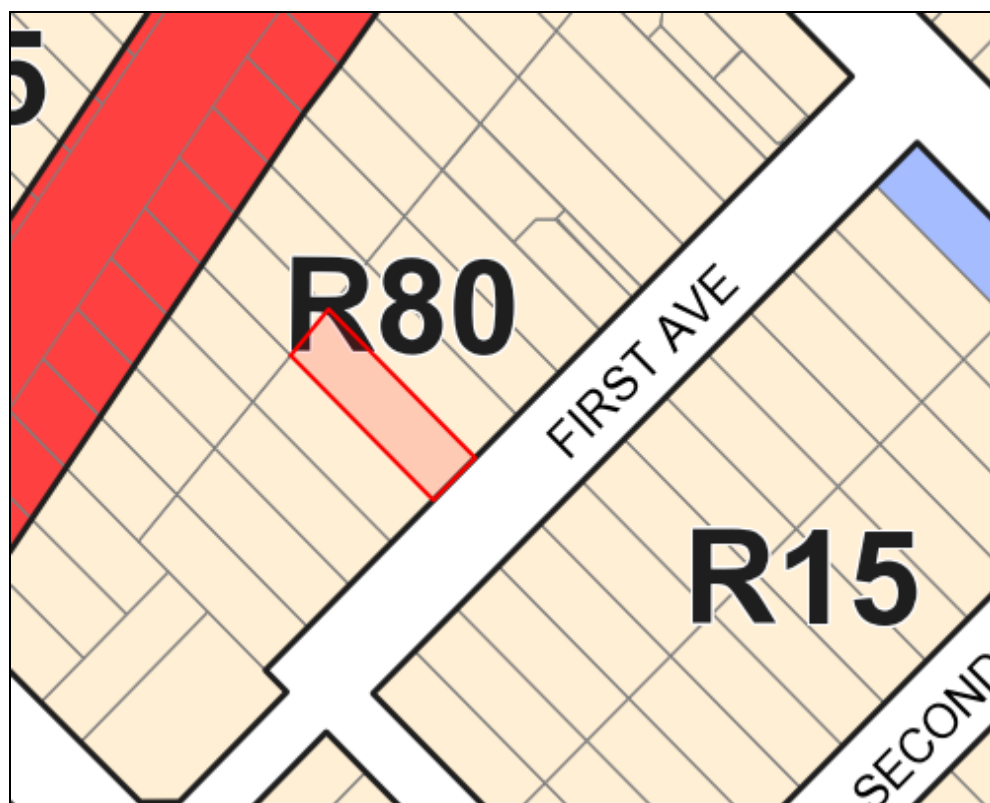
**Figure 1** below depicts the subject site and surrounds:



10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.



Figure 2 below depicts the zoning of the subject site and surrounds:



(c) **Description of the proposal**

The proposal involves the demolition of the existing single storey development and the construction of six multiple dwellings on the site, as depicted in the revised submitted plans referred to as **Confidential Attachment 10.3.1(a)**.

### 10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

Upon assessment of the revised plans, 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);
- Building height limit (TPS6 Clause 6.1A);
- Street setback (R-Codes Clause 6.1.3);
- Surveillance of street (R-Codes Clause 6.2.1);
- Street surveillance and fences (TPS6 Clause 6.7, 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”);
- Minimum and maximum floor levels, site works and retaining walls (TPS6 Clause 6.9 and 6.10, R- Code Clause 6.3.6 and 6.3.7, Council Policy P350.7 “Fencing and Retaining Walls”);
- Stormwater management (R-Code Clause 6.3.8);
- Dwelling size (R-Codes Clause 6.4.3); and
- External fixtures (R-Code Clause 6.3.6) – Specific Condition B(ii) has been included to ensure compliance with this element.

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

- Streetscape compatibility;
- Side and rear boundary setbacks (R-Codes Clause 6.1.4, Council Policy P350.2 “Residential Boundary Walls”);
- Boundary walls (R-Codes Clause 6.1.4, Council Policy P350.2 “Residential Boundary Walls”); and
- Solar access for adjoining sites (R-Codes Clause 6.4.2).

#### (d) **Streetscape compatibility**

During the neighbour consultation period, a number of submissions raised concerns with regards to the compatibility of the development within the streetscape indicating it would be out of character with the existing streetscape, particularly on the eastern side of Gwentyfred Road.

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 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.”*

### 10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

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 with conditions.

- (i) Description of existing streetscape  
While it is observed that the streetscape on the eastern side of First Avenue generally consists of single storey, single dwellings, the western side is more varied. On the western side of First Avenue a range of dwellings are observed from small, single storey houses to two-storey single residences and grouped dwellings, all of which have hipped roof forms. These buildings are generally setback between 4.5 and 7.0 metres of the street alignment, with some parking structures (carports) projecting forward of this setback. The colours and materials utilised on the surrounding buildings are varied between the older, weatherboard constructed houses and newer, brick constructed dwellings, however a predominance of zincalume roofing covers the houses with only a handful of tile roofed housing.
- (ii) Building height - Scale  
As indicated previously, the subject site has an assigned a building height limit of 10.5 metres. The proposed building has been designed to have a maximum wall height of 5.53 metres towards the front of the site. This figure is well below the prescribed maximum and is comparable with other two-storey developments upon the western side of First Avenue.
- (iii) Form and shape, rhythm, colour and construction material, orientation, architectural details  
As indicated in Point (i) above, the existing streetscape, particularly on the western side, contains 2 predominant types of dwelling; weatherboard associated with the older dwellings and brick with the newer. The proposed dwelling design looks to incorporate elements of the streetscape, in that the applicant has incorporated a combination of rendered brick and weatherboard cladding in the elevations of the dwelling. The proposed dwellings also demonstrate material and form consistency with the street, in that a hipped roof form with zincalume covering is proposed; see notated materials on elevation drawings in **Confidential Attachment 10.3.1(a)**.
- (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 regards, while Table 4 of the *Residential Design Codes* indicates 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.

While R80 coded sites can have a minimum setback of 2.0 metres, the applicant has proposed a setback of 7.1 metres to the ground floor façade and 3.3 metres to the upper floor balcony. The adjoining property, 8 First Avenue, demonstrates a setback of 1.5 metres to the carport and the other adjoining property, 12 First Avenue, demonstrates a 7.7 metre setback. Given the immediately adjoining property setbacks and the average building setback of the street, the proposed setback is seen to be acceptable and will assist in reducing the bulk of buildings as viewed from the street.

### 10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

(v) Landscaping visible from the street

The surrounding dwellings generally have large areas of landscaping within the front setback areas. This is a natural result of the area being developed with large front setbacks. The proposed development must accommodate 2 visitor's parking bays within the front setback area, minimising the available area for landscaping purposes. From the assessment of the initial plans, the landscaping within the street setback was deemed to be insufficient. This issue was raised with the applicant and the revised drawings demonstrate further landscaping of the front setback, achieving the required percentages while maintaining the 2 visitors' bays within the front setback area.

Additionally, the proposal was referred to the City's Design Advisory Consultants for comment in relation to a number of elements, including streetscape compatibility. The following comment was issued by the Consultants:

*"The Design Advisory Consultants observed that the proposed built form and the street elevation demonstrate compatibility with the existing streetscape character."*

(e) **Wall setbacks**

The deemed-to-comply criteria of Clause 6.1.4 of the R-Codes indicate walls on lots zoned R80 or greater, with frontages 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, the walls will be required to demonstrate that they meet the relevant design principles. It is clear from plans of the proposal, referred to as **Confidential Attachment 10.3.1(a)**, that a majority of wall setbacks, particularly on the southern and western (rear) boundaries, do not comply with the minimum prescribed setback of 3.0 metres for R80 zoned properties as per Table 5 of the R-Codes.

With regard to the proposed wall setback variations, the applicant has addressed the associated design principles of the R-Codes as follows:

*"Although the boundary setbacks are not compliant, it still contributes to the desired streetscape. The proposed development has been designed to R60 and is only 2 levels high. Also it provides an interesting and well-designed façade. The front façade has been articulated to the primary with balconies protruding over the ground floor. By allowing the above variation, will allow for a minor incursion that adds interest to the development without impacting over the appearance of the bulk over the site."*

The officer's assessment in accordance with the associated design principles of the R-Codes is as follows:

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

- Ensure adequate sunlight, direct sun and ventilation for buildings and the open space associated with them

As the adjoining property to the south has a relatively significant side setback of approximately 2.5 metres, officers consider the level of available sunlight, direct sun and ventilation for the building and open space to be adequate. The property to the rear of the development site has an extensive backyard, hence officers consider the setback variation to comply with the above. Additionally, there is no impact of shadow to this rear property as a result of this development.

### 10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

- Moderate the visual impact of building bulk on a neighbouring property  
When assessed as a two-storey building or R60 development (as is more appropriate for the proposed building form and scale), the upper floor is seen to be sufficiently articulated to reduce the impact of building bulk and to have compliant wall setbacks based on the proposed openings, height and extent of various upper floor walls (in accordance with table 2(a) and 2(b) of the R-Codes).
- Ensure access to daylight and direct sun for adjoining properties  
As discussed in Point 1 above, officers consider the setback variation to comply with this design principle.
- Assist with the protection of privacy between adjoining properties.  
There are no major openings facing the southern adjoining property, hence privacy is not seen as an issue with regard to wall setbacks.

#### Comment from the Design Advisory Consultants stated that:

*“Considering that the lots on the same side of the street as the subject site are assigned an R80 density coding and will potentially have similar high density developments in the future, the Advisory Consultants recommended that the proposed setback variations could be supported provided they comply with the associated design principles.”*

Considering the above assessment, City officers support the proposed wall setback variations as they comply with the associated design principles of the R-Codes, and when assessed as a R60 two-storey development, setbacks are seen to be compliant and the upper floor well-articulated.

#### (f) **Boundary walls – Southern lot boundary (Units 1 and 2 / Bed-store)**

Under Council Policy P350.2, the permitted height of residential boundary walls (parapets), adjacent to neighbouring outdoor living areas is a maximum of 2.7 metres high from the neighbour’s ground level. The initial plans of the proposal indicated boundary walls in excess of this height, and as such, the applicant was asked to reduce the height of the boundary walls to no greater than 2.7 metres. Revised drawings as part of **Confidential Attachment 10.3.1(a)**, demonstrated a reduction in the proposed boundary wall heights to an average of 2.64 metres and 2.54 metres respectively, therefore the proposed development complies with this element of Council policy.

In addition, the permitted primary street setback for boundary walls is 6.0 metres, and the proposed Unit 1 wall setback is 7.1 metres from the front boundary. Therefore, the proposed development complies with this element of Council policy.

Finally, the walls have 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:

- Negligible effect on the existing streetscape character; both walls are setback beyond the adjoining development and beyond the average front setback for the street.
- Negligible impact upon the outlook from the front of the adjoining dwelling or garden if forward of the proposed parapet wall; both walls setback beyond.
- No additional overshadowing of adjoining habitable room windows or outdoor living areas than is expected from the upper floor of the building.
- The impact of bulk on the adjoining outdoor living areas has been reduced by lowering the boundary wall height. The adjoining property and openings are

### 10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

setback 2.6 metres from the proposed walls. The adjoining property has an extensive backyard; the Unit 1 boundary wall is not near an area of expected outdoor living and the Unit 2 boundary wall is expected to impact the rear portion of the adjoining extensive backyard.

- Noted comments from the neighbour; see section “Neighbour consultation”.

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

#### (g) **Solar access for adjoining sites**

Given the R80 zoning of the subject and adjoining sites, the maximum area of permitted overshadowing is 50 percent (281m<sup>2</sup>) of the adjoining southern lot, and the proposed overshadowing is 31.34 percent (176.152m<sup>2</sup>) at noon on the 21 June. Therefore, the proposed development is well under the permissible maximum and complies with the deemed-to-comply solar access elements of the R-Codes.

Section 2.5.4 of the R-Codes states “the decision maker shall not refuse to grant approval to an application where the application satisfies the deemed-to-comply provisions of the R-Codes and the relevant provisions of the scheme and any relevant policy”. Despite this, and while technically compliant with the deemed-to-comply requirements of the R-Codes, officer assessment revealed that the proposed shadow would adversely impact the adjoining neighbour by overshadowing north facing openings despite a 2.5 metre setback to the adjoining dwelling. This consideration was included in the further information letter, referred to as **Attachment 10.3.1(b)**, with a request to consider flipping the plans, reducing the amount of building on the southern boundary and hence, reducing the potential amenity impact upon the adjoining neighbour caused by overshadowing.

In response to this request, the applicant stated that the design was to ensure that the future residents’ outdoor living areas and habitable room windows would all have access to northern winter sun while maintaining the required visual privacy setbacks for limited outdoor living areas; if the plans were to be flipped, nil north facing major openings would be present. The applicant also stated that the overshadowing is well under the deemed-to-comply permissible maximum percentage, and that upper floor wall setbacks are compliant if assessed as a two-storey dwelling. Given the deemed-to-comply requirements are met, the applicant’s argument is accepted.

#### (h) **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:

- Maintain the City's predominantly residential character and amenity.*
- 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.*
- 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.*

10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

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

**(i) 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 May 2014. The proposal was favourably received by the Consultants. Their comments and responses from the applicant and the City are summarised below:

<b>DAC Comments</b>	<b>Applicant's Response</b>	<b>Officer Comment</b>
The Design Advisory Consultants observed that the proposed built form and the street elevation demonstrate compatibility with the existing streetscape character.	Noted.	Noted and upheld.
The Advisory Consultants also observed that occupiers' bays are concealed from view	Noted.	Noted and upheld.

10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

<p>from the street and do not have an undesired visual impact on the neighbourhood. Additionally, the visitors' bays are suitably located so as to be visible from the street with a landscaping strip to ameliorate their visual impact.</p>		
<p>Having regard to promoting active street surveillance, the ground floor dwelling Unit 1 within the subject development should be designed with habitable room windows facing the street.</p>	<p>Amended plans, referred to as <b>Confidential Attachment 10.3.1(a)</b>, demonstrate the addition of openings to the front of the ground floor dwelling Unit 1.</p>	<p>Amended plans demonstrate the addition of openings to the ground floor dwelling Unit 1 to increase surveillance of the street and dwelling approach. Existing upper floor openings and visually permeable ground floor outdoor living areas also contribute to the natural surveillance of the street and dwelling approach – Amendments supported.</p>
<p>Considering that the lots on the same side of the street as the subject site are assigned an R80 density coding and will potentially have similar high density developments in the future, the Advisory Consultants recommended that the proposed setback variations could be supported provided they comply with the associated design principles.</p>	<p>Noted.</p>	<p>Noted and upheld.</p>

On the basis of the comments received regarding the proposed development, it was clear that other than a minor issue (addressed via amended plans) the Design Advisory Consultants' were supportive of the proposed multiple dwellings.

**(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". The proposed development required "Area 2" consultation with adjoining and nearby landowners in the immediate area. Adjoining and nearby landowners were invited to inspect the plans and to submit comments during a minimum 14-day period (however the consultation continued until this report was finalised).

During the advertising period, a total of 38 consultation notices were sent and 17 submissions were received; 0 in favour and 17 against the proposal. The comments of the submitters, together with officer response are summarised below:



10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

<b>Submitters' Comments</b>	<b>Applicant's Response</b>	<b>Officer Response</b>
<p>A great majority of submissions suggested the proposed car parking provision was thought to be highly inadequate, as it is expected that each dwelling will have 2 vehicles for occupiers, with excess vehicles to be parked off-site on the street.</p> <p>First Avenue already has existing major problems of congestion, access and safety due to a great amount of vehicles being parked upon the street and verges. The proposed development will further compound these issues due to a lack of adequate onsite parking.</p>	<p>Parking is compliant with the requirements of the R-Codes</p>	<p>The proposed development satisfies the onsite parking deemed-to-comply requirements prescribed in the R-Codes.</p> <p>In assessment, based on the dwelling number and size as well as the proximity to Canning Highway (high frequency bus route), the required number of occupier and visitor parking bays are 5.3 and 1.5 respectively. The proposed development proposes 6 occupier bays and 2 visitor bays, and is therefore compliant.</p> <p>Additionally, 2 bicycle parking spaces were required and 6 have been provided.</p>
<p>Strong objection raised in relation to proposed side and rear setback variations, particularly as the development is to abut single storey, single residential properties. Would like to see minimum setback of 3.0 metres be achieved in accordance with the minimum required setback prescribed by the R-Codes.</p> <p>Setback variations to produce adverse impacts upon adjoining properties in the form of overshadowing and imposing building bulk and a sense of enclosure by the larger development.</p>	<p>The design is to R60 plot ratio and is only two-storey.</p>	<p>When assessed as a two-storey building or R60 development (as is more appropriate for the proposed building form and scale), the upper floor is seen to be sufficiently articulated to reduce the impact of building bulk and to have compliant wall setbacks based on the proposed openings, height and extent of various upper floor walls (in accordance with Tables 2(a) and 2(b) of the R-Codes). As discussed in Part (e) of this report, the proposed wall setback variations comply with the associated design principles of the R-Codes.</p>
<p>The proposed development to overshadow major openings and outdoor living areas of the adjoining single storey, single house. To heavily reduce natural solar access, and hence the attractiveness and usability of these living areas.</p> <p>Question why a majority of development has been placed on southern boundary as this is to increase the overshadowing of the southern adjoining property.</p>	<p>The development complies with the deemed-to-comply requirements of the R-Codes and is designed to get as much northern light as possible for residents.</p>	<p>The proposal satisfies the deemed-to-comply requirements of the R-Codes, and therefore is to be accepted.</p> <p>The applicant's response; "The proposed design is to ensure that the future residents' outdoor living areas and habitable room windows would all have access to northern winter sun while maintaining the required visual privacy setbacks; if the plans were to be flipped, nil north facing major openings would be present". The applicant also stated that the overshadowing is well under the deemed-to-comply permissible maximum percentage, and that upper floor wall setbacks are compliant if assessed as a two-storey dwelling.</p>

10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

<p>The proposed development is not in character with existing development in the street, predominantly single house residences. The scale and extent of the development is a great deviation from smaller, single houses on the street.</p>	<p>Design respective and in character with the streetscape.</p>	<p>This building height is well within the prescribed maximum and is comparable with other two-storey developments upon the western side of First Avenue.</p> <p>Given the immediately adjoining property setbacks and the average building setback of the street, the proposed setback is seen to be acceptable.</p> <p>The proposed dwelling design looks to incorporate elements of the streetscape, in that the applicant has incorporated a combination of rendered brick and weatherboard cladding in the elevations of the dwelling. The proposed dwelling also demonstrates material and form consistency with the street, in that a hipped roof form with a zincalume covering is proposed; see notated materials on elevations drawings of <b>Confidential Attachment 10.3.1(a)</b>.</p> <p>Additionally, the comment from the Design Advisory Consultants:  <i>“The Design Advisory Consultants observed that the proposed built form and street elevation demonstrate compatibility with the existing streetscape character.”</i></p>
<p>Concerns with inadequate clothes drying areas provided, particularly for the front units. Expect that residents shall dry clothes on balconies; to be a visual eye-sore.</p>	<p>Adequate clothes drying facilities hidden from the street and adjoining residences.</p> <p>Happy to include drying machines for Units 1 and 3.</p>	<p>The submission upheld – Concerns with Units 1 and 3 accessibility to communal clothes drying facilities. The applicant has been informed and is happy, if required, to place drying machines into the units of concern.</p> <p>Additionally, a condition to be imposed to ensure all clothes drying facilities are hidden from view from the public street and adjoining residences.</p>

10.3.1 Proposed Six Multiple Dwellings (Two-Storey) - Lot 70 (No. 10) First Avenue, Kensington.

<p>Concerns raised that there is not enough space for rubbish bins on the proposed verge space; worried bins will be placed on adjoining verges and cause a nuisance to other landowners.</p> <p>The car parking and bin storage to be located along a stretch of the southern boundary, to generate noise and odour upon adjoining property.</p>	<p>Have amended plans to accommodate bins on the verge.</p>	<p>Amended plans, referred to as <b>Confidential Attachment 10.3.1(a)</b>, demonstrate a reduced crossover width, and therefore increased verge area to accommodate rubbish bins.</p> <p>The bin storage area has been assessed by Environmental Health who have no concerns with the location. There is no required setback from adjoining properties, however if odour becomes an issue, Environmental Health Officers are able to request landowners to remove bins to have them thoroughly cleaned.</p>
<p>Minimal landscaping and open space provisions for residents of the proposed development, with no public parkland within walking distance. Concerns with impact upon mental health of residents with insufficient outdoor living and garden areas for residents of the proposed development.</p>	<p>Have amended plans to comply with landscaping requirements.</p>	<p>Revised plans, as per <b>Confidential Attachment 10.3.1(a)</b>, demonstrate that landscaping now satisfies the R-Codes deemed-to-comply landscaping requirements.</p>
<p>The extent of boundary walls on the southern boundary to impact outlook and impose bulk, as well as further overshadowing of habitable openings and outdoor living areas of the adjoining property.</p>	<p>Have amended plans to show boundary walls at below required maximum height, 2.7 metres, in accordance with Council P350.2</p>	<p>Revised drawings, as part of <b>Confidential Attachment 10.3.1(a)</b>, demonstrated a reduction in the proposed boundary wall heights to an average of 2.64 metres and 2.54 metres respectively, therefore the proposed development complies with this element of Council policy.</p> <p>The permitted primary street setback for boundary walls is 6.0 metres, and the proposed Unit 1 wall setback is 7.1 metres from the front boundary. Therefore, the proposed development complies with this element of Council policy.</p> <p>See also Section (f) “Amenity assessment” of this report.</p>

**(c) Internal administration**

Comments were invited from Engineering Infrastructure, Environmental Health, and City Environment.

The Manager, Engineering Infrastructure section was invited to comment on a range of issues relating to car parking and traffic generated from the proposal. Full details of the Engineering response can be found in the Engineering memorandum dated 16 April 2014, referred to as **Attachment 10.3.1(c)**.

The Environmental Health department provided comments with respect to bins, noise, kitchens, laundries and toilets. This department raises no objections and has advised that no comments are applicable. Additionally as advised by the department, if odour from bins becomes a problem, Environmental Health officers can order landowners to remove bins and have them thoroughly cleaned.

The City Environment department provided comments that the proposed crossover should maintain a 2.0 metre clearance from the street tree. The proposed plans demonstrate approximately 3.2 metres, which is therefore deemed acceptable.

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

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.

**Financial Implications**

This determination has no financial implications

**Strategic Implications**

This matter relates to Strategic Direction 3 “Housing and Land Uses” identified within Council’s Strategic Plan 2013-2023 which is expressed in the following terms:

***Accommodate the needs of a diverse and growing population.***

**Sustainability Implications**

The proposed development has generally been designed having regard to the provisions of Council’s Sustainable Design Policy. The applicant has provided balconies and openings on the northern side of the dwellings, 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, for the most part, all of the relevant Scheme, R-Codes and / or Council policy objectives and provisions, hence 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 Three-Storey Office Building - Lot 2 (No. 6) Lyall Street, South Perth.

Location: Lot 2 (No. 6) Lyall Street, South Perth  
 Ward: Mill Point  
 Applicant: Bruce McLean Architects  
 Lodgement Date: 28 February 2014  
 Date: 1 July 2014  
 Author: Peter Ng, Planning Officer, Development Services  
 Reporting Officer: Vicki Lummer, Director, Development and Community Services

#### Summary

To consider an application for planning approval for a three-storey office building on Lot 2 (No. 6) Lyall Street, South Perth.

Element on which discretion is sought	Source of discretionary power
Relationship to the street	TPS6 Schedule 9 – Element 6
Side and rear setbacks	TPS6 Schedule 9 – Element 7
Parking	TPS6 Schedule 9 – Element 8
Canopies	TPS6 Schedule 9 – Element 9
Finished ground and floor levels – Minimum	TPS6 Clause 6.9

#### Officer Recommendation

That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for planning approval for a three-storey office building on Lot 2 (No. 6) Lyall Street, South Perth, **be approved** subject to:

#### (c) Standard Conditions

390	Crossover - Standards	340A	Boundary walls - Parapet (Visible)
393	Verge and kerbing works	470	Retaining walls - If required
625	Sightlines for drivers	471	Retaining walls - Timing
352	Car bays - Marked and visible	455	Dividing fences - Standards
354	Car bays - Maintained	456	Dividing fences - Timing
660	Expiry of approval	445	Stormwater infrastructure
		550	Plumbing

#### (b) Specific Conditions

- (i) The designated visitor parking bays shall be clearly identified onsite by means of a sign bearing the words "Visitors' Parking Only" in accordance with the requirements of Clause 6.3(11) of *Town Planning Scheme No. 6*.
- (ii) In accordance with the requirements of Clause 6.4(5) of *Town Planning Scheme No. 6*, end of trip facilities for cyclists shall be provided for the use of staff. The design and location of those facilities shall be to the satisfaction of the City, and the facilities shall be provided at the following ratios:
  - (A) Number of secure clothes lockers – One (1) per bay (total of 4); and
  - (B) Number of showers – One (1) male and one (1) female shower in separate change rooms per 10 bays (total one (1) male unisex shower).
- (iii) The designated visitor parking bays shall be clearly identified onsite by means of a sign bearing the words "Visitors' Parking Only" in accordance with the requirements of Clause 6.3(11) of *Town Planning Scheme No. 6*.
- (iv) Provision shall be made in the design of the floor and walls of the building for adequate protection against subsoil water seepage, and prior to lodging a building permit the applicant shall:
  - (A) Provide the City with certification from a consulting engineer that adequate waterproofing has been achieved; and

10.3.2 Proposed Three-Storey Office Building - Lot 2 (No. 6) Lyall Street, South Perth.

(B) Satisfy the City that the proposed levels are acceptable, having regard to the 100 year flood levels applicable to the lot.

**(c) Standard Advice Notes**

700A	Building permit required	716	Fences note - Comply with that Act
005	Revised drawings required	790	Minor variations - Seek approval
706	Applicant to resolve issues	795B	Appeal rights - Council decision

**(d) Specific Advice Notes**

(i) The applicant / owner are advised of the need to comply with the City’s Engineering Infrastructure department requirements. Please find enclosed the memorandum dated 15 April 2014 to this effect.

(ii) The applicant / owner are advised to liaise with the City’s Environmental Health department to ensure satisfaction of all of the relevant requirements.

The refuse receptacle area is to be provided with the following:

- (A) A tap connected to an adequate supply of water.
- (B) Smooth, impervious walls constructed of approved materials not less than 1.5 metres in height.
- (C) An access way of not less than 1.0 metre in width for a 240 litre mobile garbage bin, or 1.5 metre width for an 1100 litre mobile garbage bin, fitted with a self-closing gate.
- (D) Smooth, impervious floor of not less than 74.0mm thickness, evenly graded and adequately drained to a minimum 100mm diameter industrial graded floor waste.
- (E) Easy access to allow for the removal of containers.
- (F) The internal bin areas to be sealed from other internal rooms, and be provided with mechanical ventilation capable of exhausting not less than 5.0 litres of air per second per 1.0m<sup>2</sup> of floor area, ducted to the outside air.
- (G) The minimum size of the bin enclosure is to the satisfaction of the City’s Manager, Environmental Health and Regulatory Services at a general rate of 1.5m<sup>2</sup> per 240 litre bin, or 2.5m<sup>2</sup> per 1100 litre bin.

(iii) 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*.

(iv) In accordance to Council Policy P316 “Developer Contribution for Public Art”, the City encourages the owner / private developer of the subject site to contribute towards public art commissions within the vicinity of the development. Developers of public or commercial projects of a lesser value than \$4 million are encouraged to contribute public art or a nominal amount, being generally in the order of 1% of the total project cost, to the City’s Public Art Fund.

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

10.3.2 Proposed Three-Storey Office Building - Lot 2 (No. 6) Lyall Street, South Perth.

**Background**

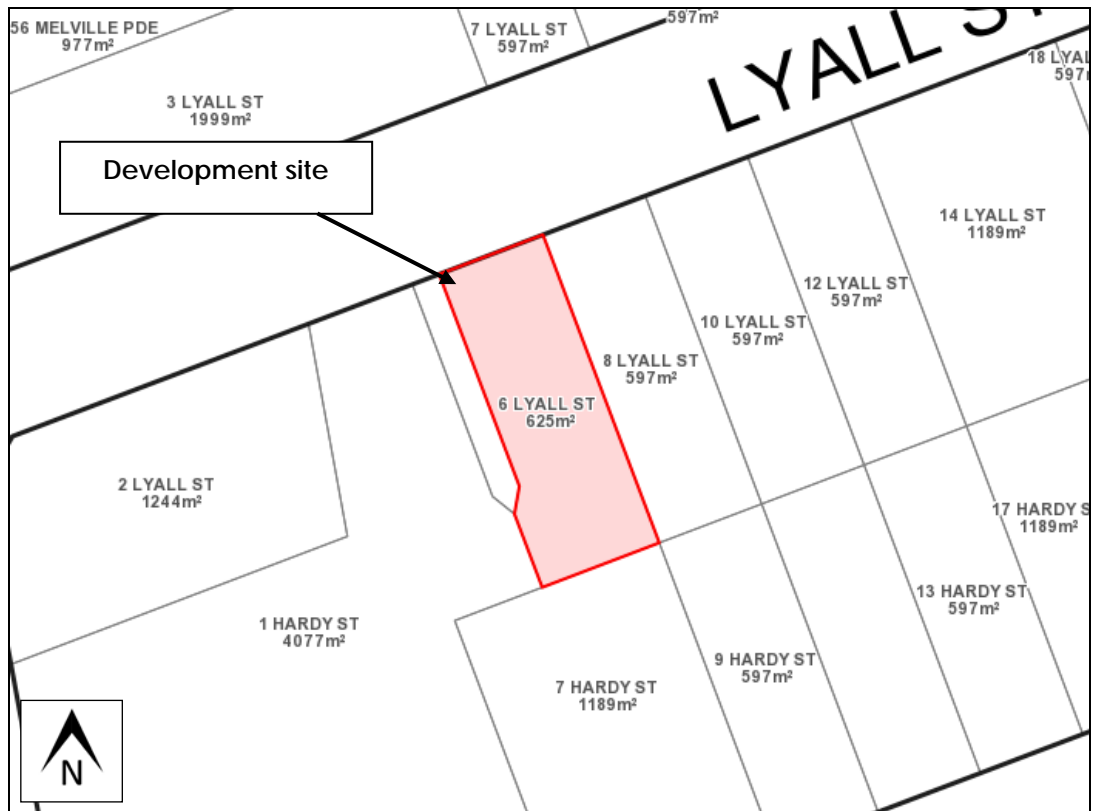
The development site details are as follows:

<b>Zoning</b>	Special Control Area 1 - South Perth Station Precinct (Scott / Richardson Sub-Precinct)
<b>Density coding</b>	R60/80
<b>Lot area</b>	625 sq. metres
<b>Building height limit</b>	25.0 metres (To finished level of the uppermost storey)
<b>Plot ratio limit</b>	Minimum plot ratio of 1.0

This report includes the following attachments:

- Attachment 10.3.2(a)** Drawings of the proposal.
- Attachment 10.3.2(b)** Engineering Infrastructure memorandum.
- Attachment 10.3.2(c)** 3-D perspective view.

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**

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

The proposed development represents the departure from some of the Elements in Schedule 9 of TPS6, namely “Relationship to the Street”, “Side and Rear Setbacks” and “Parking”. These variations are considered minor in nature and can be supported. The proposed development meets the intent of the guidance statements for the precinct and is considered acceptable as described in the report.

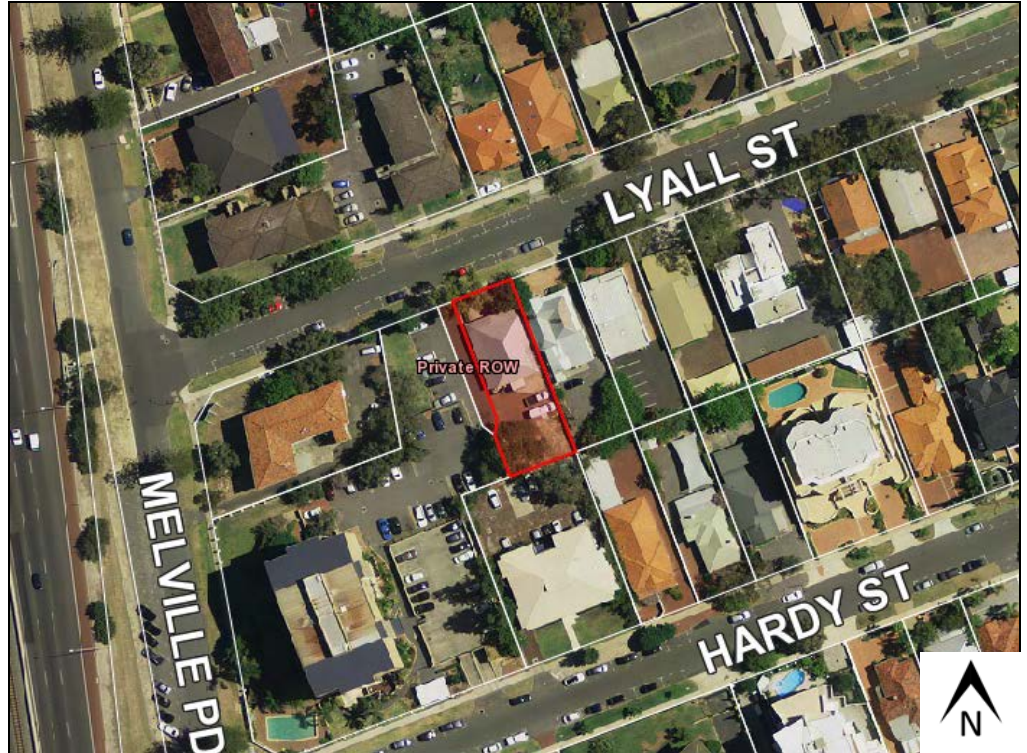
10.3.2 Proposed Three-Storey Office Building - Lot 2 (No. 6) Lyall Street, South Perth.

**Comment**

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

The focus area is characterised by a mix land uses, including multiple dwellings, offices, and various non-residential land uses. The subject site is situated on relatively flat land with parking located at the rear of the existing building.

The site has a frontage to Lyall Street to the north as seen below:



The onsite car parking is accessed via a private ROW shared with adjoining multiple dwellings of No. 1 Hardy Street.



*Site photo 1 above shows the subject site and private ROW.*



**(b) Description of the proposal**

The City received an application on 28 February 2014 which involves the demolition of the existing single storey structure and construction of a three-storey office building on Lot 2 (No. 6) Lyall Street, South Perth (the subject site), as depicted in the submitted plans referred to as **Attachment 10.3.2(a)**.

The proposed development is considered to be generally compliant with the provisions of Schedule 9, the provisions of TPS6 where applicable, and relevant Council policies. The following planning aspects have been assessed and found to be compliant with the provisions of Schedule 9, the remainder of TPS6 and the R-Codes, and therefore have not been discussed further in the body of this report:

- Land use (Schedule 9 of TPS6 – Table A Element 1);
- Ground floor uses (Schedule 9 of TPS6 – Table A Element 2.2);
- Plot ratio and land use proportions (Schedule 9 of TPS6 – Table A Element 3.1 and 3.2);
- Podium height (Schedule 9 of TPS6 – Table A Element 4.1);
- Building height (Schedule 9 of TPS6 – Table A Element 5.1);
- Vehicular crossovers (Schedule 9 of TPS6 – Table A Element 10.1 and 10.2); and
- Designing out crime (Schedule 9 of TPS6 – Table A Element 14.1 – 14.6).

The following matters, some of which require the exercise of discretion, are considered acceptable and discussed further below:

- Relationship to the street (Schedule 9 – Element 6);
- Side and rear setbacks (Schedule 9 – Element 7);
- Parking (Schedule 9 – Element 8, Clause 6.3 and Schedule 5 of TPS6);
- Canopies (Schedule 9 – Element 9); and
- Finished ground and floor levels – Minimum (Clause 6.9, TPS6).

**(c) Relationship to the street**

As indicated in Element 6 “Relationship to the Street”, comprehensive new development should generally incorporate a podium with a nil street setback. The subject site is located within the Scott Richardson precinct, and as such, the development requirements contained within Element 6.6 apply.

Element 6.6.1 indicates the podium shall have a nil street setback for a minimum of 60% of the lot frontage, unless otherwise approved by Council. The northern edge of the building podium is setback approximately 400mm, while the western portion of the building podium has a street (ROW) setback of 900mm.

The applicant has provided justification for the ground floor setback as summarised below:

- *Lot 2 adjoining Lot 66 (ROW) is a unique site as it will provide a bookend to a row of buildings on its eastern side;*
- *As such, it has been designed to have 3 visible sides (adjoining boundary excluded);*
- *These elevations incorporate yellow tapered columns and dark grey columns standing in front of the glass line together with Alucobond clad floor projections and projecting eaves overhangs; and*
- *All of these elements will add to the 3-dimensional effect of the details and its ultimate appearance. Any suggestion to not provide these elements will adversely compromise the design.*

### 10.3.2 Proposed Three-Storey Office Building - Lot 2 (No. 6) Lyall Street, South Perth.

The City officers observed that the yellow tapered columns have a nil setback, and the minor setback of façade treatment for all 3 levels will provide additional articulation to the building, addressing both Lyall Street and the ROW.

Therefore, City officers consider the proposed street setback variations at the ground floor and podium levels to be minor in nature and capable of support. The proposed development will result in an active ground floor, with minimal blank and solid walls, while maintaining the visual appearance of a nil setback podium as demonstrated in **Attachment 10.3.2(c)**.

#### (d) Side and rear setbacks

Element 7.2 indicates the setback to the side and rear boundaries shall be zero for the podium walls. The proposed podium is setback 10.4 metres from the rear southern boundary. The first and second level proposed podium structure, which does not run along the entire length of the site, is inconsistent with Element 7.2.

The applicant advised that a zero setback cannot be achieved given the 3-level podium structure and the parking constrains of the site, and therefore is seeking a variation to this requirement.

Clause 7.2 provides Council with discretion to permit variations to the setback where the development is consistent with the guidance statement. The guidance statement to Element 7 is as follows:

- “(a) To ensure a high degree of continuity of the street edge, zero side and rear setbacks will be permitted for the podium / lower levels;*
- (b) Setbacks for upper levels or levels above the podium are required to enable a reasonable degree of light and solar penetration between buildings; and*
- (c) Side and rear setbacks to properties, containing or adjacent to a heritage building, shall preserve the character of the heritage building.”*

In relation to Point (a) of the guidance statement, City officers consider the podium maintains a high degree of continuity of the street edge, as well as the private ROW. The proposed car parking to the rear, as seen in **Attachment 10.3.2(a)**, visually meets the zero setback requirements. Points (b) and (c) of the guidance statement are not applicable for this development. The proposal is observed to be consistent with the guidance statement, hence the proposed rear setback variation is supported by officers.

#### (e) Parking

Under Element 8.1 of Table A, the minimum provision of onsite car parking for non-residential land uses is “one (1) bay per 50.0m<sup>2</sup> of gross floor area”. Gross Floor Area (GFA) is defined in TPS6 as:

*“The area of all floors of a building measured from the outer faces of external walls, but the term does not include any balcony and any area within the building used for parking of vehicles, for vehicular access, or for end-of-trip facilities for cyclists.”*

Under the above definition, City officers have considered the drawings and GFA of the proposed development is 964.0m<sup>2</sup>, requiring 19.28 car parking bays. The drawings submitted indicated a proposed Gross Floor Area (GFA) of 950.0m<sup>2</sup> with provision of 19 car parking bays within the development site. The applicant provided justification that the GFA should not include the bin store as it is a non-habitable storage space that provides a bin storage facility for the office complex.

### 10.3.2 Proposed Three-Storey Office Building - Lot 2 (No. 6) Lyall Street, South Perth.

The 0.28 car parking shortfall resultant of inclusion of bin store and store room is considered negligible. Additionally, City's officers observed that the bin storage area is an essential facility for the office complex and not being a use for commercial purposes. Therefore, it is considered the proposed minor variations may be supported.

In accordance with Clause 6.3(8) of TPS6, the dimensions of car parking bays and associated accessways shall not be less than those prescribed in Figure 1 of Schedule 5. Where obstructions are present, the width of the bays shall be adjusted accordingly.

Figure 1 of Schedule 5 of TPS6 indicates the car parking bays should have a minimum dimension of 2.5 × 5.5 metres, with an associated access width of 6.0 metres. The proposed car parking bay widths are either 2.4 metres or 2.5 metres, with an aisle width of 6.0 metres.

The proposal was referred to the City's Engineering Infrastructure Services as detailed in the "Internal Administration" section of this report. The Engineering department, as well as the applicant, have indicated that these smaller bays comply with the minimum requirements of the Australian Standards despite their non-compliance with the provisions of TPS6. The Manager of Engineering Infrastructure advised that:

*"The Australian Standard identifies the bay module to satisfy the B85 vehicle single movement entry and exit as 2400mm by 5400mm, with an aisle width of 5800mm. The bay layout is considered to be adequate for the expected use, and should not be an impediment to the application being processed."*

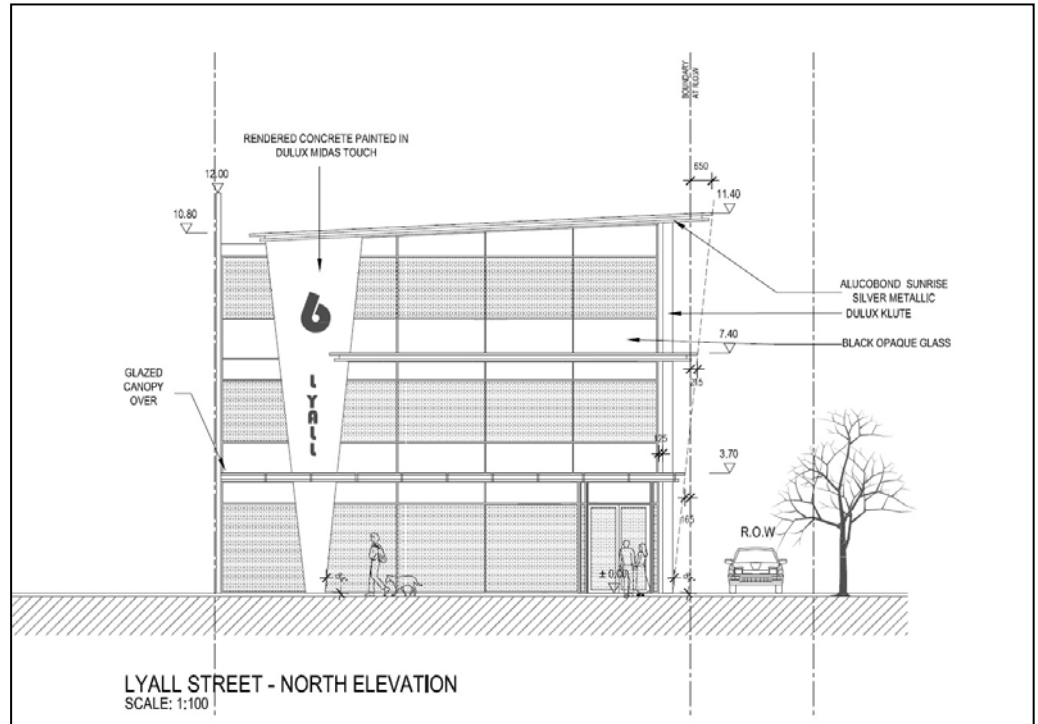
While the 2.4 metres wide bays do not comply with TPS6 requirements, Council discretion is sought with respect to minor variations in the number of car parking bays and smaller bay's dimensions.

#### **(f) Canopies**

Under Element 9 where a building abuts the street boundary, a canopy with a minimum projection depth of 2.5 metres shall be provided over the street footpath. The proposed development provides 2.5 metres glazed awning over the footpath, and therefore complies with this element.

At upper Level 1 and 2, there are roof eaves overhangs beyond the proposed development boundary. The roof eave at Level 1 overhangs over the ROW by 215mm, and is 7.40 metres above ground level. To maintain the tapered building bulk effect, Level 2 roof eaves overhang further by 650mm over the ROW boundary which is 11.40 metres above ground level, as depicted in the front elevation below:

### 10.3.2 Proposed Three-Storey Office Building - Lot 2 (No. 6) Lyall Street, South Perth.



The owner of the development site (Lot 2) owns the adjoining ROW (Lot 66) and grants right-of-carriage easement benefit to Lot 1 (1) Hardy Street. The applicant provided justification that the proposed roof eaves overhang over the ROW will not impinge Lot 1 (1) Hardy Street right-of-access, as any road going truck cannot have a load exceeding 4.50 metres in height.

The roof overhangs have similar roof projections over Lyall Street. The City's Engineering section has provided the following comments in regards to the proposed roof eaves over the street and ROW:

*"The City must ensure that a decision allowing an encroachment into the road reserve does not interfere with or hinder any public utility from installing or repairing any service they have on, under or above ground level.*

*The encroachment, as proposed by Architect Bruce McLean, would only have an impact on aerial services if they were present in the street. Lyall Street is an underground power area without any overhead power infrastructure. All telecommunications in the street are below ground, and there is no likelihood of the current telecommunications rollout reverting to an overhead network.*

*Therefore, in terms of the minor encroachment at roof level (essentially an eaves overhang that serves no other purpose than enhance the appearance of the building frontage), Engineering Infrastructure has no issues with it and agrees that written consent can be given for the encroachment into the Lyall Street road reserve.*

*Engineering Infrastructure has no issues with the encroachment over the private ROW off Lyall Street (as I understand it on land owned by Lot 2 #6 Lyall Street) and supports the proposal as submitted."*

The City also sought comments from adjoining residence at No. 1 Hardy Street who have the right-of-carriageway over the ROW. The Strata Management Company managing the property of No. 1 Hardy Street provided a written response to the City stating "no comment".

### 10.3.2 Proposed Three-Storey Office Building - Lot 2 (No. 6) Lyall Street, South Perth.

Based on the above, City officers consider that the incursion of the architectural features over the street and ROW will have a minimal impact to both streets. In addition, the architectural features will assist in providing visual interest to the upper floors improving the overall built form. It is considered the proposed variations can be supported.

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

Clause 6.9(2) of TPS6 requires a minimum floor level of 1.75 metres above Australian Height Datum (AHD) for non-habitable rooms and car parking. The floors of habitable rooms shall be not less than 2.3 metres AHD.

The amended plans indicate a floor level of a minimum 1.75 metres AHD for the car parking which complies with Clause 6.9.2 of TPS6. As shown in **Attachment 10.3.2(a)**, the ground floor office tenancy is at 1.9 metres AHD which does not comply with the required minimum of 2.3 metre AHD.

Engineering Infrastructure also advised as follows:

*"The undercroft car park design level is the same as the FFL of Unit 1 and the lobby. This makes for easy access to the disability bays, but provides only 150mm 'freeboard' in the event of a drainage failure. The Draft Water Sensitive Urban Design (WSUD) Guidelines recommends that 300mm freeboard to building floor levels be provided to accommodate the 1:100 storm event.*

*The alternative is to increase the storage capacity of the collection tanks to meet this target (the 2.3 metre habitable floor level within TPS6 would satisfy the 'freeboard' requirement within this precinct)."*

The applicant advised that the 300mm 'freeboard' cannot be achieved without raising the existing footpath levels, and in turn the road levels. Therefore, the applicant informed that all soak wells and drainage (onsite storage with controlled discharge) will be designed by a hydraulics engineer to meet with the requirement of Clause 6.9 of TPS6.

Clause 6.9(3) of TPS6 allows discretion by Council provided:

- "(i) Provision is made in the design and construction of the floor and walls of the building for adequate protection against subsoil water seepage;*
- (ii) The applicant provides Council with certification from a consulting engineer that adequate waterproofing has been achieved; and*
- (iii) The applicant satisfies Council in such manner as Council may specify that the proposed levels are acceptable, having regard to the 100 year flood levels applicable to the lot."*

A specific condition will be imposed requiring the applicant to design the floor and walls of the building for adequate protection against subsoil water seepage, and prior to the lodging a building permit, the applicant shall:

- (i) Provide the City with certification from a consulting engineer that adequate waterproofing has been achieved; and*
- (ii) Satisfy the City that the proposed levels are acceptable, having regard to the 100 year flood levels applicable to the lot.*

With the provision of the required additional design provisions and certification from a hydraulic engineer, the proposed ground floor office tenancy now satisfies Clause 6.9(3) provisions of TPS6 and is acceptable to officers.

**(h) 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:

- (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.*
- (f) Safeguard and enhance the amenity of residential areas, and ensure that new development is in harmony with the character and scale of existing residential development.*
- (g) Protect residential areas from the encroachment of inappropriate uses.*
- (i) Create a hierarchy of commercial centres according to their respective designated functions, so as to meet the various shopping and other commercial needs of the community.*
- (j) In all commercial centres, promote an appropriate range of land uses consistent with:
  - (i) the designated function of each centre as set out in the Local Commercial Strategy; and*
  - (ii) the preservation of the amenity of the locality.**

With regards to the abovementioned objectives, the proposed development is considered to comply subject to the recommended conditions.

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

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

- (a) The objectives and provisions of this Scheme, including the objectives and provisions of a precinct plan and the Metropolitan Region Scheme.*
- (b) The requirements of orderly and proper planning, including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought.*
- (i) The preservation of the amenity of the locality.*
- (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.*
- (s) Whether the proposed access and egress to and from the site are adequate, and whether adequate provision has been made for the loading, unloading, manoeuvre and parking of vehicles on the site.*
- (w) Any relevant submissions received on the application, including those received from any authority or committee consulted under Clause 7.4.*
- (x) Any other planning considerations which Council considers relevant.*

### 10.3.2 Proposed Three-Storey Office Building - Lot 2 (No. 6) Lyall Street, South Perth.

With regards to the abovementioned matters, the proposed development is considered to comply, 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 on 14 May 2014. Their comments and responses from the applicant and the City are summarised below:

DAC Comments	Applicant's Response	Officer Comment
The Design Advisory Consultants observed that while the proposed built form was acceptable, additional texture and materials to the ground floor level will enhance the streetscape and add to the pedestrian experience.	We disagree with the DAC advice and believe that any further enhancement will greatly affect the simplicity of the design intent of the overall building.	The City officers observed that the proposed drawings are considered to generally meet the intent of the guidance statements, and as such, are supported by City officers.
Noting the City's <i>Town Planning Scheme No. 6</i> car parking bay width requirement of 2.5 metres, the Advisory Consultants observed that the small car bay width of 2.3 metre is not acceptable.	All car parking bays are designed to comply with AS2890 Part 1 for off-street parking, and as in our application for 7 Lyall Street, smaller width car bays were approved.	Amended drawings reflect the car parking bay widths of either 2.4 metres or 2.5 metres. A referral was sent to Engineering Infrastructure for comment in relation to the proposed parking layout. This matter is discussed in further detail in Section (d) of this report. The DAC comment is noted.

10.3.2 Proposed Three-Storey Office Building - Lot 2 (No. 6) Lyall Street, South Perth.

<p>While the Consultants were not particularly concerned with regards to the roof projections over the street, it was expressed that comments from relevant authorities / departments will provide appropriate direction in this regard.</p>	<p>I have sought the advice of the Lands Department and have commented the followings: <i>“Department of Land’s policy allows for encroachments that may be of a more substantial nature than a minor encroachment, provided that they are not being used for commercial purposes and provide a public benefit (e.g. streetscape or weather protection). In this instance it is recognised that the encroachment is of a minor nature, and as such, a requirement for tenure under the Land Administration Act 1997 would not be required.”</i></p>	<p>The City officers observed the minor roof projections are considered to benefit the streetscape in terms of enhancing the quality architectural design and will have a minimal impact to both streets. The Strata Management company managing the property of No. 1 Hardy Street provided written response to the City stating “no comment”, which is discussed in further detail in Section (e) of this report. The DAC comment is noted.</p>
--	---	---

Based on the above DAC comments and 3-D perspective provided in **Attachment 10.3.3(c)**, the proposal is observed to generally meet the intent of the guidance statements, and as such, is supported by City officers.

**(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 at Nos. 2, 3, 7, 8, 9, 10, 11 and 12 Lyall Street, Nos. 1, 7, 9 and 11 Hardy Street, and No. 56 Melville Parade were invited to inspect the plans and to submit comments during a minimum 14-day period (however the consultation continued until this report was finalised).

During the advertising period, a total of 13 consultation notices were sent. One adjoining landowner viewed the drawings of the proposal, but no formal submissions / objections to the proposal were received throughout the consultation period.

**(c) Internal administration**

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

The Manager, Engineering Infrastructure was invited to provide comment relating to access to the parking area, parking and stormwater drainage. **Attachment 10.3.2(b)** contains a memo from Engineering Infrastructure. This department is generally supportive of the proposal, subject to the inclusion of standard conditions relating to crossovers, stormwater drainage and parking.

The Environmental Health department raises no objections in relation to this proposal with the following comments:



### 10.3.2 Proposed Three-Storey Office Building - Lot 2 (No. 6) Lyall Street, South Perth.

*“The refuse receptacle area is to be provided with the following:*

- (i) A tap connected to an adequate supply of water;*
- (ii) Smooth, impervious walls constructed of approved materials not less than 1.5 metres in height;*
- (iii) An access way of not less than 1.0 metre in width for a 240 litre mobile garbage bin, or 1.5 metre width for an 1100 litre mobile garbage bin, fitted with a self-closing gate;*
- (iv) Smooth, impervious floor of not less than 74.0mm thickness, evenly graded and adequately drained to a minimum 100mm diameter industrial graded floor waste.*
- (v) Easy access to allow for the removal of containers;*
- (vi) Internal bin areas to be sealed from other internal rooms, and be provided with mechanical ventilation capable of exhausting not less than 5.0 litres of air per second per 1.0m<sup>2</sup> of floor area, ducted to the outside air; and*
- (vii) The minimum size of the bin enclosure is to the satisfaction of the City’s Manager, Environmental Health and Regulatory Services at a general rate of 1.5m<sup>2</sup> per 240 litre bin, or 2.5m<sup>2</sup> per 1100 litre bin.*

#### Noise generally

*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.”*

Accordingly, planning conditions and important notes are recommended to reflect 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.

#### **Financial Implications**

This determination has no financial implications.

#### **Strategic Implications**

This matter relates to Strategic Direction 3 ‘Housing and Land Uses’ identified within Council’s Strategic Plan 2013-2023 which is expressed in the following terms:

***Accommodate the needs of a diverse and growing population.***

#### **Sustainability Implications**

Being a non-residential land use of a non-sensitive nature, it is considered that the development enhances sustainability by providing opportunities for 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. Areas of discretion are supported by officers and recommended for approval by Council, as it will not have a detrimental impact on adjoining properties and streetscape. Accordingly, it is considered that the application should be conditionally approved.

### 10.3.3 Proposed Additions & Change Of Use To Cafe / Restaurant. Lot 145 (No. 147a-147c) Canning Highway, South Perth

Location: Lot 145 (No. 147a-147c) Canning Highway, South Perth  
 Applicant: M Zhai  
 Lodgement Date: 06 February 2014  
 Date: 01 July 2014  
 Author: Cameron Howell, Acting Senior Planning Officer  
 Reporting Officer: Vicki Lummer, Director, Development and Community Services

#### Summary

To consider an application for planning approval for additions to the existing building and a change of use to Cafe / Restaurant to two of the three existing tenancies on Lot 145 (No. 147a-147c) Canning Highway, South Perth. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Café/Restaurant land use	TPS6 clause 3.3
Street Setback	TPS6 clause 7.8(1)
Landscaping	
Car parking provision	

#### Officer Recommendation

That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for planning approval for Additions & Change of Use to Cafe / Restaurant on Lot 145 (No. 147a-147c) Canning Highway, South Perth, **be approved** subject to the following conditions:

#### (a) Standard Conditions

340A	Boundary wall surface finish to match the proposed building	425	Material and colour finish of additions to match the existing building
352	Car bays marked on site	445	Stormwater disposal
354	Car park maintained in good condition		

#### (b) Specific Conditions

- (i) The hours of operation of the restaurant dining area and the take-away are limited to: 5:00pm to 10:30pm daily.
- (ii) 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.
- (iii) As indicated on the approved plans, the use of the upper floor is restricted for storage purposes for the Café/Restaurant business, though may also be used as a staff lunchroom and an office for the Café/Restaurant business. The upper floor is not to be used for human habitation or as a dining area.
- (iv) As per a recommendation from Main Roads Western Australia, the development shall comply with the following requirements:
  - (A) No earthworks to encroach onto the Canning Highway reserve;
  - (B) No stormwater drainage shall be discharged onto the Canning Highway reserve; and
  - (C) No vehicle access shall be permitted onto or from Canning Highway reserve from Lot 145 except at the designated Right of Way access point.

10.3.3 Proposed Additions & Change Of Use To Cafe / Restaurant. Lot 145 (No. 147a-147c) Canning Highway, South Perth

**(c) Standard Advice Notes**

700A Building permit required 790 Variations to approval  
 700C Signs - Main Roads approval required 795B Appeal rights - Council decision

**(d) Specific Advice Notes**

(i) The applicant is advised of the need to comply with the requirements of the City's Environmental Health Services department.

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

**Background**

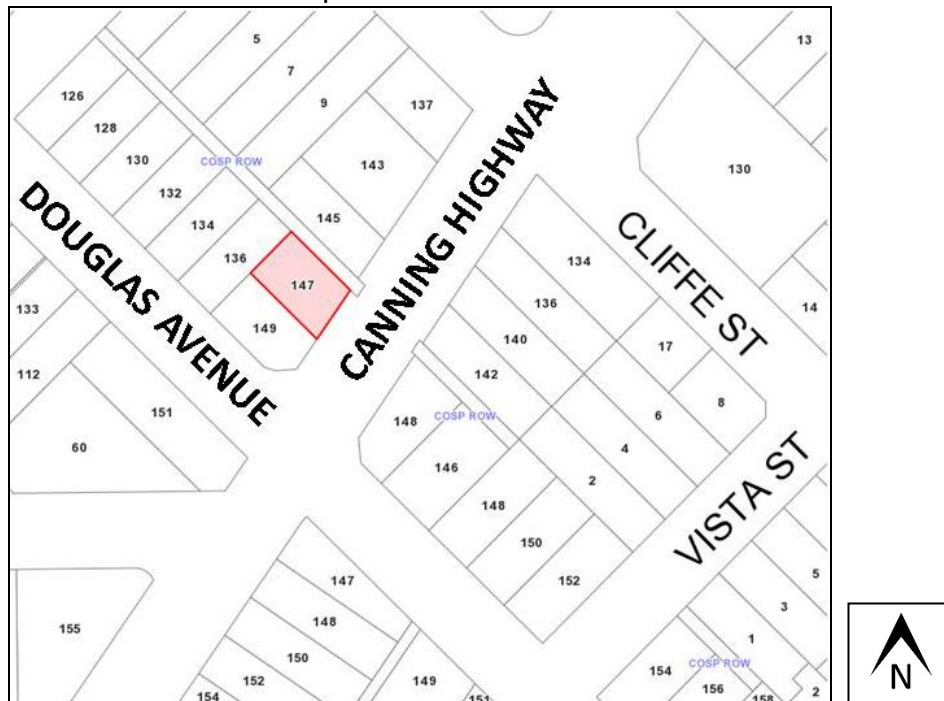
The development site details are as follows:

<b>Zoning</b>	Highway Commercial
<b>Density coding</b>	R80
<b>Lot area</b>	361 sq. metres
<b>Building height limit</b>	10.5 metres
<b>Development potential</b>	Permissible non-residential land uses
<b>Plot ratio limit</b>	0.50

This report includes the following attachments:

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

The location of the development site is shown below:



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

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

10.3.3 Proposed Additions & Change Of Use To Cafe / Restaurant. Lot 145 (No. 147a-147c) Canning Highway, South Perth

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

**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.

**Comment**

**(a) Background**

In February 2014, the City received an application for two storey additions to an existing single storey non-residential building and a change of use to Café/Restaurant on Lot 145 (No. 147a-147c) Canning Highway, South Perth (the site). The applicant submitted revised plans in April 2014.

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

The site is located at Lot 145 (No. 147a-147c) Canning Highway, South Perth. The existing development is a single storey building containing three tenancies, two occupied a Shop (currently a hairdresser) and a vacant tenancy, previously occupied by either Shops or Offices. Photographs of the site are provided in **Attachment 10.3.3(b)**.

**(c) Description of the Surrounding Locality**

The site has a frontage to Canning Highway to the south east and Right-of-Way 44 to the north east. The site is located adjacent to a non-residential building containing Shops and Offices to the south west, a Single House to the north west and various non-residential land uses on the opposite side of the highway and the right-of-way. **Figure 1** below shows an aerial photograph of the site:



10.3.3 Proposed Additions & Change Of Use To Cafe / Restaurant. Lot 145 (No. 147a-147c) Canning Highway, South Perth

**(d) Description of the Proposal**

The proposal involves the construction of two storey additions and a change of use for two of the three tenancies to Café/Restaurant on Lot 145 (No. 147a-147c) Canning Highway, South Perth, as depicted in the submitted plans at **Attachment 10.3.3(a)**. The Café/Restaurant is proposed to operate daily between 5:00pm and 10:30pm. The Applicant's letter, **Attachment 10.3.3(c)**, describes the proposal in more detail.

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 the provision of car parking. Further details of the discretionary components of the assessment are all as discussed below.

**(e) Compliant Aspects of the Development**

The proposal is observed to comply with the following components of TPS6 and Council Policies:

- Plot ratio: 0.50 (180.5m<sup>2</sup>) permitted, maximum 0.496 (179m<sup>2</sup>) proposed (TPS6 cl. 5.1 and Table 3);
- Side and rear lot boundary setbacks (TPS6 cl. 5.1 and Table 3);
- Building height limit: 10.5m permitted, maximum 7m proposed (TPS6 cl. 6.1A);
- Dimensions of car parking bays and accessways (TPS6 cl. 6.3(8) and Schedule 5);
- Bicycle parking: no bicycle bays required (TPS6 cl. 6.4 and Table 6);
- Canning Highway vehicular access (TPS6 cl. 6.6(1));
- Minimum and maximum ground and floor levels (TPS6 cl. 6.9 & 6.10); and
- Signage (TPS6 cl. 6.12 and Council Policy P308).

**(f) Land Use**

The proposed land use of Café/Restaurant is classified as a 'D' (Discretionary) land use in Table 1 (Zoning - Land Use) of TPS6. In considering this discretionary use, the site is located within a commercial centre and is not observed to affect the adjacent residential property. Accordingly, the use is regarded as complying with Table 1 of TPS6.

**(g) Specific Street Setback**

The permissible minimum specific street setback from Canning Highway is 4.0 metres, including the 2.5 metres already resumed for future road widening, resulting in a 1.5 metres setback requirement from the Canning Highway lot boundary. The existing ground floor component and the existing fascia wall above the ground level both have a nil street setback. There are no external additions to the building within 1.5 metres of the street boundary. Accordingly, the proposed development is considered to comply with Table 5 of TPS6.

**(h) Landscaping**

The required minimum landscaping area is 54.1m<sup>2</sup> (15 percent), as per Table 3 of TPS6. There is no landscaping currently provided on site and none is proposed.

The existing open spaces on site, located to the rear of the existing building, are being utilised for car parking and a drying court for the hairdresser. The lack of landscaping is not considered to pose an adverse amenity impact upon the occupants and users of this development and adjacent developments, noting that limited landscaping on adjacent non-residential sites is visible from Canning Highway. The proposal is considered to comply with the discretionary provisions of clause 7.8(1) of TPS6 and accordingly the nil provision of landscaping is supported by City officers.

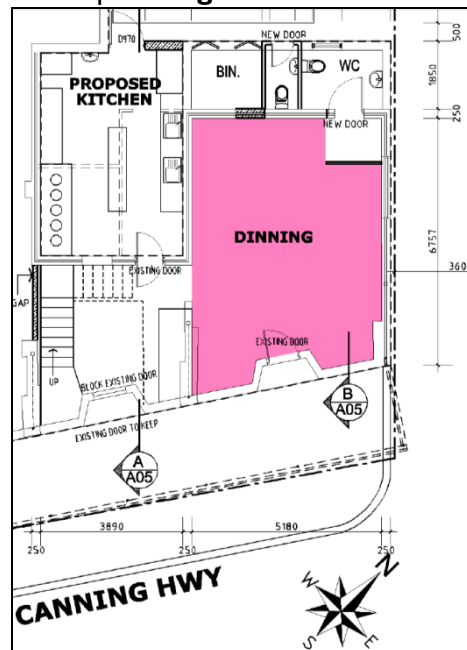
10.3.3 Proposed Additions & Change Of Use To Cafe / Restaurant. Lot 145 (No. 147a-147c) Canning Highway, South Perth

(i) **Car Parking**

The site has 4 car bays provided. The current TPS6 Table 6 calculation would require the existing building to provide 12 car bays, resulting in an overall existing 8 car bay shortfall. Based upon a proportionate share of the existing 222m<sup>2</sup> gross floor area, City officers consider that the retained component of the existing Shop (133m<sup>2</sup>) could be allocated 2.4 car bays and the area affected by the change of use (89m<sup>2</sup>) could be allocated 1.6 car bays.

Based upon the use of the proposed building as indicated on the plans, the current TPS6 Table 6 calculation would require 7 car bays for the retained Shop and 7 car bays for the 33m<sup>2</sup> Café/Restaurant dining area. The proposed number of car bays remains at 4 bays.

The applicant has noted on the plan that the upper floor area will be restricted to storage and the City has been advised by email correspondence that a staff lunchroom and an office for the Café/Restaurant business will be provided in this area. An important note has been recommended to emphasise the restriction noted on the plans. **Figure 2** below shows the dining area of the building:



In relation to Council Policy P315 ‘Car Parking Reductions for Non-Residential Development’, the site meets factors 2 (within 400 metres of a bus stop: 0.85 adjustment factor) and 5d (within 400 metres of a public car with more than 25 spaces: 0.95 adjustment factor).

Using Table 2 of Policy P315, the cash in lieu payment is calculated as follows:

$$R(7) \times A(0.85 \times 0.95 = 0.8075) - P(1.6) - S(3.4) = 0.65, \text{ rounded up to } 1.$$

R: TPS6 car parking requirement. (33m<sup>2</sup> dining area requires 7 car bays)

A: Apply the total adjustment factor. (0.8075)

P: Minus the car parking provided on site. (1.6 car bays)

S: Minus the most recently approved shortfall (after taking into account relevant adjustment factors), unless the proposal is deemed to be a comprehensive new development. (5 car bays for the existing 89m<sup>2</sup> gross floor, resulting in an existing 3.4 car bay shortfall).

10.3.3 Proposed Additions & Change Of Use To Cafe / Restaurant. Lot 145 (No. 147a-147c) Canning Highway, South Perth

Using the Policy P315 formula, 1 car bay is subject to the cash-in-lieu payment.

The Council may accept a cash-in-lieu payment, subject to the following requirements listed in TPS6 clause 6.3(5)(b)(i):

*The Council must have firm proposals to expand the capacity of public parking facilities in the vicinity of the development site, with the intention of implementing such proposals within five years from the date of granting planning approval. Such proposals may include one or more of the following:*

- (A) the provision of additional public parking bays in the vicinity of the development site;*
- (B) the acquisition of land for the purpose of providing such additional bays;*
- (C) the construction or installation of facilities which will regulate the permissible duration of stay of a vehicle occupying an existing bay; and*
- (D) the implementation of measures designed to encourage the full capacity use of existing public parking bays in the vicinity of the development site.*

The cash-in-lieu payments identified in subclauses (A) and (B) cannot be utilised in this instance, as the City does not have firm proposals to expand the capacity of public parking facilities in the vicinity of the development site. The only available opportunity to increase the number of car bays near the development site would be by increasing the width of roads on surrounding residential streets, such as Elizabeth Street, which is not intended to be pursued by the City.

For this application, Council is limited to accepting a cash-in-lieu payment for the purposes listed in subclauses (C) and (D). The City is considering implementing further time management facilities and measures in the vicinity of the site, such as additional parking restriction signs and licence plate recognition technology, to prevent car bays being occupied by bus commuter vehicles. There is an opportunity for a cash-in-lieu payment to contribute towards these facilities and measures. In this instance, the use of a cash payment in lieu of the provision of 1 additional car bay is supported by City officers. The \$6,000 payment recommended is consistent with recent change of use determinations by the Council (February 2014: 18 Welwyn Avenue, previously 16 Bradshaw Crescent, Manning and April 2014: 2 Downey Drive, Como).

Alternatively, Council has discretionary power under clause 6.3(4)(a) of TPS6 to approve the proposed car parking, if the 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. Council also has discretionary power under clause 7.8(1) of TPS6 to approve the proposed car parking, if Council is satisfied that all requirements of this clause have been met.

As a response to the above sub-clauses, the applicant submits the opinion that the hairdresser tenancy will be closed when the Café/Restaurant is trading, enabling all 4 of the on site car bays to be utilised by the Café/Restaurant business.

10.3.3 Proposed Additions & Change Of Use To Cafe / Restaurant. Lot 145 (No. 147a-147c) Canning Highway, South Perth

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

In considering the application, the Council is required to have due regard to, and may impose conditions with respect to, matters listed in clause 1.6 of TPS6, which are, in the opinion of the 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;*
- (l) *Recognise and facilitate the continued presence of significant regional land uses within the City and minimise the conflict between such land use and local precinct planning.*

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

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

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

- (a) *the objectives and provisions of this Scheme, including the objectives and provisions of a Precinct Plan and the Metropolitan Region Scheme;*
- (b) *the requirements of orderly and proper planning including any relevant proposed new town planning scheme or amendment which has been granted consent for public submissions to be sought;*
- (d) *any other Policy of the Commission or any planning Policy adopted by the Government of the State of Western Australia;*
- (f) *any planning Policy, strategy or plan adopted by the Council under the provisions of clause 9.6 of this Scheme;*
- (i) *the preservation of the amenity of the locality;*
- (j) *all aspects of design of any proposed development, including but not limited to, height, bulk, orientation, construction materials and general appearance;*
- (n) *the extent to which a proposed building is visually in harmony with neighbouring existing buildings within the focus area, in terms of its scale, form or shape, rhythm, colour, construction materials, orientation, setbacks from the street and side boundaries, landscaping visible from the street, and architectural details;*
- (s) *whether the proposed access and egress to and from the Site are adequate and whether adequate provision has been made for the loading, unloading, manoeuvre and parking of vehicles on the Site;*
- (t) *the amount of traffic likely to be generated by the proposal, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (u) *whether adequate provision has been made for access by disabled persons;*
- (v) *whether adequate provision has been made for the landscaping of the land to which the application relates and whether any trees or other vegetation on the land should be preserved;*



10.3.3 Proposed Additions & Change Of Use To Cafe / Restaurant. Lot 145 (No. 147a-147c) Canning Highway, South Perth

- (w) any relevant submissions received on the application, including those received from any authority or committee consulted under clause 7.4; and
- (x) any other planning considerations which the Council considers relevant.

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

### 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 residential 'Area 1' consultation method, individual property owners and occupiers at Nos 134 and 136 Douglas Avenue and No 9 Cliffe Street were invited to inspect the plans and to submit comments during a minimum 14-day period.

During the advertising period, a total of 4 consultation notices were sent and no submissions were received.

#### (b) Internal Administration

Comments were invited from Environmental Health and Building Services sections of the City's administration.

The Environmental Health Services section provided comments with respect to kitchens, toilets, bins and regulatory requirements. This section raises no objections to the current plans; as provided below:

- Ensure compliance with AS 4674-2004 – Design, construction and fit-out of food premises (The opening of a toilet into the Kitchen in the original design, now removed, was observed not to comply).
- Ensure that a floor waste is installed within the food handling area, and that the floor is appropriately graded and drained to the floor waste.
- The Owner of the business must notify the City of the relevant detail, by completing a Food Act Notification & Registration form – (fees applicable).
- A final inspection must be undertaken by the City's Environmental Health Services section and a Food Act Registration Certificate must be obtained from the City prior to operation of the business.
- The proposed bin store must comply with the City of South Perth Health Local Laws 2002 - 44 Suitable Enclosure, in particular provision of a tap connected to an adequate water supply and a floor which is evenly graded to an approved liquid refuse disposal system.
- If greater than 20 chairs are provided for patrons, then the public toilet facilities must comply with the Building Code of Australia including male, female and full disabled access.

The Building Services section had no specific comments on the proposal, though recommended that the applicant consults an independent building surveyor, in relation to matters such as disability car parking and access and structural considerations. If approved, the proposal will require a building permit which will be examined by an independent building surveyor and City officers at a later stage.

Accordingly, important notes are recommended to respond to the comments from the above sections of the City's administration.

10.3.3 Proposed Additions & Change Of Use To Cafe / Restaurant. Lot 145 (No. 147a-147c) Canning Highway, South Perth

**(c) External Agencies**

Comments were also invited from the Main Roads Western Australia, in relation to vehicle access onto Canning Highway and any implications from the adjacent Primary Regional Roads reservation. Main Roads has advised that they consider the development to be acceptable subject to the following conditions:

1. No earthworks to encroach onto the Canning Highway reserve.
2. No stormwater drainage shall be discharged onto the Canning Highway reserve.
3. No vehicle access shall be permitted onto or from Canning Highway reserve from Lot 145 except at the designated Right of Way access point.

Accordingly, a planning condition is recommended to respond to the Main Roads comments.

**Policy and Legislative Implications**

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

**Financial Implications**

This determination may have financial implications, if the application is subject to an appeal to the State Administrative Tribunal.

**Strategic Implications**

This matter relates to Strategic Direction 3 “Housing and Land Uses” identified within Council’s Strategic Plan 2013-2023 which is expressed in the following terms:

***Accommodate the needs of a diverse and growing population.***

**Sustainability Implications**

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 Council Policy objectives and provisions. Accordingly, it is considered that the application should be conditionally approved.

**10.4 STRATEGIC DIRECTION 4: PLACES**

**10.5 STRATEGIC DIRECTION 5: INFRASTRUCTURE AND TRANSPORT**

## **10.6 STRATEGIC DIRECTION 6: GOVERNANCE, ADVOCACY AND CORPORATE MANAGEMENT**

### **10.6.1 Monthly Financial Management Accounts - June 2014**

Location: City of South Perth  
Applicant: Council  
File Ref: FM/301  
Date: 18 July 2014  
Author / Reporting Officer: Michael J Kent, Director Financial and Information Services

#### **Summary**

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

#### **Officer Recommendation**

That the monthly Statement of Financial Position, Financial Summaries, Schedule of Budget Movements and Schedule of Significant Variances for the month of June 2014 be presented to the first meeting of Council after their completion in order to allow the final year end position to be accurately and completely disclosed.

#### **Background**

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

Combining the Summary of Operating Revenues and Expenditures with the Summary of Capital Items gives a consolidated view of all operations under Council's control - reflecting the City's actual financial performance against budget targets.

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

To be an effective management tool, the 'budget' against which actual performance is compared is phased throughout the year to reflect the cyclical pattern of cash collections and expenditures during the year rather than simply being a proportional (number of expired months) share of the annual budget. The annual budget has been phased throughout the year based on anticipated project commencement dates and expected cash usage patterns.

## 10.6.1 Monthly Financial Management Accounts - June 2014

This provides more meaningful comparison between actual and budgeted figures at various stages of the year. It also permits more effective management and control over the resources that Council has at its disposal.

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

A summary of budgeted capital revenues and expenditures (grouped by department and directorate) is also provided each month from September onwards. This schedule reflects a reconciliation of movements between the 2013/2014 Adopted Budget and the 2014/2015 Amended Budget including the introduction of the capital expenditure items carried forward from 2012/2013.

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

### **Comment**

Whilst acknowledging the very important need for Council and the community to be provided with a 'final' year-end accounting of the City's operating performance and financial position; the 2013/2014 year end financial accounts for the City are yet to be completed - in either a statutory or management account format. This is because the City is still awaiting supplier's invoices and other year end accounting adjustments before finalising its annual accounts ready for statutory audit. It is considered imprudent to provide a set of 30 June Management Accounts at this time when it is known that the financial position disclosed therein would not be final - and would be subject to significant change before the accounts are closed off for the year.

It is proposed that a complete set of Statutory Accounts and a set of Management Accounts as at year end would be presented to Council at the first available meeting of Council after their completion - ideally the August or September 2014 meetings if possible. Such action is entirely consistent with Local Government Financial Management Regulation 34(2)(b), responsible financial management practice - and the practice of this City in previous years.

### **Consultation**

This financial report is prepared to provide financial information to Council and to evidence the soundness of the administration's financial management. It also provides information about corrective strategies being employed to address any significant variances and it discharges accountability to the City's ratepayers.

### **Policy and Legislative Implications**

This report is in accordance with the requirements of the Section 6.4 of the *Local Government Act* and Local Government Financial Management Regulation 34.

**Financial Implications**

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

**Strategic Implications**

This matter relates to Strategic Direction 6 “Governance, Advocacy and Corporate Management” identified within Council’s Strategic Plan 2013-2023, which is expressed in the following terms:

*Ensure that the City has the organisational capacity, advocacy and governance framework and systems to deliver the priorities identified in the Strategic Plan.*

**Sustainability Implications**

Financial reports address the ‘financial’ dimension of sustainability by promoting accountability for resource use through a historical reporting of performance - emphasising pro-active identification and response to apparent financial variances. Furthermore, through the City exercising disciplined financial management practices and responsible forward financial planning, we can ensure that the consequences of our financial decisions are sustainable into the future.

## 10.6.2 Monthly Statement of Funds, Investments and Debtors at 30 June 2014

Location: City of South Perth  
Applicant: Council  
File Ref: FM/301  
Date: 10 July 2014  
Authors: Michael J Kent and Deborah M Gray  
Reporting Officer: Michael J Kent, Director Financial and Information Services

### Summary

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

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

### Officer Recommendation

That Council receives the 30 June 2014 Statement of Funds, Investment & Debtors comprising:

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

### Background

Effective cash management is an integral part of proper business management. Current money market and economic volatility make this an even more significant management responsibility. The responsibility for management and investment of the City's cash resources has been delegated to the City's Director Financial & Information Services and Manager Financial Services - who also have responsibility for the management of the City's Debtor function and oversight of collection of outstanding debts.

In order to discharge accountability for the exercise of these delegations, a monthly report is presented detailing the levels of cash holdings on behalf of the Municipal and Trust Funds as well as funds held in 'cash backed' Reserves.

As significant holdings of money market instruments are involved, an analysis of cash holdings showing the relative levels of investment with each financial institution is also provided.

Statistics on the spread of investments to diversify risk provide an effective tool by which Council can monitor the prudence and effectiveness with which these delegations are being exercised.

Data comparing actual investment performance with benchmarks in Council's approved investment policy (which reflects best practice principles for managing public monies) provides evidence of compliance with approved investment principles.

Finally, a comparative analysis of the levels of outstanding rates and general debtors relative to the same stage of the previous year is provided to monitor the effectiveness of cash collections and to highlight any emerging trends that may impact on future cash flows.

### Comment

#### (a) Cash Holdings

Total funds at month end of \$44.6M (\$47.3M last month) compare favourably to \$41.5M at the equivalent stage of last year. Reserve funds are \$0.34 higher overall than the level they were at the same time last year - reflecting \$1.4M higher holdings of cash backed reserves to support refundable monies at the CPV but \$2.1M less for the CPH as departing residents have fully transferred their accommodation bonds. The Asset Enhancement Reserve is \$2.6M higher mainly through the receipt of part of the Ray St land disposal proceeds. The Sustainable Infrastructure Reserve is \$0.2M higher whilst the Waste Management Reserve is \$1.3M lower after a budgeted transfer back to the Municipal Fund. The Future Building Reserve is \$0.1M higher and the Future Municipal Works Reserve is \$0.5M lower. The River Wall Reserve is \$0.3M higher. Various other reserves are modestly changed. The CPH Hostel Capital Reserve is \$0.4M lower after funding part of the 2014 operating deficit.

Municipal funds are some \$2.7M higher due to excellent rates collections and delayed cash outflows for some major capital works.

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

Excluding the 'restricted cash' relating to cash-backed Reserves and monies held in Trust on behalf of third parties; the cash available for Municipal use currently sits at \$7.58M (compared to \$10.3M last month). It was \$4.85M at the equivalent time in the 2012/2013 year. **Attachment 10.6.2(1).**

#### (b) Investments

Total investment in money market instruments at month end was \$43.8M compared to \$40.2M at the same time last year. This is due to higher levels of cash investments relating to municipal funds (\$3.2M increase). Cash backed reserves are \$0.4M higher.

The portfolio currently comprises at-call cash and term deposits only. Although bank accepted bills are permitted, they are not currently used given the volatility of the corporate environment. Analysis of the composition of the investment portfolio shows that all of the funds are invested in securities having a S&P rating of A1 (short term) or better. There are currently no investments in BBB+ rated securities.

The City's investment policy requires that at least 80% of investments are held in securities having an S&P rating of A1. This ensures that credit quality is maintained. Investments are made in accordance with Policy P603 and the Department of Local Government Operational Guidelines for investments.

All investments currently have a term to maturity of less than one year - which is considered prudent both to facilitate effective cash management and to respond in the event of future positive changes in rates.

Invested funds are responsibly spread across various approved financial institutions to diversify counterparty risk. Holdings with each financial institution are required to be within the 25% maximum limit prescribed in Policy P603. At 30 June, the portfolio was within the prescribed limits. Counterparty mix is regularly monitored and the portfolio re-balanced



## 10.6.2 Monthly Statement of Funds, Investments and Debtors at 30 June 2014

as required depending on market conditions. The counter-party mix across the portfolio is shown in **Attachment 10.6.2(2)**.

Total interest revenues (received and accrued) for the year to date total \$1.70M. This compares to \$2.13M at the same time last year. Prevailing interest rates are significantly lower and appear likely to continue at current low levels.

Investment performance will be closely monitored given recent interest rate cuts to ensure that we pro-actively identify secure, but higher yielding investment opportunities, as well as recognising any potential adverse impact on the budget closing position. Throughout the year, we will re-balance the portfolio between short and longer term investments to ensure that the City can responsibly meet its operational cash flow needs.

Treasury funds are actively managed to pursue responsible, low risk investment opportunities that generate additional interest revenue to supplement our rates income whilst ensuring that capital is preserved.

The weighted average rate of return on financial instruments for the year to date is 3.66% with the anticipated weighted average yield on investments yet to mature now sitting at 3.47%. At call cash deposits used to balance daily operational cash needs have been providing a very modest return of only 2.25% since the August 2013 Reserve Bank decision on interest rates.

### (c) Major Debtor Classifications

Effective management of accounts receivable to convert debts to cash is also an important part of business management. Details of each major debtor's category classification (rates, general debtors & underground power) are provided below.

#### (i) Rates

The level of outstanding local government rates relative to the same time last year is shown in **Attachment 10.6.2(3)**. Rates collections to the end of June 2014 (after the due date for the final instalment) represent 98.4% of rates levied compared to 97.9% at the same stage of the previous year.

The positive rates collection profile has resulted in the City enjoying a better collection than the previous year - with the KPI of 95% by year end being comfortably exceeded. This indicates a good acceptance of our 2013/2014 rating strategy, our communications strategy and our convenient, user friendly payment methods. Combined with the Rates Early Payment Incentive Scheme (generously sponsored by local businesses), these strategies provide strong encouragement for ratepayers to meet their rates obligations in a timely manner.

#### (ii) General Debtors

General debtors (excluding UGP debtors) stand at \$1.2M at month end (\$2.9M last year). GST Receivable is \$1.1M lower than the balance at the same time last year whilst Sundry Debtors are slightly lower. Most other Debtor categories are at similar levels to the previous year.

It is anticipated that there will be further year-end adjustments made to Receivables before the financial accounts are completed, but it is still expected that the final balance will be around \$1.0M lower than the previous year amount.

Continuing positive collection results are important to effectively maintaining our cash liquidity and these efforts will be closely monitored during the year. Currently, the majority of the outstanding amounts are government & semi government grants or rebates (other than infringements) - and as such, they are considered collectible and represent a timing issue rather than any risk of default.

**(iii) Underground Power**

Of the \$7.40M billed for UGP Stage 3 project, (allowing for interest revenue and adjustments), \$7.37M was collected by 30 June with approximately 99.6% of those in the affected area having now paid in full. The remaining 19 property owners all have now made satisfactory payment arrangements to progressively clear the debt after being pursued by our external debt collection agency.

Residents opting to pay the UGP Service Charge by instalments continue to be subject to interest charges which accrue on the outstanding balances (as advised on the initial UGP notice). It is important to recognise that this is **not** an interest charge on the UGP service charge - but rather is an interest charge on the funding accommodation provided by the City's instalment payment plan (like what would occur on a bank loan). The City encourages ratepayers in the affected area to make other arrangements to pay the UGP charges - but it is, if required, providing an instalment payment arrangement to assist the ratepayer (including the specified interest component on the outstanding balance).

Since the initial \$4.59M billing for the Stage 5 UGP Project, some \$4.36M (or 92.9% of the amount levied) has already been collected with 82.6% of property owners opting to settle in full and a further 17.0% paying by instalments so far. The remainder (0.4%) have yet to make satisfactory payment arrangements or have defaulted on the arrangements and collection actions are currently underway.

**Consultation**

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

**Policy and Legislative Implications**

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

**Financial Implications**

The financial implications of this report are as noted in part (a) to (c) of the Comment section of the report. Overall, the conclusion can be drawn that appropriate and responsible measures are in place to protect the City's financial assets and to ensure the collectability of debts.

**Strategic Implications**

This matter relates to Strategic Direction 6 "Governance, Advocacy and Corporate Management" identified within Council's Strategic Plan 2013-2023, which is expressed in the following terms:

*Ensure that the City has the organisational capacity, advocacy and governance framework and systems to deliver the priorities identified in the Strategic Plan.*

**Sustainability Implications**

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

### 10.6.3 Listing of Payments

Location: City of South Perth  
Applicant: Council  
File Ref: FM/301  
Date: 05 July 2014  
Authors: Michael J Kent and Deborah M Gray  
Reporting Officer: Michael J Kent, Director Financial and Information Services

#### Summary

A list of accounts paid under delegated authority (Delegation DC602) between 1 June 2014 and 30 June 2014 is presented to Council for information.

#### Officer Recommendation

That the Listing of Payments for the month of June 2014 as detailed in **Attachment 10.6.3**, be received.

#### Background

Local Government Financial Management Regulation 11 requires a local government to develop procedures to ensure the proper approval and authorisation of accounts for payment. These controls relate to the organisational purchasing and invoice approval procedures documented in the City's Policy P605 - Purchasing and Invoice Approval. They are supported by Delegation DM605 which sets the authorised purchasing approval limits for individual officers. These processes and their application are subjected to detailed scrutiny by the City's auditors each year during the conduct of the annual audit.

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

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

#### Comment

A list of payments made during the reporting period is prepared and presented to the next ordinary meeting of Council and recorded in the minutes of that meeting. It is important to acknowledge that the presentation of this list of payments is for information purposes only as part of the responsible discharge of accountability. Payments made under this delegation cannot be individually debated or withdrawn.

Reflecting contemporary practice, the report records payments classified as:

- **Creditor Payments**

*(regular suppliers with whom the City transacts business)*

These include payments by both Cheque and EFT. Cheque payments show both the unique Cheque Number assigned to each one and the assigned Creditor Number that applies to all payments made to that party throughout the duration of our trading relationship with them. EFT payments show both the EFT Batch Number in which the payment was made and also the assigned Creditor Number that applies to all payments made to that party.

### 10.6.3 Listing of Payments

For instance, an EFT payment reference of 738.76357 reflects that EFT Batch 738 included a payment to Creditor number 76357 (Australian Taxation Office).

- **Non Creditor Payments**

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

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

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

#### **Consultation**

This financial report is prepared to provide financial information to Council and the administration and to provide evidence of the soundness of financial management being employed. It also provides information and discharges financial accountability to the City's ratepayers.

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

Consistent with Policy P605 - Purchasing and Invoice Approval and Delegation DM605.

#### **Financial Implications**

This report presents details of payment of authorised amounts within existing budget provisions.

#### **Strategic Implications**

This matter relates to Strategic Direction 6 "Governance, Advocacy and Corporate Management" identified within Council's Strategic Plan 2013-2023, which is expressed in the following terms:

*Ensure that the City has the organisational capacity, advocacy and governance framework and systems to deliver the priorities identified in the Strategic Plan.*

#### **Sustainability Implications**

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

## 10.6.4 Draft planning policy P316 Developer Contribution for Public Art – final adoption following advertising for public comment

Location: City of South Perth  
Date: 22 July 2014  
Author: Mark Carolane, Senior Strategic Projects Planner  
Reporting Officer: Vicki Lummer, Director, Development and Community Services

### Summary

At its 25 March 2014 meeting, the Council endorsed draft planning policy P316 Developer Contribution for Public Art for advertising for public comment. The required period of advertising is now complete and two submissions were received. This report provides a summary of the submissions and recommendations relating to the issues raised.

The City of South Perth has a diverse collection of public artworks that contribute to the City's culture and sense of place. Planning policy P316 (Attachment 10.6.4(a)) requires developers of significant projects within the City to contribute 1 percent of the total project cost towards public art. This will assist the City to grow the public art collection, for the benefit of the community.

### Officer Recommendation

That Council adopt planning policy P316 – Developer Contribution for Public Art (Attachment 10.6.4(a)), as modified in response to public comment, in accordance with Town Planning Scheme No. 6 (TPS No. 6) Clause 9.6(2), as follows:

- (c) *The Council shall review the draft planning policy in the light of any submissions made and advice received and shall then resolve either to finally adopt the draft planning policy with or without modification, or not to proceed with the draft planning policy.*
- (d) *Following final adoption of a planning policy, notification of the final adoption shall be published once in a newspaper circulating within the Scheme area.*

This report includes the following attachment:

- Attachment 10.6.4(a): Planning Policy P316 Developer Contribution for Public Art

### Background

The City of South Perth Public Art Strategy (PAS) was endorsed at the November 2013 ordinary Council meeting. The PAS establishes the strategic and administrative structure to manage the City's current public art assets and future projects. Policy P101 Public Art supports the PAS and provides the framework for development and management of public art within the City.

Objective 1 of the PAS is to *provide a guiding policy or process that determines how the City will 'encourage' private developers to contribute towards public art commissions*. In order to meet this objective planning policy P316 (Attachment 10.6.4(a)) has been drafted, in accordance with the PAS and policy P101, to require developer contributions for public art.

The following diagram shows the relationship between the PAS and public art policies.

#### 10.6.4 Draft planning policy P316 Developer Contribution for Public Art – final adoption following advertising for public comment



#### Comment

A number of local governments in Perth, including the Town of Victoria Park, require developers to contribute to public art. Planning policy P316 (Attachment 10.6.4(a)) provides clear guidance to planning officers to apply a condition of development approval requiring a contribution to public art. Attachment 10.6.4(a) has been drafted to be as consistent as possible with the Town of Victoria Park's Public Art Private Developer Contribution Policy.

Planning policy P316 (Attachment 10.6.4(a)) complements the City's existing policy P101 and satisfies objectives 1 and 4 of the PAS. By requiring contributions and working with developers to implement public art projects, the City will ensure that large developments contribute positively to the public realm, sense of place and culture in the City.

As detailed in the PAS, public art can promote economic development, social interaction, urban rejuvenation and tourism. It contributes to iconic identifiable places, attractive public spaces and promotes pride within the community. For developers and investors, public art can provide value by establishing a connection with local communities and a point of difference for a development. Public art is one way for developers to engage with the people who will live with, use and benefit from the development.

#### Consultation

The advertising required by TPS No. 6 Clause 9.6(2) and Council Policy P301 'Consultation for Planning Proposals' was undertaken in the manner resolved at the 25 March 2014 Council meeting, as follows:

- Southern Gazette newspaper notice in two issues: 27 May and 3 June 2014; and
- Notices and draft policy documents displayed in the Civic Centre customer foyer, in the City's Libraries and on the City's web site ('Out for Comment').

Submissions were accepted until close of business on Friday 20 June (24 days). Two submissions were received, both of which were in opposition to the proposed policy. The following issues were raised in the submissions:

10.6.4 Draft planning policy P316 Developer Contribution for Public Art – final adoption following advertising for public comment

Submitter's comment	Officer's response
Public art is not linked to the development process.	Policy P316 links public art to the development process through a condition of development approval. Under TPS No. 6, Council shall have due regard to, and may impose conditions with respect to, "any planning policy, strategy or plan adopted by the Council under the provisions of clause 9.6 of this Scheme". Policy P316 has been prepared in accordance with clause 9.6. The comment is <b>NOT UPHELD</b> .
Local Government should act within a narrow ambit and the proposed policy is not what society perceives that Local Government should be doing.	The City's Economic Development Strategy identifies urban place making and revitalisation as a key action area where the City can have a direct influence on economic development. This includes using art to improve amenity in public spaces. Successful economic development will help produce more employment, more social vibrancy and thriving activity centres and businesses.  Many local governments and the State Government (through the Department of Culture and the Arts and the Metropolitan Redevelopment Authority) require developers to contribute to public art. Other local governments' public art policies were reviewed during development of P316, as summarised in the report to Council on 25 March 2014. The comment is <b>NOTED</b> .
The development process should look only at the development and its impact and this does not include contribution to public art.	TPS No. 6 includes the objective to "Establish a community identity and 'sense of community' both at a City and precinct level" (Clause 1.6(2)(d)). Large developments have a significant impact on community identity through their impact on public space. Public art can make important contributions to community identity and sense of community. Public art contributions help mitigate the impacts of development on community identity and sense of community. The comment is <b>NOTED</b> .

10.6.4 Draft planning policy P316 Developer Contribution for Public Art – final adoption following advertising for public comment

<p>Council may wish to note the decision of the Queensland ombudsman, who ruled against a Council requirement for a public art contribution.</p> <p><a href="http://www.ombudsman.qld.gov.au/DesktopModules/Casestudy/ViewCaseStudy.aspx?id=199">http://www.ombudsman.qld.gov.au/DesktopModules/Casestudy/ViewCaseStudy.aspx?id=199</a></p>	<p>In this case the developer complained to the ombudsman about:</p> <ul style="list-style-type: none"> <li>• being unable to obtain information from the council about the Public Art Policy;</li> <li>• the lawfulness and reasonableness of the public art condition;</li> <li>• unreasonable delay in council approving his art proposal and sealing his plans;</li> <li>• the subjective nature of the assessment of art proposals both in terms of art type and the amount he was required to contribute;</li> <li>• a conflict of interest on the part of a council officer arising from his association with the local artist; and</li> <li>• the lawfulness and reasonableness of the public art condition.</li> </ul> <p>There were a number of legal and administrative issues that contributed to the ombudsman’s decision. However, as part of the decision the Ombudsman found that a planning scheme policy about public art contributions can be made lawfully in Queensland.</p> <p>The comment is <b>NOTED</b>.</p>
<p>Requiring public art is a form of ‘third line forcing’, where developers are forced to purchase a product from a third party (i.e. an artist).</p>	<p>According to the Australian Competition and Consumer Commission, third line forcing “occurs when a business will only supply goods or services, or give a particular price or discount on the condition that the purchaser buys goods or services from a particular third party. If the buyer refuses to comply with this condition, the business will refuse to supply them with goods or services.” Council issuing planning approval is not the same as a business supplying goods or services and policy P316 does not require developers to purchase products from any particular third party.</p> <p>The comment is <b>NOT UPHELD</b>.</p>
<p>Developers should not be required to support another business (artists are small business people).</p>	<p>Developers are required to support a range of businesses throughout the development process, ranging from real estate professionals to tradespeople.</p> <p>The comment is <b>NOTED</b>.</p>
<p>If public art is required the developer should own the art.</p>	<p>Some existing public art in the City is privately owned, for example the ‘Angelo Street’ mural in the Coles car park. Where the developer chooses to contribute public art within the development itself, the developer remains the owner of the art.</p> <p>The comment is <b>NOTED</b>.</p>
<p>Local government should not interfere with individual property ownership and rights.</p>	<p>Policy P316 does not affect property ownership. It imposes a development approval condition on certain developments, in accordance with TPS No. 6.</p> <p>The comment is <b>NOTED</b>.</p>



10.6.4 Draft planning policy P316 Developer Contribution for Public Art – final adoption following advertising for public comment

<p>Will there be other levies, for example for libraries, sporting clubs or environmental projects?</p>	<p>State Planning Policy 3.6 Developer Contributions for Infrastructure sets out development contribution provisions for standard infrastructure items applied by the Western Australian Planning Commission. These provisions are most commonly applied to greenfield developments to fund infrastructure, including community infrastructure. The City of South Perth does not currently apply developer contributions for infrastructure and there are currently no plans to introduce them. The comment is <b>NOTED</b>.</p>
<p>The policy confers a financial obligation on a third party. For this to be enforceable it must be recognised as a Service Charge as defined in the <i>Local Government Act 1995</i>.</p>	<p>The contribution required under policy P316 is a development approval condition, not a service charge. Local government may place conditions on development approval under the <i>Planning and Development Act 2005</i>. The comment is <b>NOT UPHELD</b>.</p>
<p>Developers may provide public art that is not considered suitable for the City. Some art may meet the intent of the policy but become a liability to the City due to upkeep requirements or public sentiment generated by the art.</p>	<p>The City is developing a Developer Toolkit for Public Art to provide clear guidelines for the procurement of public art, based on current best practice. The City will approve all public art obtained through P316, to ensure it is suitable for the City and can be maintained into the future. The comment is <b>NOTED</b>.</p>
<p>The policy does not define what constitutes 'art'. Nor are definitions clear in supporting documents.</p>	<p>The draft policy refers to the City's Public Art Strategy, which provides the City's approved definition of 'public art'. However, to improve clarity, it is recommended that the draft policy be amended to include this definition. The comment is <b>UPHELD</b>.</p>
<p>The amount of 1% of total project cost is excessive. Major developments cost approximately \$1 million per floor and therefore each floor would generate approximately \$10,000 in public art funding. Developments such as the Civic Triangle (and others in the South Perth Station Precinct) have the potential to swell the public art fund to unreasonable levels.</p>	<p>As outlined in the report to the March 2014 Council meeting, a number of other local governments in Perth require contributions of 1% of total project costs for large projects. Policy P316 is not unusual in the Perth context and is less onerous than some local governments' policies, which require contributions from projects over \$1 million. The comment is <b>NOT UPHELD</b>.</p>
<p>It is difficult to plan and curate the art inventory since the funding stream will be irregular and lumpy. This is likely to result in poor acquisition decisions, and budgeting problems.</p>	<p>The City has recently allocated \$50,000 as seed funding for the acquisition of future public art. The City may allocate additional funds during the budget review process. Developers that elect to provide their contribution as cash in lieu to the public art fund will assist in the expansion of this fund and, through it, the City's public art collection. This fund is managed in accordance with the PAS. The comment is <b>NOT UPHELD</b>.</p>

10.6.4 Draft planning policy P316 Developer Contribution for Public Art – final adoption following advertising for public comment

<p>Public art should be funded by its users to the broadest extent possible.</p>	<p>As detailed in the PAS, public art can promote economic development, social interaction, urban rejuvenation and tourism. For developers and investors, public art can provide value by establishing a connection with local communities and a point of difference for a development. Public art is one way for developers to engage with the people who will live with, use and benefit from the development. The comment is <b>NOTED</b>.</p>
<p>The fairest means to fund public art may be via a per rates bill levy. A levy of \$2 per rate bill would generate a fund of approximately \$40,000 pa across the City, to fund art selected by ratepayers (via Council’s Delegated Authorities), appreciated/used by the ratepayers, paid by the rate payers and hopefully valued by the whole community.</p>	<p>The City acquires public art via a variety of methods, including City funded and commissioned artworks, donated artworks, and publicly accessible artworks on private land. These diverse funding sources contribute to a diverse collection of artworks, which are enjoyed by ratepayers of the City and visitors alike. It is not considered appropriate to add a levy on ratepayers for this purpose at this time. The comment is <b>NOT UPHELD</b>.</p>

In addition to the submissions from community members, advice has been obtained from the City’s lawyers regarding Special Control Area SCA1 – South Perth Station Precinct. Provision of public art is one way for developers to meet the Performance Criteria under Schedule 9 of TPS No. 6. In order to avoid ‘double dipping’ in relation to the provision of public art within the SCA1 area, the lawyers recommend that policy P316 be amended to include the following:

*This policy does not apply to development within Special Control Area SCA1 – South Perth Station Precinct as defined in Schedule 9 of the City of South Perth Town Planning Scheme No.6, where the development is required to meet the Performance Criteria in Table B of Schedule 9 and the developer provides public art as part of the Additional Community Benefits required by item 7 of Table B, to the satisfaction of the City.*

The policy at Attachment 10.6.4(a) has been amended to include this text.

**Policy and Legislative Implications**

Planning policy P316 (Attachment 10.6.4(a)) has been prepared and advertised for public comment in accordance with TPS No. 6 Clause 9.6(2).

Planning policy P316 (Attachment 10.6.4(a)) is consistent with the City of South Perth Policy PI01 – Public Art.

**Financial Implications**

The contributions received as a result of this policy will be held in a specified reserve for the purpose of acquiring public art.

10.6.4 Draft planning policy P316 Developer Contribution for Public Art – final adoption following advertising for public comment

**Strategic Implications**

This report is consistent with the following Directions in the City's [Strategic Community Plan 2013–2023](#):

Direction 4 – Places “*Develop, plan and facilitate vibrant and sustainable community and commercial places*”.

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](#).

## 10.6.5 Salaries and Allowances of Local Government Elected Council Members

Location: City of South Perth  
Applicant: Council  
Date: 4 July 2014  
Author/Reporting Officer: Cliff Frewing, Chief Executive Officer

### Summary

Information on suggested entitlements for Council Members is presented for consideration by Council following a review of fees and allowances by the Salaries and Allowances Tribunal.

### Officer Recommendation

That

- (a) The Mayoral allowance be set at \$61,800 for the 2014/2015 financial year
- (b) The Deputy Mayoral allowance be set at \$15,450 for the 2014/2015 financial year (this is 25 percent of the Mayor's allowance)
- (c) All Elected Members be paid the maximum meeting allowance (\$30,385 pa for the Mayor and \$22,660 pa for all other Elected Members)

### Background

Following proclamation of relevant sections of the *Local Government Amendment Act 2012* on 8 February 2013, the Salaries and Allowances Tribunal was empowered to determine certain payments to be made or reimbursed to elected council members with effect from 1 July 2013.

The legislation entitles elected council members to claim fees, expenses and allowances associated with the performance of functions carried out under the express authority of their local government. The Tribunal has the capacity to determine either particular amounts for these payments or minimum and maximum ranges within which local governments can then set the amounts.

Where the Tribunal has chosen to determine a range, local governments are obliged to set, by absolute majority, the amount to be paid or reimbursed.

The City of South Perth is allocated in **Band 2** and whilst there is an option to pay elected member allowances on a meeting basis, has traditionally elected to pay the maximum annual allowances available.

At the current time, the maximum annual allowances for a 'Band 2 Council' are as follows:

Allowances:

- Mayor \$60,000
- Deputy Mayor (25% of Mayor's allowance \$15,000)

Meeting Fees:

- Elected Members \$22,000
- Mayor \$29,500

On 18 June 2014 the SAT awarded a 3 per cent increase to the allowances payable.

**Comment**

**Annual Attendance Fees in Lieu of Council Meeting, Committee Meeting and Prescribed Meeting Attendance Fees**

The ranges of fees in Table 5 applies where a local government or regional local government decides by an *absolute majority* that, instead of paying council members an attendance fee referred to in section 5.98 of the LG Act, it will pay all council members who attend council, committee or prescribed meetings an annual fee.

**Table 5: Annual attendance fees in lieu of council meeting, committee meeting and prescribed meeting attendance fees – local governments**

Band	For a council member other than the mayor or president		For a council member who holds the office of mayor or president	
	Minimum	Maximum	Minimum	Maximum
1	\$24,000	\$30,900	\$24,000	\$46,350
2	\$14,500	\$22,660	\$14,500	\$30,385
3	\$7,500	\$15,965	\$7,500	\$24,720
4	\$3,500	\$9,270	\$3,500	\$19,055

**ANNUAL ALLOWANCE FOR A MAYOR**

**Table 7: Annual allowance for a mayor or president of a local government**

For a mayor or president		
Band	Minimum	Maximum
1	\$50,000	\$87,550
2	\$15,000	\$61,800
3	\$1,000	\$36,050
4	\$500	\$19,570

**ANNUAL ALLOWANCE FOR A DEPUTY MAYOR**

The percentage determined for the purposes of section 5.98A(1) of the LG Act is 25 per cent of the Mayor’s allowance.

The new allowances agreed by the SAT allow the following to be paid:

Allowances:

- Mayor \$61,800
- Deputy Mayor (25% of Mayor’s allowance \$15,450)

Meeting Fees:

- Mayor \$30,385
- Elected Members \$22,660

### **Consultation**

In establishing the new fees, allowances and expenses framework, the Salaries and Allowances Tribunal carried out extensive consultation. This included advertising for public submissions, gathering information on fees, allowances and expenses currently paid to Elected Members; collecting data on the role and time commitments of Elected Members, and interviewing Mayors, Presidents, Councillors, Chief Executive Officers and representatives of the Western Australian Local Government Association.

### **Policy and Legislative Implications**

The determination of the Salaries and Allowances Tribunal has been implemented through Section 7B of the Salaries and Allowances Act 1975 (the SA Act). Sections 5.98 to 5.100 of the Local Government Act 1995 were amended, with effect from 1 July 2013, to complement the changes to the SA Act. The recommendations in this report are consistent with these changes.

### **Financial Implications**

If the recommendations are adopted, provision will need to be made in the 2014/2015 Annual Budget for Council Member Entitlements.

### **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](#). The recommendations in this report promote accountability of resource, whilst also recognising the time Council Members are required to put into effectively fulfilling their duties and providing some form of financial compensation.

## **10.6.6 Inquiry into 'Proposals' for Metropolitan Boundary Changes under the Local Government Act 1995**

Location: City of South Perth  
Applicant: Council  
Date: 4 July 2014  
Author: Cliff Frewing, Chief Executive Officer

### **Summary**

On its meeting of 24 June 2014, Council resolved to be a party to the legal proceedings in the Supreme Court to challenge the process used by the Minister to implement his plan to reduce Perth City Councils to 15. The Minister's proposal abolishes the City of South Perth and avoids the Dadour Poll Provisions in the process.

John Hammond has been appointed to represent the City of South Perth along with other interested parties. Advice has been received from John Hammond that in the event the legal action is successful, Council should withdraw its support from the joint submission lodged with the LGAB in March 2014.

### **Officer Recommendation**

That Council:

- 1) Withdraws its support from the 'joint proposal' if either of the events described at (a) or (b) below occur:
  - a) The Minister's purported 'proposals' are deemed unlawful, invalid or otherwise ineffectual, or are unbalanced by the State Government; or
  - b) The process adopted by the Board to inquire into the Minister's purported 'proposals' or any other 'proposals' made in respect of the Metropolitan Plan is found to be unlawful, invalid, tainted by conflicts of interest or otherwise ineffectual.
- 2) Authorises the Chief Executive Officer to write to the Chairman of the Local Government Advisory Board to give effect to 1), the form and content of which is detailed in a draft letter at **Attachment 10.6.6**.

### **Background**

Reference is made to Council Decision in relation to item 15.1.1 - Local Government Reform - Legal Proceedings where it was decided:

## **15.1.1 LOCAL GOVERNMENT REFORM – LEGAL PROCEEDINGS**

### **MOTION AND COUNCIL DECISION**

*Moved: Councillor Cala*

*Seconded: Councillor Lawrance*

That:

***Council determine to be a party to the legal proceedings in the Supreme Court to challenge the process used by the Minister to implement his plan to reduce Perth City Councils to 15 in number and in particular his proposal to abolish the City of South Perth and avoid the Dadour Poll Provisions.***

CARRIED (5/4)

## 10.6.6 Inquiry into 'Proposals' for Metropolitan Boundary Changes under the *Local Government Act 1995*

### MOTION AND COUNCIL DECISION

*Moved: Councillor Cala*

*Seconded: Councillor Lawrance*

That in addition to the above resolution:

**An allocation of \$150,000 be made in the 2014/2015 budget for this purpose.**

CARRIED (5/4)

### MOTION AND COUNCIL DECISION

*Moved: Councillor Huston*

*Seconded: Councillor Hawkins-Zeeb*

That in addition to the above resolutions:

**Council authorises the Chief Executive Officer to negotiate with John Hammond to determine if he would represent the City for a fee not exceeding \$100,000 in all proceedings in the Supreme Court of Western Australia to implement the motion.**

CARRIED (7/2)

### Comment

John Hammond has been appointed to represent the City of South Perth ("the City") at an estimated cost of \$70,000. The other parties to the action are City of Subiaco, Shire of Serpentine-Jarradale and Ian Kerr, resident and former elected member of City of Vincent. Many other Local Governments have agreed to be contributors to the action.

In March 2014 the City approved a joint submission with the Town of Victoria Park to be lodged with the Local Government Advisory Board (LGAB). John Hammond has now suggested that the City should advise the LGAB that in the event that the legal action is successful, the City should withdraw its involvement from the joint submission previously lodged with the LGAB. The City of Subiaco has already taken this action.

The form and content of the proposed advice to the LGAB to give effect to this action is contained in a draft letter to the Chairman of the Board at **Attachment 10.6.6**.

### Consultation

Nil

### Policy and Legislative Implications

Action proposed to be taken is in accordance with the legal advice received.

### Financial Implications

No specific financial implication as a result of the recommended action.

### Strategic Implications

This report is consistent with the [Strategic Community 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](#).



**11. APPLICATIONS FOR LEAVE OF ABSENCE**

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

**13. QUESTIONS FROM MEMBERS**

**13.1. RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS TAKEN ON NOTICE**

At the June 2014 Ordinary Council Meeting there were no questions from Members taken on notice.

**13.2 QUESTIONS FROM MEMBERS**

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

**15. MEETING CLOSED TO PUBLIC**

**15.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED.**

**15.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC.**

**16. CLOSURE**

**17. RECORD OF VOTING**

## APPENDIX ONE - ITEM 3.1 REFERS



### Mayors Activity Report – June 2014

Date	Activity
Monday, 30 June	Speak with Confidence Awards
	Special Council meeting Civic Triangle - Stage 2 Private Tender Process
Friday, 27 June	Rotary Club of Mill Point Changeover Dinner
	Councils for Democracy @ Subiaco + CEO
	Meeting LG reform with Veraison Development + CEO
Thursday, 26 June	South Perth Community Alliance meeting
	Committee for Perth: Annual Chairman's luncheon
Wednesday, 25 June	Pioneers and Elders Luncheon
Tuesday, 24 June	Council meeting
	Mayor/CEO weekly meeting
Monday, 23 June	Former Local Implementation Committee Meeting + CEO
Sunday, 22 June	Speak at Church of Jesus Christ of Latter Day Saints - Annual Como Ward Conference
Friday, 20 June	Rotary Club of Como Changeover Dinner
	Councils for Democracy @ Subiaco + CEO
	Budget and other financial matters + Director Financial and Information Services
Thursday, 19 June	Phillip Pental 'Young Heritage Award' - Award Night and Opening
	Photo Southern Gazette – Burswood Peninsula + Mayor Town of Victoria Park + Charles Johnson
13 – 18 June	2014 National General Assembly of Local Government – Canberra + CEO
Friday, 13 June	Como Hotel Photo shoot
Thursday, 12 June	Local Government reform Meeting + CEO + Mayor and CEO of Town of Victoria Park + Mr John McGrath, Hon. Simon O'Brien, Hon Phil Edman and Hon Nick Goiran
Wednesday, 11 June	Celebration of Curtin's History
	WALGA: Outcomes - Meeting Metropolitan Mayors, Presidents from 19 May 2014

	Councils for Democracy – City of Subiaco + CEO
Tuesday, 10 June	Council Briefing - Triennial GRV Rates Modelling and Draft Budget
	Pre-briefing Meeting - including on possible council legal action + Cr Glenn Cridland + CEO
	Mayor/CEO weekly meeting
Monday, 9 June	Guest speaker at South Perth Westpac new branch – Mends Street
	Perth Electric Tram Society meeting + CEO
	Como Primary School - meet Richie Griffiths
Sunday, 8 June	West Australian Youth Orchestra 'The Planets' - WA Perth Concert Hall
Friday, 6 June	Edventures meeting with General Manager and Vice President
	CEDA: Why gender equity needs policy levers and leadership
	Mayor meet the Community
Thursday, 5 June	YB12 Best Year Ever Public Presentation
	May Gibbs Trust meeting + CEO
	Metropolitan Reform Implementation Policy Forum
Tuesday, 3 June	Mayor /CEO weekly meeting
	Discussion Manager Libraries and Heritage re Pioneers and Elders Luncheon

#### Council Representatives' Activity Report - June 2014

<b>June 2014</b>	<b>Activity</b>
Monday, 30 June	Official Opening Vietnam's Picturesqueness – Photographic exhibition of Vietnamese World Heritage – Cr Kevin Trent
Wednesday, 25 June	WALGA: South East Metropolitan Zone – Crs Fiona Reid and Sharron Hawkins-Zeeb
Thursday, 19 June	Rivers Regional Council Meeting – Crs Colin Cala and Kevin Trent
Wednesday, 11 June	Metro Central DAP meeting Lot 67 Mill Point Road – Crs Glenn Cridland and Colin Cala
Wednesday, 11 June	Chair Safety and Crime Prevention Meeting – Cr Fiona Reid
Thursday, 5 June	Opening 2014UnitingCareWest Winter Appeal – Cr Kevin Trent
Thursday, 5 June	Perth Airport Management Group – Cr Cheryle Irons

## APPENDIX TWO - ITEM 6.1 REFERS

### 6.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE: 24 June 2014

2. Mr Geoff Defrenne of 24 Kennard Street, Kensington Received enquiries: 24 June 2014	Response provided by: Cliff Frewing, Chief Executive Officer
<p>[Preamble]</p> <p>I note with interest the following payments for May.</p> <p><i>1393.205859-01 27/05/2014 205859 James Campbell Anzac Day Celebrations: Photography \$924.00</i>  <i>1393.207254-01 27/05/2014 207254 WA Youth Orchestra Assoc Inc Fiesta 2014: Performance \$34,100.00</i></p>	
<p>1. Does the council see good value for the ANZAC photos as published Peninsular at \$231 for each photo?</p>	<p>Whilst only two photos were published in the Peninsula, in actual fact 50 photographs were taken at this event. The photographs are not solely for publishing purposes within Peninsula but are also used in a variety of other mediums such as social media galleries, media releases, web galleries and other marketing channels. These photos are often also used for the promotion of future events (such as next year's centenary ANZAC event), and/or for graphic design purposes. The photos also form part of the City's visual record of the event and are used for evaluation and historical purposes.</p>
<p>2. Does the council believe it had good value out to the payment of \$34,100 to the WA Youth Orchestra?</p>	<p>Yes, the City negotiated with a variety of other orchestras some of whom proposed nearly three times the amount that was proposed by the WA Youth Orchestra. The City conducted industry research and attended varying performances by other orchestras and noted that the quality was the same if not better than these more known ensembles. Furthermore, if considering that most amateur performers (with less refined talent) charge around \$500.00 per show, this total cost for the 60+ performers indicates that this fee of \$34,100 was on par.</p>
<p>3. What payment was made for the other main performer and the Fiesta concert?</p>	<p>Lucy Durack together with Chris Horsey (choreographer) and back up dancers were paid for as a package arrangement at \$19,000.</p>