

AGENDA

Special Council Meeting

27 October 2015

Notice of Meeting

To: The Mayor and Councillors

A Special Meeting of Council has been scheduled for 5.30pm Tuesday 27 October 2015 in the City of South Perth Council Chamber, Cnr Sandgate Street and South Terrace, South Perth.

The purpose of this meeting is to consider the following matters:

- Amendment No. 46 to Town Planning Scheme No. 6 – South Perth Station Precinct
- Reconsideration of DAP application for multiple dwellings at 10 and 12 First Avenue, Kensington



VICKI LUMMER
ACTING CHIEF EXECUTIVE OFFICER

23 October 2015



Our Guiding Values

Trust

Honesty and integrity

Respect

Acceptance and tolerance

Understanding

Caring and empathy

Teamwork

Leadership and commitment

Disclaimer

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

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

Further Information

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

- **Council Meeting Schedule**

Ordinary Council Meetings are held at 7.00pm 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 meetings of Council and its Committees available to the public.

- **Meet Your Council**

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/

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Special Council Meeting - Agenda

1. DECLARATION OF OPENING

2. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

2.1 AUDIO RECORDING OF COUNCIL MEETING

The meeting is audio recorded in accordance with Council Policy P673 “Audio Recording of Council Meetings” and Clause 6.15 of the Standing Orders Local Law 2007 which states: “A person is not to use any electronic, visual or vocal recording device or instrument to record the proceedings of the Council without the permission of the Presiding Member”.

3. ATTENDANCE

3.1 APOLOGIES

3.2 APPROVED LEAVE OF ABSENCE

4. DECLARATIONS 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.

5. DEPUTATIONS

6. PUBLIC QUESTION TIME

7. REPORTS

7.0.1 Amendment No. 46 to Town Planning Scheme No. 6: South Perth Station Precinct

7.0 MATTERS REFERRED FROM PREVIOUS COUNCIL MEETINGS

7.0.1 Amendment No. 46 to Town Planning Scheme No. 6: South Perth Station Precinct - to rectify anomalies and ambiguities and strengthen criteria for building height variations. Report on Submissions (Item 10.0.1 Council meeting 13 October 2015 refers)

Location:	All land between Richardson and Darley Streets to the south and east, and Scott Street and Frasers Lane to the north
Ward:	Mill Point
Applicants:	Council
File Ref:	LP/209/46
Date:	20 October 2015
Author:	Rod Bercov, Strategic Urban Planning Adviser
Reporting Officer:	Vicki Lummer, Director, Development and Community Services

Summary

The purposes of Amendment No. 46 are to :

- (a) rectify the identified minor anomalies / ambiguities in the existing special provisions for the South Perth Station Precinct; and
- (b) strengthen existing performance criteria relating to building height variations.

This will be achieved by inserting a new Schedule 9A in place of the existing Schedule 9.

At the August 2015 Council meeting, an Officer's Report on Submissions was considered. That report was prepared in response to the 41 submissions which had been received. Having considered the Report on Submissions, the Council decided not to adopt the Officer's recommendations and instead, deferred its response to the submissions pending discussion at a workshop. Council's recommendations to the Minister on the submissions and on modifications to draft Amendment No. 46 were to have been made at the 13 October 2015 meeting.

The workshop was held on 8 September 2015. At the Workshop, Council Members worked through a schedule titled: "*Summary of Submissions on Draft Amendment*". In that schedule, the "*Council Workshop Comments*" column recorded the likely response to the submissions.

New Planning and Development Regulations came into operation on 19 October. At the 13 October meeting, the Council deferred its decision to a Special Council meeting to be held at the earliest practicable time after the new Regulations come into operation. That meeting is now scheduled for 27 October 2015.

While Council Members may respond to the submissions differently from the Officer's recommendations, the August Officer's recommendations remain unchanged. Accordingly, in response to the submissions, it is recommended that the Council recommend to the Minister for Planning that Amendment No. 46 be approved with modification to the extent described in the Report on Submissions comprising **Attachment (a)** to this report.

7.0.1 Amendment No. 46 to Town Planning Scheme No. 6: South Perth Station Precinct

Officer Recommendation

That:

- (a) the Western Australian Planning Commission be advised that Council recommends that:
 - (i) Submissions 1.1, 1.2 and 1.3 supporting the proposed Amendment No. 46 be UPHELD;
 - (ii) Submission 1.4 conditionally supporting the proposed Amendment No. 46 be NOT UPHELD;
 - (iii) Submissions 2.1 to 2.8 opposing certain Table A development requirements and Table B Performance Criteria in proposed Amendment No. 46 be PARTIALLY UPHELD to the extent indicated in the Report on Submissions;
 - (iv) Submissions 3.1 to 3.5 inclusive, opposing exclusion of certain properties from the Special Design Area, be NOT UPHELD;
 - (v) Submissions 4.1 to 4.17 inclusive, opposing Amendment No. 46 as height controls are considered inadequate, be PARTIALLY UPHELD.
 - (vi) Submissions 5.1 to 5.5 inclusive, opposing certain provisions in Amendment No. 46 be GENERALLY NOT UPHELD.
 - (vii) Submissions 6.1 and 6.2 from government departments be UPHELD.
 - (viii) Amendment No. 46 to the City of South Perth Town Planning Scheme No. 6, be adopted **with modification** to the extent identified in **Attachment (c)**;
- (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 deleting Schedule 9 and inserting the modified Schedule 9A in its place.
- (c) the Council hereby authorises the affixing of the Common Seal of Council to three copies of the MODIFIED Amendment No. 46 document comprising **Attachments (b) and (c)**;
- (d) the Report on Submissions (**Attachment (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. 46 by the Minister for Planning;
- (e) the Western Australian Planning Commission be advised that, owing to the strength of concern expressed by some of the submitters regarding the effectiveness of the existing special provisions applicable to the South Perth Station Precinct, the Council will be engaging a consultant to conduct a review of those provisions and the geographic extent of the precinct, in preparation for a new Scheme Amendment proposing more substantial changes.
- (f) the submitters be thanked for their contribution to Amendment No. 46 and they be advised that:
 - (i) the Council will be considering more substantial modifications to the development controls in the South Perth Station Precinct, for implementation by way of a new Scheme Amendment; and
 - (ii) as part of the process towards implementing the new Scheme Amendment, there will be further community engagement.

Background

This report includes the following attachments:

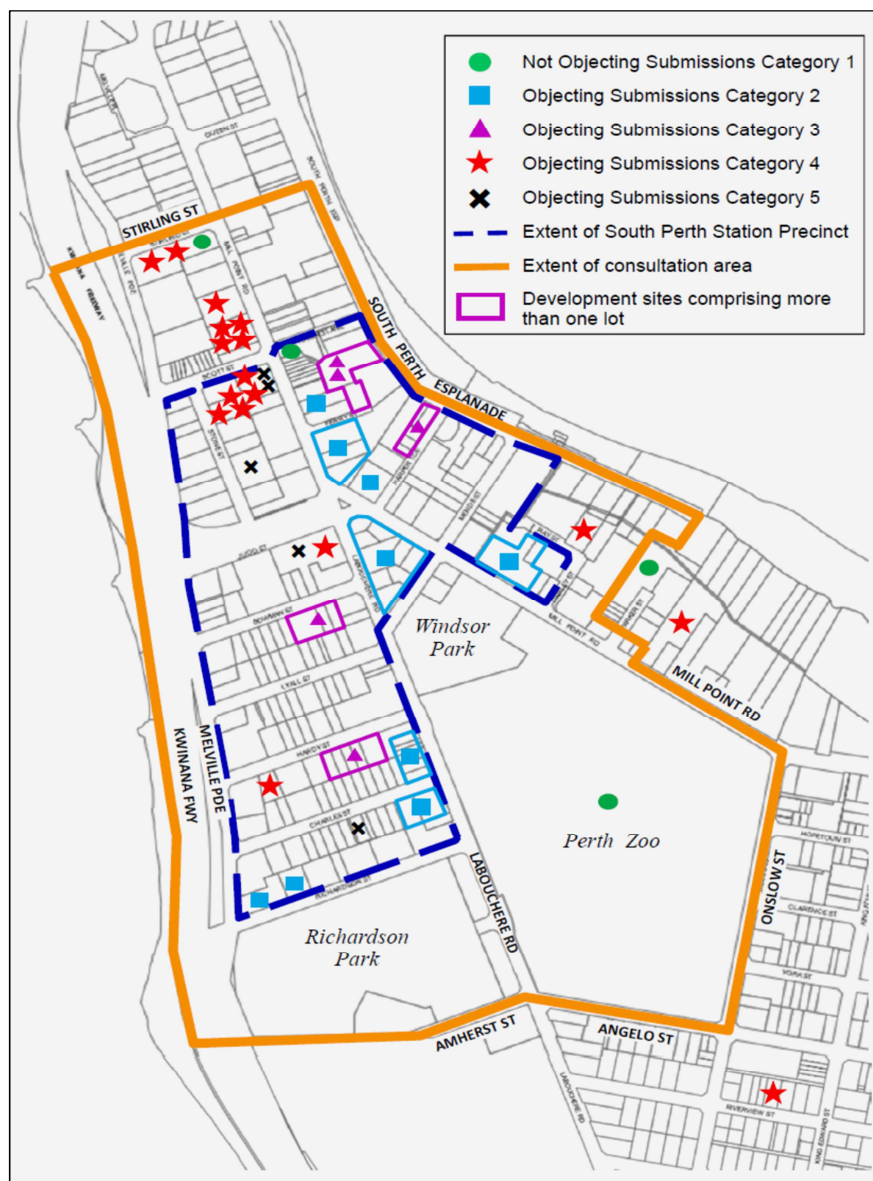
- **Attachment (a)** Officer's Report on Submissions;

7.0.1 Amendment No. 46 to Town Planning Scheme No. 6: South Perth Station Precinct

- **Attachment (b)** Amendment No. 46 Report (and draft Amendment text as advertised);
- **Attachment (c)** Officer's modified Amendment No. 46 text;
- **Attachment (d)** Council's modified Amendment No. 46 text for further consideration by Council.

Amendment No. 46 was initiated at the October 2014 Council meeting for the purposes referred to in the 'Summary' section of this report. The proposals are fully described and explained in the Report on Submissions (**Attachment (a)**).

The location of the Amendment site is shown below. The map also shows the extent of community consultation undertaken by the City by means of individually addressed letters mailed to landowners; and the geographic location of properties from which submissions were received. 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 (a)**).



Council Meeting 25 August 2015

At the August 2015 meeting, the Council resolved as follows:

That:

7.0.1 Amendment No. 46 to Town Planning Scheme No. 6: South Perth Station Precinct

- a) *the Officer's Recommendation not be adopted;*
- b) *the Item be held over pending a workshop of Council on the form and content of advertising for the revised Scheme Amendment 46 of the Town Planning Scheme No. 6, for a Report be brought back to the October 2015 Ordinary Council Meeting for recommendation to the Minister for Planning for re-advertising, for the following reasons:*
 - (i) *The scope of the originally advertised amendment being more than a mere rectification of anomalies;*
 - (ii) *There being unannounced substantial proposed changes in the originally advertised amendment to the objectives of the scheme, with the effect of changing the emphasis from a precinct being a business location with a limited level of residential development to provide passive surveillance, to one where residential development will predominate; The changes to the plot ratio required for conforming and non-conforming plot sizes allows a greater proportion of residential to that of commercial. This will in effect change a primary objective of the precinct to create sufficient commercial activity in the precinct to provide a compelling case for a train station. This change in emphasis deserves informed public consultation;*
 - (iii) *The nature of advertising of the scheme amendment which led to a misunderstanding by residents of the full implications of the present scheme provisions and the proposed amendment 46 with respect to bonus height provisions and setback requirements. Community response following recent JDAP decisions, would indicate that the manner in which Amendment 46 and 25 have been explained, has not conveyed to the majority of residents a clear enough picture of what was possible under the Scheme. Should this have occurred it would seem clear that there would have been a greater number of submissions, following consultation;*
 - (iv) *Bonus height provisions still remain subjective and leave an uncertainty to a final outcome Amendment 46 reinforces the notion that contrary to the views of the community that height of itself is not a planning issue, but rather the aesthetic and environmental quality of a development and introduces an expanded performance criteria for assessment.*
 - (v) *The recognition that the section of Mill Point Road north of Judd Street, which forms part of the area known as the Peninsula is distinctly different from other parts of the Precinct and should be removed from the Special Design Area.*
 - (vi) *The need as outlined by Main Roads WA that before proceeding with this Amendment or any changes that would facilitate potentially significant changes in residential density, a robust traffic impact assessment must be undertaken to determine the likely impacts on the existing road network. Though this work is currently being undertaken by the City, the results need to be complete before any new assessment process is developed in the granting concessions.*
 - (vii) *That owing to the strength of concern expressed by the community at public meetings and in submissions, regarding the nature and basis for special bonus height provisions and setback requirements, that it would be premature to proceed with Amendment 46 in its current form until such time as the Amendment was re-advertised with the Council's proposed further modifications to allow the City to have a more complete overview of community expectations for the Precinct. The current amendment outlines the City's expectations in dealing with special bonus height and setback requirements, but does not appear to outline the community's expectations.*
 - (viii) *At the time of initiating Amendment 46, Council itself was not fully aware of the full implications of the provisions, but has been bound by the amendment process to not introduce any significant departure from the amendment as advertised. In*

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readvertising the amendment, the council will have the opportunity to revisit aspects that they are presently unable to do.

Ordinary Council Meeting 13 October 2015

Based on the outcome of the 8 September Workshop, the Council Members are in favour of certain substantial modifications to the advertised draft of Amendment No. 46. The Council wishes to endorse these modifications before implementing a second round of advertising for Amendment No. 46. The new *Planning and Development (Local Planning Schemes) Regulations 2015* enable the Council to proceed directly to readvertising whereas, under the previous Regulations, the decision on re-advertising could only be made by the Minister. At the 13 October meeting, the Council resolved as follows:

“That:

- (a) the Officer’s recommendation not be adopted; and
- (b) a decision on this matter be deferred to a Special Council Meeting to be held at the earliest practicable time after 19 October 2015 when the Planning and Development (Local Planning Schemes) Regulations 2015 have come into operation;
- (c) at the Special Council Meeting referred to in part (b), a motion in the following terms, be considered:

“(a) That:

- (i) *Submission 1.1 supporting the Amendment be NOTED;*
- (ii) *Submission 1.2 promoting the case for a train station, be NOTED AND SUPPORTED;*
- (iii) *Submission 1.3 supporting the Amendment and promoting the case for a train station for Zoo patrons, be PARTIALLY UPHELD noting that the station will also benefit other users; and the support for the Amendment be NOTED;*
- (iv) *Submission 1.4 proposing an extension of the Precinct, be NOT UPHELD;*
- (v) *Submissions 2.1 to 2.8 opposing development requirements in Table A and Performance Criteria in Table B, be –*
 - (A) *NOT UPHELD in relation to the requested widening of discretionary power, reduction in minimum non-residential plot ratio, and change to the ‘nett floor area’ method of specifying parking ratios, in Table A;*
 - (B) *PARTIALLY UPHELD in relation to comments pertaining to Table B; and that Table be modified in respect of undersized lots, energy-efficiency, adaptable housing, affordable housing, and by expanding the number of Performance Criteria to the extent indicated in the modified Amendment Text;*
- (vi) *Submissions 3.1 to 3.5 opposing exclusion of certain properties from the Special Design Area, be NOT UPHELD;*
- (vii) *Submissions 4.1 to 4.17 opposing the Amendment due to inadequate height controls and Performance Criteria in Table B, be UPHELD and –*
 - (A) *Tables A and B be modified to the extent indicated in the modified Amendment Text;*

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- (B) the Special Design Area be deleted from all properties on the eastern side of Mill Point Road between Ferry Street and Frasers Lane; and on the western side of Mill Point Road, between Judd Street and Scott Street; and
 - (C) In the case of development proposals in the Special Design Area, any variation from the prescribed building height limit be restricted to the extent indicated in the modified Amendment Text;
- (viii) Submissions 5.1 to 5.5 opposing provisions relating to front and side setbacks, method of measuring building height, and siting of parking bays, be –
- (A) NOT UPHELD in relation to method of measuring building height and side setbacks;
 - (B) UPHELD in relation to siting of parking bays; and
 - (C) PARTIALLY UPHELD in relation to street setbacks and Amendment No. 46 be modified to require a 4.0 metre street setback for all Mill Point Road properties north of Judd Street and Harper Terrace and the Development Requirement 7.3 of Table A be expanded to include reference to Bowman Street, Hardy Street and Charles Street (except those lots in the Special Design Area), with all streets being listed in alphabetical order and renumbered accordingly;
- (ix) Submission 6.1 from Main Roads Western Australia, be UPHELD IN PRINCIPLE and Main Roads' recommended improvements to the road network be referred to the City's Infrastructure Directorate for consideration and implementation of action as appropriate; and
- (x) Submission 6.6 from Western Power, be NOTED;
- (b) City Officers be directed to rewrite the 'Report on Submissions' comprising **Attachment (a)**, including revisions to the general commentary, and Council's responses and recommendations on each relevant submission, to reflect the Council's decision in part (a) above, based on the reasons set out in the Alternative Motion;
- (c) the rewritten Report on Submissions and the Schedule of Submissions containing the Council's recommendations, and the modified Amendment Text (**Attachment (b)**) be adopted; (**NOTE: For ease of reference, the modified Amendment Text reflecting the Council's intent at the 13 October meeting, is attached hereto, now identified as Attachment (d)**).
- (d) having regard to the substantial nature of some of the Council's recommended modifications to the draft of Amendment No. 46 endorsed for advertising in October 2014, the modified amendment, being a 'Complex Amendment', be readvertised in the manner referred to in Regulation 42 for a period of not less than 42 days, for the following reasons:
- (i) The scope of the recommended modifications to the originally advertised amendment is more than a mere rectification of anomalies and strengthening of Table B Performance Criteria.
 - (ii) The draft amendment as originally advertised has the effect of changing the emphasis of the Precinct from being a predominantly business location with a limited amount of residential floor space, to one where

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residential floor space would predominate. In effect, this will change the expected patronage of the future train station, to the extent that it may not properly be characterised as the intended 'destination' station.

- (iii) The nature of the original advertising of the Scheme Amendment led to residents misunderstanding the full implications of the provisions in both the present Scheme and those proposed in Amendment No. 46 with respect to 'bonus height' and setback requirements. Community response to recent JDAP decisions provides clear evidence of this misunderstanding. If the implications had been explained more clearly, there may have been a greater number of submissions on Amendment No. 46.
 - (iv) Some of the Performance Criteria in Table B relating to building height variations are still subjective and leave uncertainty as to the height of future buildings in the precinct. Recommended modifications to the height controls in Amendment No. 46 will provide a remedy; however, due to the substantial nature of these modifications, further community consultation is requested.
 - (v) The Mill Point Road properties north of Judd Street are located in a part of the Peninsula which has a distinctly different character from other parts of the Precinct. Therefore, the Council recommends the removal of properties on the eastern side of Mill Point Road between Ferry Street and Frasers Lane, and on the western side of Mill Point Road between Judd Street and Scott Street, from the Special Design Area. Re-advertising is requested due to the substantial nature of this modification.
 - (vi) Owing to the strength of community concern about unrestricted building heights in the Special Design Area, Council is recommending modifications to the provisions relating to building height variations. The modified provisions will impose absolute limits on the extent of any possible height variation. As these modifications to the Amendment are substantial, re-advertising is requested.
 - (vii) Owing to the strength of community concern about 'zero' street setbacks, particularly in the portion of Mill Point Road north of Judd Street and Harper Terrace, Council is recommending a modification to Element 7 of Table A to require a 4.0 metre street setback for these Mill Point Road properties. As this modification to the Amendment is substantial, re-advertising is requested.
- (e) the submitters be thanked for their contribution to Amendment No. 46 and they be advised of the above resolution and that:
- (i) the Council will be considering additional substantial modifications to the development controls in the South Perth Station Precinct, for possible implementation by way of a new Scheme Amendment; and
 - (ii) as part of the process towards implementing the new Scheme Amendment, there will be further community consultation; and
- (f) City Officers, in collaboration with the appointed consultants for the next Scheme Amendment for the precinct, are to continue investigations into the manner in which a Development Contribution Plan can be implemented for the South Perth Station Precinct. This work will form part of the consultant's brief which is to review, but be not limited to such matters as: extent of Special

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Design Area, traffic management, increased street and side setbacks for the podium and tower components of buildings, plot ratio controls and the geographical extent and placement of proposed height limits.”

Reasons for Alternative Motion

The reasons for readvertising outlined in paragraphs (g)(i) to (g)(vii) of the recommendation, provide a compelling argument for the need to readvertise. Council Members and the community are concerned about the unexpected and substantial changes to the character of the South Perth Station Precinct brought about by Scheme Amendment No. 25 by the recent approval of some very large high rise developments. While Amendment No. 46 attempts to put in place performance criteria that make it harder to attain greater development opportunities, there is still an uncertainty of outcome due to the lack of limits on plot ratio and height.

As a result of some submissions, proposed changes under Amendment No. 46 have been drafted to facilitate predominantly residential, rather than commercial buildings. This is contrary to the intent of the original advertised Station Precinct Plan and the stated objectives of the Special Control Area. The effect of changing the emphasis from a precinct being one of a business location with a limited level of residential development to provide passive surveillance, to one where residential development will predominate, is a substantive change in emphasis, and justifies a need to re-advertise.

To appropriately deal with these issues, Council is recommending significant modifications to the Officer’s recommendations in relation to a range of matters, most importantly, the extent of the Special Design Area, and the imposition of absolute limits on the extent of any building height variations.”

Comment

Forty-one submissions were received during the advertising period, two being from government agencies. The attached Report on Submissions (**Attachment (a)**) discusses the submissions fully, and contains a recommendation on each.

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.

Consultation

(a) Community consultation

As required by the *Town Planning Regulations*, on 7 November 2014 the Amendment No. 46 proposal was forwarded to the Environmental Protection Authority (EPA) for assessment. The EPA responded by letter dated 17 November 2014, advising that no assessment or conditions are required under Part IV Division 3 of the Environmental Protection Act.

In accordance with Council Policy P301 ‘Consultation for Planning Proposals’, the City does not undertake community consultation on Town Planning Scheme Amendments during the December / January holiday period. At the conclusion of this period, the City implemented the statutory advertising required by the Regulations, TPS6 and Council Policy P301. The 46-day community consultation period commenced on 27 January 2015 and concluded on Friday 13 March 2015

The draft Amendment was advertised in the manner described below:

- 46-day advertising period, being 4 days longer than the 42-day minimum.

7.0.1 Amendment No. 46 to Town Planning Scheme No. 6: South Perth Station Precinct

- 1352 letters / notices mailed to all landowners within the South Perth Station Precinct and to owners of properties on the perimeter, outside the precinct;
- 30 letters / notices mailed to architects, town planners and developers known to have an interest in the precinct; and
- 10 letters / notices mailed to potentially affected Government agencies.
- Notices published in the 27 January and 17 February 2015 issues of the Southern Gazette newspaper.
- Notices and documents displayed on the City's web site, in the City's Libraries and in the Civic Centre.

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 46 days. As stated previously, 41 submissions were received during the advertising period. The submissions, together with Council responses, are summarised in the Report on Submissions provided as **Attachment (a)**.

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

1. No objection	4
2. Opposing Table A development requirements; and Table B performance criteria	8
3. Opposing exclusion of certain properties from Special Design Area	5
4. Opposing Amendment as height controls considered inadequate	17
5. Opposing certain provisions	5
6. Government submissions	2

Twenty-two (22) of the submitters (not including the Government agencies) did not express any concern about the existing building height controls being inadequate. Four of those submitters fully support the Amendment No. 46 proposals, while the remaining 18 submitters are seeking a variety of other changes, most wanting less stringent controls.

The other 17 submitters consider that the existing building height controls, and those proposed in the advertised draft Amendment No. 46, are inadequate. The existing operative suite of provisions was introduced by Scheme Amendment No. 25 in January 2013, although most of the submitters in this category seem to be of the understanding that these provisions are being introduced now. For development sites in the Special Design Area, Amendment No. 46 is introducing more stringent performance criteria which must be met where applicants are seeking approval for buildings higher than the height limits shown on Plan 3 within Schedule 9A.

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

1. Submissions 1.1 to 1.4: NO OBJECTION to Amendment No. 46
 - (a) Total support.
 - (b) Supports Amendment to promote case for train station.
 - (c) Supports Amendment - extend precinct to Parker Street.
 - (d) Supports Amendment – particularly Design Consideration 4 in Table B: Performance Criteria.

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2. Submissions 2.1 to 2.8: OPPOSING development requirements in Table A; and performance criteria in Table B
 - (a) Oppose constraints on discretionary power to permit variations from Table A development requirements.
 - (b) Oppose constraints on residential development in Element 3 of Table A.
 - (c) Oppose 'gross floor area' method of specifying parking ratios in Element 9 of Table A.
 - (d) Oppose wording of Table B, Design Consideration 1 performance criterion relating to minimum lot area and frontage.
 - (e) Oppose Table B, Design Consideration 7 performance criterion relating to maximum parking ratios.
 - (f) Oppose Table B, Design Consideration 7 performance criterion relating to Green Star energy-efficiency rating.
 - (g) Oppose Table B, Design Consideration 7 performance criterion relating to 'Adaptable Housing'.
 - (h) Oppose Table B, Design Consideration 7 performance criterion relating to 'Affordable Housing'.
 - (i) Oppose Table B, Design Consideration 7 requiring end-of-trip facilities for visiting cyclists.
 - (j) Oppose omission of Table B, Design Consideration 7 performance criterion relating to provision of public car parks.
 - (k) Oppose limitation on degree of choice in Table B, Design Consideration 7 optional performance criteria.
 - (l) Oppose new structure of Table B, introducing graduated scale of increasingly demanding performance criteria.
3. Submissions 3.1 to 3.5: OPPOSING exclusion of certain properties from Special Design Area
 - (a) Requests extension of Special Design Area to include all properties in South Perth Station Precinct.
 - (b) Requests extension of Special Design Area to certain lots in Bowman and Hardy Streets.
 - (c) Requests extension of Special Design Area lots in South Perth Esplanade and Ferry Street.
 - (d) Requests extension of Special Design Area to lots in Harper Terrace cnr South Perth Esplanade.
4. Submissions 4.1 to 4.17 OPPOSING Amendment No. 46 as height controls considered inadequate
5. Submissions 5.1 to 5.5 OPPOSING certain provisions
 - (a) Requests 4.0 metre setback from Mill Point Road north of Judd Street; no parking bays visible from streets.
 - (b) Objection to proposed train station.

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- (c) Requests 4.0 metre setback from Charles Street; increased side setback for podium; standard measuring where height limit is 25 metres.
- (d) Requests increased requirement for on-site parking.

6. Submissions 6.1 and 6.2 Government submissions

- (a) Main Roads.
- (b) Western Power.

(b) Consultation with City's lawyers

In progressing from the advertised draft version of Amendment No. 46 to the final version, changes may only be made in response to issues raised by submitters.

Furthermore, any changes must be consistent with the purposes of the Amendment as resolved by the Council in October 2014. Those purposes are:

- to rectify the identified minor anomalies / ambiguities in the existing special provisions for the South Perth Station Precinct; and
- to strengthen existing performance criteria relating to building height variations.

While adhering to this approach, City officers are recommending numerous modifications to the advertised draft version of Amendment No. 46. The City's lawyers have closely examined the officers' modified version and have made still further changes in the interest of clarity and elimination of any ambiguity. The modified Amendment text for final adoption is contained within **Attachment (c)**. It incorporates the City officer's modifications as well as those presented by the City's lawyers. The modified Amendment is now in a suitable form for adoption by Council and approval by the Minister.

If the Council supports the officer recommendations on the submissions, when the Council has adopted the Amendment at **Attachment (c)**, it will be forwarded to the Western Australian Planning Commission with a recommendation that the Minister for Planning grant final approval to Amendment No. 46 **with modification**. The modifications involve the replacement of Schedule 9 with a new Schedule 9A. Within Schedule 9A numerous minor modifications have been made to Table A: 'Development Requirements for Comprehensive New Development'. Table B: 'Performance Criteria for Special Design Area' has been substantially modified in order to strengthen the performance criteria for variations from the basic building height limits.

(c) Review by external Planning Consultant

At its June 2015 meeting, the Council resolved to appoint a planning consultant to review the City Officer's Report on Submissions and all related documents, to assist Council in its assessment of the officer's report and recommendations. Five consultants were invited to submit a quotation for this project and Urbis Planning Consultants were appointed. Urbis supported the great majority of the Officer's recommendations. In relation to overshadowing, and extent of solar access to proposed balconies, the consultants advocated less stringent provisions. They also did not support the officer's recommended introduction of a minimum landscaping requirement (40% of the area of the development site, which could include ground level landscaping, planting on walls, landscaping on the roof of the podium, rooftop terraces or gardens).

7.0.1 Amendment No. 46 to Town Planning Scheme No. 6: South Perth Station Precinct

Policy and Legislative Implications

Amendment No. 46 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 inserting a new Schedule 9A in place of the existing Schedule 9 in order to rectify minor anomalies / ambiguities in the existing special provisions for the South Perth Station Precinct; and strengthen existing performance criteria relating to building height variations.

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. 46 with or without modifications, or not approve it. The recommendation is to approve the Amendment proposals 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.

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 25 August Council meeting, are shaded:

Stage of Amendment Process	Date
Council decision to initiate Amendment No. 46	28 October 2014
Council adoption of draft Amendment No. 46 Report and Scheme Text for advertising purposes	28 October 2014
Referral of draft Amendment No. 46 documents to EPA for environmental assessment, and to WAPC for information	7 November 2014
Receipt of EPA comments advising that no environmental assessment or conditions are required	17 November 2014
Public advertising period of 46 days	27 January to 13 March 2015
Council deferral of decision on Report on Submissions on Amendment No. 46	25 August 2015
Council Members’ Workshop	8 September 2015
Council’s further deferral of decision on Report on Submissions	13 October 2015
Council decision on Report on Submissions	27 October 2015
Referral to WAPC and Minister for consideration of: <ul style="list-style-type: none"> All of the submissions Report on Submissions and Schedule of Submissions Council’s recommendation on proposed Amendment No. 46 Three signed and sealed copies of Amendment documents for the Minister’s final determination 	Within two weeks of 27 October 2015 Council meeting
Minister’s final determination of Amendment No. 46	Not yet known
Publication of Notice of the Minister’s final approval of Amendment No. 46 in <i>Government Gazette</i> and <i>Southern Gazette</i> newspaper	Not yet known

7.0.1 Amendment No. 46 to Town Planning Scheme No. 6: South Perth Station Precinct

Financial Implications

As the proposed Amendment No. 46 is a Council initiative rather than having been initiated at the request of a landowner, all costs associated with this Scheme Amendment are being met by the City.

Strategic Implications

This report is consistent with the City's [Strategic Plan 2015–2025](#), Direction 3 - Housing and Land Uses "Accommodate the needs of a diverse and growing population".

Sustainability Implications

The proposed Amendment No. 46 will enable the special provisions applicable to the South Perth Station Precinct to operate more effectively.

The strengthened requirement in Table B: Performance Criteria relating to Energy-Efficiency will result in a higher standard of environmentally sustainable building design in cases where applicants are seeking variations from the basic height limits. Other Table B performance criteria relating to traffic studies, 'capped' parking ratios, electric car charging stations, and parking facilities for cyclists and motor cyclists have beneficial sustainability implications in relation to managing traffic volumes and vehicle emissions.

Future New Scheme Amendment

As referred to above, the purposes of Amendment No. 46 are to rectify minor anomalies / ambiguities in the existing special provisions for the South Perth Station Precinct; and to make the performance criteria relating to building height variations stronger and more effective. These purposes are reflected in the text of the draft Amendment that the Council endorsed in October 2014. The community has been invited to comment on the changes incorporated in the draft Amendment and submissions on that document have been received.

Having advertised the draft Amendment without major modifications apart from those in the revised Table B 'Performance Criteria', this particular Scheme Amendment ordinarily should not now be used as the instrument for introducing substantial changes. If Council decides to make substantial changes, the Minister is likely to direct the Council to readvertise the modified Amendment before he makes a final decision on the Amendment.

Before any substantial changes are made, they should be supported by proper research and investigation into their implications. In relation to the desired future character of the South Perth Station Precinct, the Council wants a deeper review to be undertaken regarding the special provisions applying to that precinct. That review is expected to lead to recommendations for more substantial changes. Any substantial changes would then be incorporated into another Scheme Amendment. In relation to this deeper review, at the 20 May 2015 special meeting, the Council resolved as follows:

- “(a) In relation to the No. 6 Town Planning Scheme provisions pertaining to the South Perth Station Precinct, a consultant be engaged to conduct an independent review of those provisions and the geographic extent of the remainder of that precinct;*
- (b) as part of that review, the consultant is to examine design elements associated with higher buildings, using other well respected regulatory and design frameworks such as that produced by the Commission for Architecture and the Built Environment UK (CABE's): “Guidance on Tall Buildings” or “SEPP 65” from New South Wales; and*
- (c) based on the findings of the review, the consultant is to prepare a draft of a new amendment to Town Planning Scheme No. 6 for consideration by the Council which*

7.0.1 Amendment No. 46 to Town Planning Scheme No. 6: South Perth Station Precinct

will be included into the City-wide Local Planning Strategy which is currently in progress.”

Council Members have been informed that a planning consultant firm called Cardno has now been appointed to undertake the further review towards a new Scheme Amendment.

In relation to the consultant's further review referred to above, the Director's report considered at the 20 May special Council meeting advised that the officer's report on the Amendment No. 46 submissions would present a full list of matters to be considered by the consultant as part of that further review. Accordingly, the following information is now provided:

After the consultant has reviewed other 'best practice' regulatory and design frameworks such as those referred to in the above Council resolution, a draft new Scheme Amendment and/or Council Planning Policy will be presented for Council's consideration prior to inviting comments from the community. In presenting the draft new provisions, the consultant will be recommending how the existing special controls should be further modified. The recommended modifications could potentially reflect the responses to the following questions, among others:

- Should the extent of the South Perth Station Precinct be changed?
- Should the extent of the Special Design Area (SDA) be changed? *(The Council has indicated a desire to reduce the extent of the SDA, removing the properties on the east side of Mill Point Road between Ferry Street and Fraser Lane; and those on the west side of Mill Point Road between Judd Street and Scott Street)*
- What further development requirements, if any, should be implemented in the interest of effective traffic management?
- Should there be additional statements in Schedule 9A regarding desired streetscape character?
- For Design Consideration I (as now re-numbered) in Table B, in order to satisfy the related performance criterion, the architectural design of a proposed building must be exceptional, sensitive and sophisticated, contributing to the quality of the inner urban environment being promoted within the Precinct. Amendment No. 46 lists aspects of the building design which are to be considered in arriving at an opinion regarding the design quality. When evaluating design quality, what methods should be employed to confirm unequivocally whether or not a proposed building design satisfies this performance criterion?
- Should there be an upper limit to the extent of any building height variation for properties in the SDA?
- Would a maximum plot ratio be beneficial as a means of controlling building bulk?
- Should there be any changes to the Table A, Element 3 development requirements relating to plot ratio and land use proportions?
- Would more flexibility be desirable regarding the minimum and maximum height of the 'podium' component of buildings (a higher podium may be appropriate for higher buildings)?
- For some streets, should there be increased street setbacks for the 'podium' component of a building?
- In the interest of creating spaces for street entertainment performances or other public interaction, should a specified minimum percentage of the front elevation of the podium be set back from the street?
- For the 'tower' portion of a building above the podium, should the street setback be increased in the interest of maintaining 'pedestrian' scale and sunlight penetration? Should there be any other constraint on the maximum permissible 'footprint' of the tower?

7.0.1 Amendment No. 46 to Town Planning Scheme No. 6: South Perth Station Precinct

- Should side and rear setbacks be increased in relation to space between buildings when viewed from the street (pedestrian perspective) and from further away (e.g. cars driving along the freeway)?
- Should setbacks of the 'tower' be required to increase progressively in a proportionate manner, as building height increases?
- What are reasonable expectations regarding overshadowing?
- In Table B, what further performance criteria should be inserted in addition to those added by Amendment No. 46 e.g. educational establishments, free Wi-Fi in publicly accessible areas?
- Is 'Green Star' an appropriate tool for assessing energy-efficiency of buildings and if so, what is the appropriate 'Green Star' rating?
- Should an applicant be required to plant street trees? If so, what degree of maturity?
- Should there be any requirement in relation to visual privacy?
- In relation to developments in the South Perth Station Precinct, which of the matters in TPS6 clause 7.5 'Matters to be Considered by Council' should be specifically listed for consideration?
- What process should be employed when assessing development applications, including effective community engagement and input from an architectural design panel or other independent design advice?
- Should a Development Contributions Plan be introduced and if so, what infrastructure should the DCP relate to?

Conclusion

As discussed in the preceding section of this report, by way of another Scheme Amendment and/or Policy, the Council intends to implement more substantial modifications than those contained in Amendment No. 46. In the meantime, the changes being implemented by Amendment No. 46 will be beneficial as they will improve the performance of the special provisions applicable to development in the South Perth Station Precinct. In response to many of the submitters' comments, the advertised draft Amendment has been modified considerably. As well as providing greater clarity to the operation of these provisions, the very substantially revised Table B performance criteria will improve the built outcome and community amenities where building height variations are approved.

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. 46 should now be adopted by the Council **in a modified form**. The Council should then recommend to the Minister that he grant approval for the modified Amendment. It will then be forwarded to the Minister for Planning for his final determination.

7.0.2 Reconsideration of DAP Applications for Multiple Dwellings at 10 and 12 First Avenue, Kensington

7.0.2 Proposed 16 Multiple Dwellings within a Three-Storey Building. Lots 70 and 71 (No. 10 & 12) First Avenue, Kensington (Metro Central Joint Development Assessment Panel Reconsideration)

Location:	Lots 70 and 71 (No. 10 & 12) First Avenue, Kensington
Ward:	Moresby Ward
Applicant:	Planning Solutions
File Ref:	D-15-75431
Lodgement Date:	20 October 2015
Date:	17 November 2015
Author:	Valerie Gillum, Planning Officer Development Services
Reporting Officer:	Vicki Lummer, Acting Chief Executive Officer
Strategic Direction:	Housing and Land Uses -- Accommodate the needs of a diverse and growing population
Council Strategy:	3.3 Review and establish contemporary sustainable buildings, land use and environmental design standards.

Summary

At its August 2015 Council meeting, Council adopted a motion in relation to the Joint Development Assessment Panel (JDAP) meetings that State Administrative Tribunal (SAT) Responsible Authority Reports (RARs) be presented to Council to consider the proposal on a “call-in” basis.

Recommendation

That Council notes the Responsible Authority Report dated 25 September 2015 prepared for the Joint Development Assessment Panel regarding the proposed 16 Multiple Dwellings within a three-storey building at Lots 70 and 71 (No. 10 and 12) First Avenue, Kensington.

Comment

In accordance with the Council resolution in August 2015 the SAT RAR is attached for Council to consider. The JDAP meeting is scheduled for Monday 2 November 2015 at a time and location yet to be confirmed.

Policy and Legislative Implications

Comments are provided in the Responsible Authority Report in relation to scheme and policy requirements.

Financial Implications

Nil.

Strategic Implications

This matter relates to Strategic Direction 3 “Housing and Land Uses” identified within Council’s Strategic Plan 2015-2025 which is expressed in the following terms: *Accommodate the needs of a diverse and growing population.*

Attachments

- (a) Officer’s Responsible Authority Report (RAR) for Metro Central JDAP determination – 25 September 2015
- (b) Original Determination Notice and Refused Plans 10 March 2015
- (c) Determination Notice and Refused Plans Dated 17 June 2015

7.0.2 Reconsideration of DAP Applications for Multiple Dwellings at 10 and 12 First Avenue, Kensington

- (d) Amended Development Plans Dated 25 September 2015
- (e) Applicant's Supporting Letter Dated 25 September 2015
- (f) Photographs of the Subject Site
- (g) Submissions and Applicant's Response
- (h) RAR dated 25 May 2015 presented at the 17 June 2015 DAP Meeting

8. CLOSURE