

MINUTES.

Ordinary Council Meeting

13 December 2016

Mayor and Councillors

Here within are the Minutes of the Ordinary Council Meeting of the City of South Perth Council held Tuesday 13 December 2016 in the City of South Perth Council Chamber, Cnr Sandgate Street and South Terrace, South Perth.



GEOFF GLASS
CHIEF EXECUTIVE OFFICER

15 December 2016

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**

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

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

Contents

1.	DECLARATION OF OPENING	6
2.	DISCLAIMER	6
3.	ANNOUNCEMENTS FROM THE PRESIDING MEMBER	6
3.1	STANDING ORDERS LOCAL LAW 2007	6
3.2	AUDIO RECORDING OF THE COUNCIL MEETING	6
4.	ATTENDANCE	6
4.1	APOLOGIES	7
4.2	APPROVED LEAVE OF ABSENCE	7
5.	DECLARATIONS OF INTEREST	7
6.	PUBLIC QUESTION TIME	8
6.1	RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE	8
6.2	PUBLIC QUESTION TIME: 13 DECEMBER 2016	8
7.	CONFIRMATION OF MINUTES AND TABLING OF NOTES OF BRIFFINGS AND OTHER MEETINGS UNDER CLAUSE 19.1	8
7.1	MINUTES	8
7.1.1	CEO Evaluation Committee Meeting held 21 November 2016	8
7.1.2	Ordinary Council Meeting held 22 November 2016	8
7.1.3	Audit, Risk and Governance Committee Meeting held 29 November 2016	8
7.1.4	CEO Evaluation Committee Meeting held 5 December 2016	8
7.1.5	Annual Electors' Meeting held 5 December 2016	8
7.2	BRIEFINGS	9
7.2.1	Council Agenda Briefing - 6 December 2016	9
7.2.2	Tenders for the Ernest Johnson Masterplan Stage One Implementation – 29 November 2016	9
8.	PRESENTATIONS	10
8.1	PETITIONS	10
8.1.1	Monitoring of Noise Levels	10
8.2	PRESENTATIONS	10
8.3	DEPUTATIONS	10

8.4	COUNCIL DELEGATES REPORTS	11
8.4.1	Rivers Regional Council (RRC) Meeting - 17 November 2016	11
8.4.2	PAMG Meeting - 1 December 2016	11
8.4.3	South East Metropolitan Regional Road Sub-Group Meeting - 16 November 2016	11
8.5	CONFERENCE DELEGATES REPORTS	11
9.	METHOD OF DEALING WITH AGENDA BUSINESS	12
9.1	EN BLOC MOTION	12
10.	REPORTS	13
10.1	STRATEGIC DIRECTION 1: COMMUNITY	13
10.1.1	Review of Emerging Artist Award	13
10.2	STRATEGIC DIRECTION 2: ENVIRONMENT	18
10.2.1	Water Efficiency Action Plan	18
10.2.2	Tender 23/201 "Tree Watering and Planting Services"	24
10.2.3	Tender 24/2016 "Mowing of Verges and Median Strips"	27
10.3	STRATEGIC DIRECTION 3: HOUSING AND LAND USES	30
10.3.1	SAT Reconsideration: Proposed Amendment to Approved Mixed Development. Lot 3 No. 333 Mill Point Road, South Perth.	30
10.3.2	Proposed Additions (Toilets and Storage) to Religious Activities (Church and Church Hall). Lot 16 (No. 4) Hampden Street, South Perth.	47
10.3.3	Proposed Single House (Two-Storeys). Lot 800 (No. 34A) Sulman Avenue, Salter Point	58
10.4	STRATEGIC DIRECTION 4: PLACES	68
10.4.1	Tender 25/2016 "Construction of Ernest Johnson Community Facility"	68
10.5	STRATEGIC DIRECTION 5: INFRASTRUCTURE AND TRANSPORT	73
10.5.1	Establishment of a Temporary "Construction Worker" Paid Parking on Melville Parade	73
10.6	STRATEGIC DIRECTION 6: GOVERNANCE, ADVOCACY AND CORPORATE MANAGEMENT	76
10.6.1	Financial Management Accounts - Council Recess Period	76
10.7	MATTERS REFERRED FROM COMMITTEE MEETINGS	79
10.7.1	Recommendations from the Audit, Risk and Governance Committee Meeting - 29 November 2016	79
11.	APPLICATIONS FOR LEAVE OF ABSENCE	83
11.1	REQUESTS FOR LEAVE OF ABSENCE	83
12.	MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN	83
12.1	REVOCAION OF AUGUST 2015 COUNCIL RESOLUTION: ITEM 10.5.1 BLACK SPOT PROGRAM	83

13. QUESTIONS FROM MEMBERS	85
13.1 RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS TAKEN ON NOTICE	85
13.2 QUESTIONS FROM MEMBERS	85
14. NEW BUSINESS OF AN URGENT NATURE INTRODUCED BY DECISION OF MEETING	85
15. MEETING CLOSED TO THE PUBLIC	86
15.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED	86
15.1.1 Australia Day WA Citizen of the Year	86
15.1.2 Property Committee - External Membership	87
15.1.5 Advice on the prospects for a judicial review application - 74 Mill Point Road, South Perth	87
15.1.3 Recommendations from the CEO Evaluation Committee Meeting - 21 November 2016	87
15.1.4 Recommendations from the CEO Evaluation Committee Meeting - 5 December 2016	88
16. CLOSURE	91
17. RECORD OF VOTING	92
APPENDIX ONE	96
6.1 RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE: 22 NOVEMBER 2016	96
APPENDIX TWO	100
6.2 PUBLIC QUESTION TIME: 13 DECEMBER 2016	100
DISCLAIMER	104

Minutes

Minutes of the Ordinary Council Meeting held in City of South Perth Council Chamber, Cnr Sandgate Street and South Terrace, South Perth at 7.00pm on Tuesday 13 December 2016.

1. DECLARATION OF OPENING

The Presiding Member opened the meeting at 7.03pm and welcomed everyone in attendance. She then acknowledged we are meeting on the lands of the Noongar/Bibbulmun people and that we honour them as the traditional custodians of this land.

2. DISCLAIMER

The Presiding Member read aloud the City's Disclaimer.

3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

3.1 STANDING ORDERS LOCAL LAW 2007

This meeting is held in accordance with the City's Standing Orders Local Law 2007 which provides rules and guidelines which apply to the conduct of meetings.

3.2 AUDIO RECORDING OF THE COUNCIL MEETING

The Presiding Member reported that the meeting is being audio recorded in accordance with Council Policy P673 'Audio Recording of Council Meetings' and Clause 6.15 of the Standing Orders Local Law 2007 'Recording of Proceedings'.

She then gave her permission for the Administration to record proceedings of the Council meeting and requested that all electronic devices be turned off or on to silent.

4. ATTENDANCE

Mayor Sue Doherty (Presiding Member)

Councillors

Cr Jessica Black	Como Ward
Cr Colin Cala	Manning Ward
Cr Sharron Hawkins-Zeeb	Manning Ward (from 7.06pm)
Cr Travis Burrows	Moresby Ward
Cr Fiona Reid	Moresby Ward

Officers

Mr Geoff Glass	Chief Executive Officer
Mr Michael Kent	Director Financial and Information Services
Mr Mark Taylor	Director Infrastructure Services
Mr Phil McQue	Manager Governance and Administration
Mr Cameron Howell	Senior Statutory Planning Officer
Ms Sharron Kent	Governance Officer

Guests

Mr Steve Allering Allering & Associates (until 7.40pm)

Gallery

There were approximately 15 members of the public and 1 member of the media present.

4.1 APOLOGIES

Cr Cheryle Irons Mill Point Ward (representing the Mayor at the South Perth Primary School Year 6 Graduation Ceremony)

4.2 APPROVED LEAVE OF ABSENCE

Cr Glenn Cridland Como Ward
Cr Ken Manolas Mill Point Ward

5. 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 Presiding Member any potential conflict of interest they have in a matter on the Council Agenda.

The Presiding Member noted that a Declaration of Interest had been received from:

Mayor Sue Doherty – Impartiality Interest in relation to Items:

10.3.2 Proposed Additions (Toilets and Storage) to Religious Activities (Church and Church Hall). Lot 6 (No. 4) Hampden Street, South Perth

10.7.1 Recommendations from the Audit, Risk and Governance Committee Meeting held 29 November 2016; and

15.1.2 Property Committee – External Membership

Cr Fiona Reid – Impartiality Interest in relation to Items:

10.4.1 Tender 25/2016 “Construction of Ernest Johnson Community Facility”; and

15.1.1 Australia Day WA Citizen of the Year

Cr Travis Burrows – Impartiality Interest in relation to Item:

10.4.1 Tender 25/2016 “Construction of Ernest Johnson Community Facility”

Mr Geoff Glass – Financial Interest in relation to Items:

15.1.3 Recommendations from the CEO Evaluation Committee Meeting held 21 November 2016.

15.1.4 Recommendations from the CEO Evaluation Committee Meeting held 5 December 2016

Cr Jessica Black – Financial Interest in relation to Item:

15.1.5 Advice on Prospects for a Judicial Review Application – 74 Mill Point Road, South Perth

The Presiding Member advised that in accordance with the *Local Government (Rules of Conduct) Regulations 2007* these Declarations would be read out immediately before the Items are discussed.

6. PUBLIC QUESTION TIME

6.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the 22 November 2016 Ordinary Council Meeting questions received at the meeting were taken on notice. The Presiding Member advised that the responses to these questions are available in the **Appendix** of these Minutes.

6.2 PUBLIC QUESTION TIME: 13 DECEMBER 2016

Public Question Time is operated in accordance with Local Government Act Regulations and the City's Standing Orders Local Law.

The Presiding Member advised the meeting that questions are to be in writing and submitted 24 hours prior to the meeting. Forms are available on the City's website, at Reception and also available in the Chamber Foyer on the night of the Council meeting. She stated that questions received prior to the meeting would be answered and those received late will be 'taken on notice'.

The Presiding Member then opened Public Question Time at 7.09pm.

Written Questions were received prior to the meeting from:

- Paul Ruthven of 5/24 Charles Street, South Perth

Written questions were received at the meeting from:

- Vicki Redden of 14/63 Mill Point Road, South Perth

The Presiding Member closed Public Question Time at 7.22pm.

A table of questions received and answers provided can be found in the **Appendix** of these Minutes.

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

7.1 MINUTES

7.1.1 CEO Evaluation Committee Meeting held 21 November 2016

7.1.2 Ordinary Council Meeting held 22 November 2016

7.1.3 Audit, Risk and Governance Committee Meeting held 29 November 2016

7.1.4 CEO Evaluation Committee Meeting held 5 December 2016

7.1.5 Annual Electors' Meeting held 5 December 2016

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Councillor Fiona Reid

That the Minutes of the

- CEO Evaluation Committee Meeting held 21 November 2016
- Ordinary Council Meeting held 22 November 2016
- Audit, Risk and Governance Committee Meeting held 29 November 2016
- CEO Evaluation Committee Meeting held 5 December 2016
- Annual Electors' Meeting held 5 December 2016

be taken as read and confirmed as a true and correct record.

CARRIED (6/0)

7.2 BRIEFINGS

The following Briefings 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 Council Agenda Briefing - 6 December 2016

Officers of the City presented background information and answered questions on items to be considered at the 13 December 2016 Ordinary Council Meeting at the Council Agenda Briefing held 6 December 2016.

Attachments

7.2.1 (a): 6 December 2016 - Council Agenda Briefing - Notes

7.2.2 Tenders for the Ernest Johnson Masterplan Stage One Implementation – 29 November 2016

Officers of the City provided Council with an overview of the Tenders for the Ernest Johnson Masterplan Stage One Implementation at a Concept Briefing held 29 November 2016.

Attachments

7.2.2 (a): Notes - Tenders for Ernest Johnson Masterplan Stage One Implementation

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Colin Cala

Seconded: Councillor Travis Burrows

That the Notes of the Council Agenda Briefing held on 6 December 2016 and the Concept Briefing held on 29 November 2016 be noted.

CARRIED (6/0)

8. PRESENTATIONS

8.1 PETITIONS

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

8.1.1 Monitoring of Noise Levels

A petition was received on 1 December 2016 from Mr Murray Fisher of U49/87-89 South Perth Esplanade, together with 36 signatures in relation to noise levels emanating from Rambla's Restaurant, the Windsor Hotel, Mr Walkers on the Jetty and the recently erected Embargo Container Bar, and all future commercial ventures.

The text of the petition reads:

'We the undersigned electors of the City of South Perth request that the City ensure noise levels emanating from Rambla's Restaurant, the Windsor Hotel, Mr Walkers on the Jetty and the recently erected Embargo Container Bar, and all future commercial ventures, comply with the EPA Noise Regulation 1997 for the following reasons:

- 1. The unreasonable noise from the above premises is affecting our right to enjoy our residential homes.*
- 2. The noise level until early hours of the morning is affecting our sleep and consequently, is affecting our health.*
- 3. It is impossible to sleep with the invasive beat of very loud music.*
- 4. The noise level is so loud we are being denied the right to enjoy activities within our own home. It is so loud we cannot even hear our TV.'*

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Jessica Black

Seconded: Councillor Colin Cala

That the petition received on 1 December 2016 from Mr Murray Fisher of U49/87-89 South Perth Esplanade, together with 36 signatures in relation to noise levels emanating from Rambla's Restaurant, the Windsor Hotel, Mr Walkers on the Jetty and the recently erected Embargo Container Bar, and all future commercial ventures, be forwarded to the relevant Officer for consideration.

CARRIED (6/0)

8.2 PRESENTATIONS

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

Nil

8.3 DEPUTATIONS

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

Deputations were heard at the Agenda Briefing of 6 December 2016.

8.4 COUNCIL DELEGATES REPORTS

8.4.1 Rivers Regional Council (RRC) Meeting - 17 November 2016

A report summarising the Rivers Regional Council (RRC) Meeting - 17 November 2016 is attached.

Attachments

8.4.1 (a): 17 November 2016 - Rivers Regional Council (RRC) Meeting - Delegates' Report

8.4.2 PAMG Meeting - 1 December 2016

A report summarising the PAMG Meeting - 1 December 2016 is attached.

Attachments

8.4.2 (a): 1 December 2016 - PAMG Meeting - Delegates' Report

8.4.3 South East Metropolitan Regional Road Sub-Group Meeting - 16 November 2016

A report summarising the South East Metropolitan Regional Road Sub-Group Meeting - 16 November 2016 is attached.

Attachments

8.4.3 (a): Delegates' Report - South East Metropolitan Regional Road Sub-Group meeting - 16 November 2016

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Fiona Reid

Seconded: Councillor Travis Burrows

That the report on the:

- South East Metropolitan Regional Road Sub-Group Meeting held 16 November 2016
- Rivers Regional Council Meeting held 17 November 2016
- Perth Airport Municipalities Meeting held 1 December 2016

be received.

CARRIED (6/0)

8.5 CONFERENCE DELEGATES REPORTS

Nil

9. METHOD OF DEALING WITH AGENDA BUSINESS

The Presiding Member advised the meeting that with the exception of the items identified to be withdrawn for discussion that the remaining reports, including the Officer Recommendations, will be adopted en bloc, i.e. all together.

She then sought confirmation from the Chief Executive Officer that all the report items were discussed at the Agenda Briefing held on 6 December 2016.

The Chief Executive Officer confirmed that this was correct with the exception of Confidential Items 15.1.4 Recommendations from the CEO Evaluation Committee meeting held 5 December 2016 and 15.1.5 Advice on the Prospects for a Judicial Review Application – 74 Mill Point Road, South Perth which were prepared after the Council Agenda Briefing.

ITEMS WITHDRAWN FOR DISCUSSION

- Item 10.3.1 SAT Reconsideration: Proposed Amendment to Approved Mixed Development. Lot 3 No. 333 Mill Point Road, South Perth
- Item 10.3.2 Proposed Additions (Toilets and Storage) to Religious Activities (Church and Church Hall). Lot 16 (No. 4) Hampden Street, South Perth
- Item 10.4.1 Tender 25/2016 "Construction of Ernest Johnson Community Facility"
- Item 10.7.1 Recommendations of the Audit, Risk and Governance Committee Meeting held 29 November 2016
- Item 10.5.1 Establishment of a Temporary "Construction Worker" Paid Parking on Melville Parade

9.1 EN BLOC MOTION

COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Councillor Colin Cala

That the Officer Recommendations in relation to the following agenda items be carried en bloc:

- Item 10.1.1 Review of Emerging Artist Award
- Item 10.2.1 Water Efficiency Action Plan
- Item 10.2.2 Tender 23/201 "Tree Watering and Planting Services"
- Item 10.2.3 Tender 24/2016 "Mowing of Verges and Median Strips"
- Item 10.3.3 Proposed Single House (Two-Storeys). Lot 800 (No. 34A) Sulman Avenue, Salter Point
- Item 10.6.1 Financial Management Accounts - Council Recess Period

CARRIED (6/0)

10. REPORTS

10.1 STRATEGIC DIRECTION 1: COMMUNITY

10.1.1 Review of Emerging Artist Award

Location:	Not Applicable
Ward:	Applicable
Applicant:	City
File Ref:	D-16-94230
Date:	13 December 2016
Author:	Sandra Watson, Manager Community, Culture & Recreation
Reporting Officer:	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Community -- Create opportunities for an inclusive, connected, active and safe community
Council Strategy:	1.3 Create opportunities for social, cultural and physical activity in the City.

Summary

This report is in response to a Motion at the 28 June 2016 Ordinary Council meeting requesting a review of the Emerging Artist Award.

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Councillor Colin Cala

That:

- a) Council endorse the recommendations of the review to be put in place for the 2017 Emerging Artist Award
- b) reference to the Emerging Artist Award is included in Policy P105 'Cultural Services and Activities'

CARRIED EN BLOC (6/0)

Background

At the June 2016 Council meeting Council resolved that the Emerging Artist Award (EAA) being included in Policy P104 'Community Awards'. It had been raised by officers as part of the annual policy review process and subsequently at the Audit and Governance Committee meeting that the Emerging Artist Award was not a civic award as the other awards referred to in this policy were and , it was considered that this program would be better placed in Policy P105 Cultural Services and Activities. In addition, it was resolved that a review be conducted of the EAA to test the fit in terms of the policies and also as the award has been running in its current format for a number of years.

The Motion also requested that the following aspects of the EAA be reviewed:

- The current categories with consideration to be given to introducing new categories such as photography, sculpture, textiles and various painting mediums;
- Whether the EAA should continue to be held annually or bi-annually;
- The management and security of the City's art collection/acquisitions with a view to donating or selling surplus works; and
- Consideration to be given to forming some type of governance body to oversee the EAA similar to the Public Art Advisory Group.

Comment

The review of the EAA was conducted internally by the Manager Community Culture and Recreation and the A/Cultural Development Coordinator.

There are currently five (5) categories that are awarded in the EAA plus the overall major award which is open to all entrants. In addition there is the People's Choice Award which does not form part of the judged categories. The current categories are as follows:

- Young Artist
- Secondary Student
- Local Artist
- Local Theme
- Aboriginal Artist

After reviewing the current categories and recent entries plus researching similar award programs, it is proposed to have the following categories in the 2017 EAA:

- Youth Award – combining the Young Artist and Secondary Student category – open to artists attending secondary school up to 25 years of age (this is the same age bracket that applies to the City's youth program 'SPYN');
- City of South Perth Resident – renaming the 'Local Artist' category
- Local Theme – to be retained as it is a popular category and attracts good sponsorship support;
- Painting – all forms – this category will cover watercolours, oils, pastels etc. (new category)
- Works on paper – this category will cover photography amongst other forms and is a popular new category with other award programs (new category);
- 3D Sculpture or Textiles (new category).
- Aboriginal Artist – deleted – please see below.

After an extensive review of the EAA and research in the industry and of other local governments in particular it is considered that the above categories would be well received by artists as it would mean that the vast majority of entrants would now be eligible for prizes in at least two categories and in some cases, three. They also cater for the dominant mediums currently entered into the Award and should encourage more submissions in these areas. In terms of the Aboriginal Artist category, no entries were received in 2016 and it was considered that there are sufficient categories to cater to this group of artists without restricting the overall award to one group. The proposed categories for future EAA are considered to be inclusive; they will create more opportunities for a greater variety and spread of artists to submit entries and are in keeping with industry trends and similar awards.

10.1.1 Review of Emerging Artist Award

In relation to the suggestion that the EAA not be held annually, research conducted shows that the City of South Perth is the only metropolitan local government to offer an award specifically for emerging artists. This means that the City is offering something a little bit unique and fulfilling a need in the arts industry for up and coming artists. The following are City of South Perth Emerging Artist Award winners and their success stories after winning the EAA:

- The 2015 Emerging Artist Award winner Taylor Denning is currently completing her honours at Curtin University with a focus on domestic space and objects. She is also taking part in the Heathcote Select exhibition in October/November this year.
- 2014 acquisitive winner Matthew McAlpine has been involved in a variety of group exhibitions at Heathcote Gallery and Moore Building Contemporary Art Gallery, residencies at UWA and Fremantle Arts Centre, and hosted his first solo exhibition last month at the Art Space Collective.
- Tessa McOnie has been very busy since winning the acquisitive award in 2012. She has had solo exhibitions in Perth and Vietnam, been awarded prizes in the Cossack Art Award for three consecutive years and has exhibited in various exhibitions across Australia including both the 2016 Mosman Art Prize and the 2015 Kennedy Art Prize. Tessa also painted the official Mayoral Portrait for Mayor Sue Doherty in 2013 which is now a part of the City's collection.

Local governments that run their art award biannually such as the City of Stirling usually run another competition on the alternate year (a photography competition). With the inclusion of the proposed new categories from 2017 onwards the City of South Perth will accommodate a lot more mediums and therefore negate the need to run an additional award such as a photography competition. It is also considered that as the numbers of entries are increasing every year (see table below) momentum and growth could be lost if we were to revert to running the EAA every second year as there would be one less opportunity for emerging artists to submit and showcase their work.

Entry Figures (last 5 years)

Year	Entries
2012	122 received 87 selected
2013	161 received 91 selected
2014	177 received 82 selected
2015	158 received 91 selected
2016	204 received (highest in 14 year history of EAA) 73 selected

It must be noted that the judges select works based on quality not quantity in terms of the exhibition that is presented. However the overall entry numbers illustrate that there is enthusiasm and a need in the sector for awards at this level. To add value, the Evolve. development program was introduced in 2014 as part of the EAA program and is a series of low cost skill workshops and professional development sessions designed to cater to local artists and the wider community interested in the arts and creative outlets. The City of Joondalup, City of Stirling and City of Fremantle have art workshop programmes which are all very popular with the community however Evolve is the only workshop programme in the immediate vicinity which caters for artists locally and in the wider community looking to further develop their skills with low cost training. The Evolve programme, while still in its infancy, is showing positive signs as the number of participants has increased significantly in the last two years:

Evolve workshops offered in 2014: 4

Evolve workshops offered in 2015: 5

Evolve workshops offered in 2016: 8

Evolve participants 2014: 36

Evolve participants 2015: 90

Evolve participants 2016: 145

In relation to the management of the art collection, the EAA is no longer an acquisitive award (from 2016) and so the City no longer acquires the winning entry. The City does from time to time purchase selected works from the EAA exhibition, however the display and management of these artworks is covered by the relevant management practice which includes, amongst other things, an annual rotation of selected City artworks displayed in various City buildings. For this reason there is only a very low number of City owned artworks that are not on display at any one time and these are stored adequately. In the new year it is proposed to do a stocktake of surplus artworks with a view to selling them at the next EAA exhibition or donating them to local schools and the like as deemed appropriate.

In respect to the last point of the Notice of Motion that the City looks at forming a governance body to oversee the EAA, as outlined above, there is a comprehensive Management Practice in place for managing the art collection and only staff trained in the handling of artworks are permitted to handle artworks. Further, there is a rotation process included in this management practice and a key part of that is the 'theming' of how art is displayed and ensuring that pieces as much as possible 'talk to each other' and are appropriately displayed. The team who oversee the art collection are highly competent and importantly, trained in the management of art pieces. For the EAA itself the policy statement includes a reference to the appointment of art experts to judge the EAA who are separate from the City. This is deemed of vital importance to maintain the integrity and reputation of the EAA in the industry by having professional artists judge and award the prizes. Accordingly, it is not considered appropriate to have a governing body oversee the EAA given the involvement of the industry professionals and also from an administrative point of view. The EAA is still essentially an activity/program that the City runs along the lines of the summer program of events which is run by internal working groups comprised of City staff.

10.1.1 Review of Emerging Artist Award

Consultation

This review involved informal discussions with other local governments and industry experts, reviewing survey results and desktop research.

Policy and Legislative Implications

As a result of this review it is proposed that reference to the Emerging Artist Award be included in Policy P105 'Cultural Services and Activities'.

Financial Implications

It is likely that there will be no operating budget implications as a result of this review. The addition of more categories can be accommodated, in the first instance, by seeking additional sponsors. The other option is to adjust the amounts awarded across the whole prize pool should it be necessary if additional sponsors are not sourced.

Strategic Implications

This report is aligned to the City's [Strategic Community Plan 2015-2025](#).

Sustainability Implications

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

Attachments

Nil

10.2 STRATEGIC DIRECTION 2: ENVIRONMENT

10.2.1 Water Efficiency Action Plan

Location:	City of South Perth
Ward:	All
Applicant:	Council
File Ref:	D-16-93602
Date:	13 December 2016
Author:	Yulia Volobeuva, City Environment Coordinator
Reporting Officer:	Mark Taylor, Director Infrastructure Services
Strategic Direction:	Environment -- Enhance and develop public open spaces and manage impacts on the City's built and natural environment
Council Strategy:	2.2 Foster and promote sustainable water, waste management and energy management practices.

Summary

The City of South Perth has produced a Water Efficiency Action Plan as a requirement of its Waterwise Council Program.

This report seeks Council's endorsement of the Water Efficiency Action Plan to meet the requirements of the Waterwise Council Program.

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Councillor Colin Cala

That the City's Water Efficiency Action Plan (**Attachment (a)**) be endorsed by Council.

CARRIED EN BLOC (6/0)

Background

The Water Corporation and Department of Water launched the Waterwise Council Program in 2009. The aim was to build a cooperative working relationship with local governments to improve water use efficiency in local government and their communities.

The City of South Perth has been participating in the Waterwise Council Program since 2011 and in 2012, was endorsed as a Waterwise Council.

The City plans to continue participating in this program to maintain and build on its status to gain Gold Waterwise Council recognition. This level of recognition requires councils to demonstrate significant progress towards best practice water efficiency that is above and beyond the minimum endorsement requirements.

In 2015 the Water Corporation introduced new Waterwise Council Criteria for all participating and non-participating Western Australian local government agencies that includes the following steps. To be endorsed as a Waterwise Council in 2016, the City must fulfil the criteria.

- Criteria 1:** Sign a MOU to participate in the Waterwise Council Program.
- Criteria 2:** Review the City's water consumption and create a Water Efficiency Action Plan (WEAP) for potable and non-potable water sources for all City operations and the community.
- Criteria 3:** Ensure appropriate staff complete Waterwise training.
- Criteria 4:** No breaches of groundwater licence terms or conditions set by the Department of Water, and no breaches of scheme water usage issued by Water Corporation in the past 12 months (This includes permanent water efficiency measures).
- Criteria 5:** Report annually to retain endorsement.

As part of its work towards fulfilment of the criteria the City has already signed the MOU, produced a Water Efficiency Action Plan and provided the required Waterwise training to relevant staff.

The Water Efficiency Action Plan sets the water efficiency goals for both corporate and community sectors and includes water management actions implementation of which will enable the City to achieve its water efficiency goals.

The Water Efficiency Action Plan (WEAP) outlines the following:

- Assessment of current water use across council operations and the community sector;
- Inefficiencies and potential water savings;
- Water management goals and benchmarks to improve water use;
- Water efficiency action plan implementation of which will enable the City to reach set water management targets; and
- Process for annual reporting on implementation of water efficiency actions.

The WEAP is valid for five years and will form the basis of annual Waterwise Council Program reporting requirements (**Attachment (a)**).

Comment

1. Scheme Water Use - City

The City's scheme water consumption records for the past decade indicate that water use within corporate facilities has been on a slightly decreasing trend since 2007/2008, with peaks in 2012/2013 and 2014/2015. The decrease in water use from 2007/2008 may be attributed to the efforts made by the City to reduce water use since developing its Water Action Plan (WAP) in 2009. Water audits have been conducted at the Civic Centre (2011), Manning Library (2012), Garden Street Park (2013) and Operations Centre (2014), resulting in some water savings at these facilities.

The water use spike in 2014/2015 can be mainly attributed to significant increase in water use at Collier Park Retirement Village (into which the City has already completed an investigation) and the construction of the new Manning Community Hub facility.

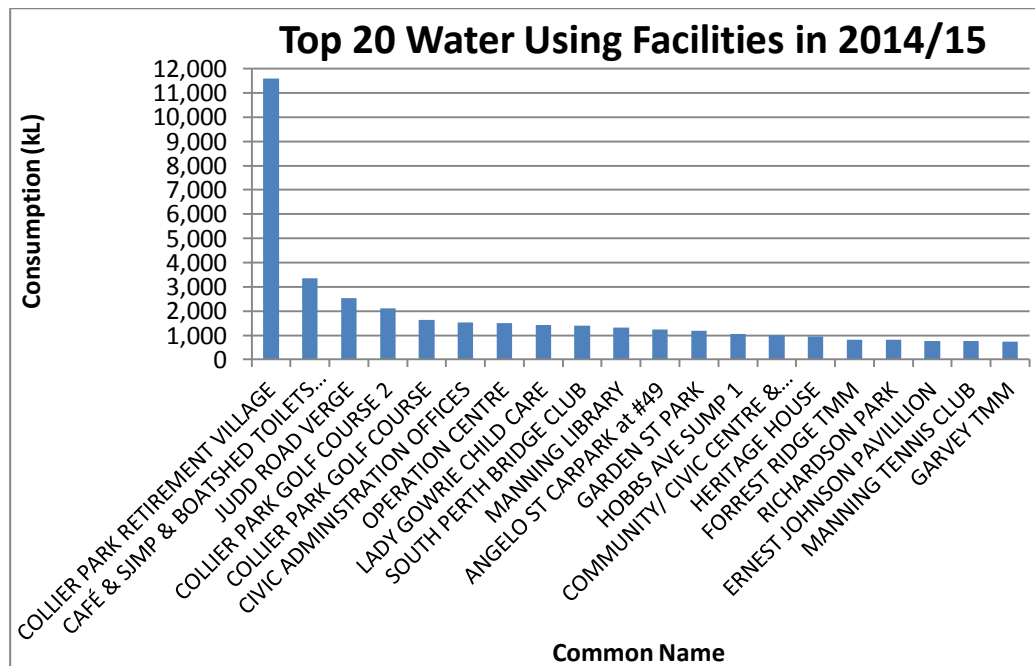


Figure 1: City of South Perth's Top 20 Scheme Water Using Sites in 2014/2015

The Water Efficiency Action Plan also identified City's other top water using facilities such as the Boatshed Café / toilets / Sir James Mitchell Park, Judd Street verge from the Kwinana Freeway, Collier Park Golf Course, Civic Administration Offices, Operations Centre, Lady Gowrie Child Care, South Perth Bridge Club and Manning Library. Combined, the top 20 sites used 56% of the City's total water consumption in 2014/2015.

The City preliminary investigations for the top five high scheme water consuming sites indicate following:

Collier Park Retirement Village

Water use in 2014/2015 was much higher than typical. In response the City completed an investigation into water use at this facility immediately resulting in the identification of multiple small water leaks in residential units and a large water leak at the hostel (**Attachment (b)**).

Since the completion of the water audit, CPRV management staff implemented the following recommendations to target high consuming facilities:

- Isolate the Hostel cottages and turn the water off to negate any leaks.
- Identify many of the toilet leaks throughout the Village units and work with a plumber to rectify.
- Continue with the program of placing isolation valves into individual units when refurbishing or undertaking large plumbing works.
- Continue to install WELS rated standard low flow water devices into all refurbished units. A WELS star rating label indicates water efficiency for consumers.
- Install flow regulators to the Community Centre public bathrooms and administration staff room.
- Invite local residents to attend upcoming sustainability workshops.

10.2.1 Water Efficiency Action Plan

CPRV management has also scheduled the installation of suitable flow regulators to each residential unit's bathroom / kitchen / laundry taps and showers. The flow regulators reduce water consumption by delivering the water in a different way. It is a small device that is retro fitted to the plumbing fixture and has many holes distributing the flow evenly whilst using up to 65% less water. Showers with flow regulators save around 25% of water used.

In accordance with the water audit report it is estimated that by implementing suggested recommendations a significant annual reduction to Collier Park Retirement Village's scheme water consumption would be achieved.

Boat Shed Café

In 2012/2013 and 2013/2014, the toilet block was controlled by the Café, and only open during Café Hours, which may explain reduced usage in that time period. The toilet block is now controlled by the City and is open for increased hours.

Judd Street road verge

An entry statement was established at this site in 2012/2013 and maintenance of these gardens is managed by a contractor. The City will investigate irrigation use at the site.

Collier Park Golf Course maintenance shed

A leak was detected and repaired in 2014/2015.

Civic Administration building

Water use was low in 2012/2013 and 2013/2014 as renovations were being undertaken and the Community Hall was not operational.

2. Scheme Water Use - Community

The scheme water use within City's community sector for the past decade has remained relatively steady since 2007/2008 (see Figure 2 below), despite a population increase of 11.9%. Expressed per capita, total community water use has decreased 11.4% from 123 kL per capita in 2007/2008 to 109 kL per capita in 2014/2015 and residential water use has decreased 11.1% from 108 kL per capita in 2007/2008 to 96 kL per capita in 2014/2015.

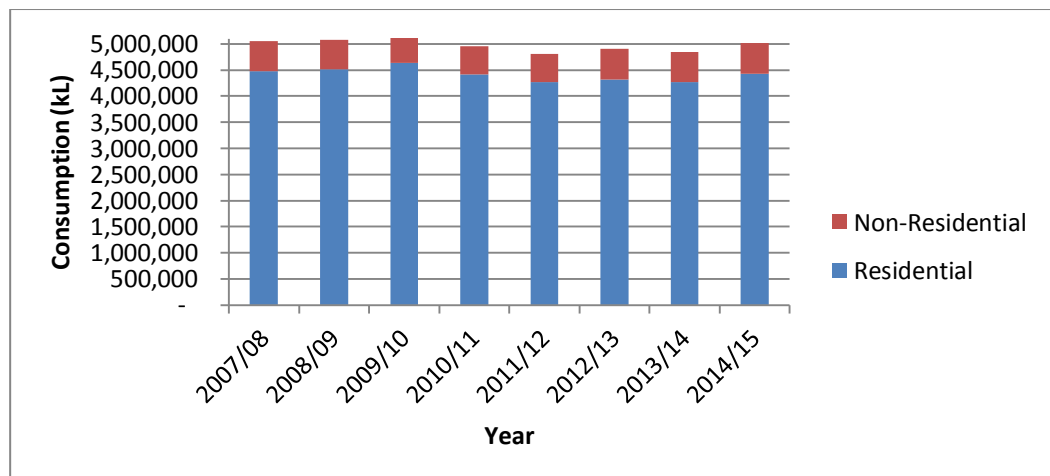


Figure 2: City of South Perth's Community Scheme Water Use by Sector in 2014/2015

The Water Efficiency Action Plan recommends that a household campaign may have the most influence on community water use because community water use is predominately residential.

3. Groundwater Use - City

In addition to scheme water the City uses ground water for irrigating parks and reserves, and topping up of lakes (including at Sir James Mitchell Park and Collier Park Golf Course). The City is licensed to extract a total of 1,459,587 kL of groundwater per annum on three separate licenses.

The City has been meeting the allocation for two of its licences however was over allocation at the Collier Park Golf Course in 2012/2013, 2013/2014, and 2015/2016. This was mainly due to the irrigation requirements of Collier Park Golf Course and the establishment of Carnaby's Cockatoo Sanctuary areas.

The City has approached the Department of Water to review its license allocation for the golf course, the main reason being the area under irrigation is significantly larger than that previously advised when the allocation was established.

The City is undertaking measures to reduce groundwater irrigation requirements in its parks and reserves and also Collier Park Golf Course. Work has included upgrades to irrigation systems to improve uniformity and give greater control of individual sprinklers and turf maintenance practices incorporating the use of more soil wetting agents. When parks are upgraded, non-essential turf areas are being replaced with water efficient gardens and mulch to reduce irrigation requirements as part of the 'hydro' and 'eco' zoning initiatives.

Other high groundwater consuming sites are Sir James Mitchell Park, George Burnett Park (including Lake Gillon), Richardson Park and Ernest Johnson Oval (including the Civic Centre). These high profile sites have high water demand for irrigation purposes especially during summer months. Despite this high water demand the City is exploring opportunities to establishing water efficiencies on these sites.

Consultation

Relevant officers of the City have been consulted and engaged in the development of the Water Efficiency Action Plan. Their feedback and recommendations were considered and incorporated in this document. The City has also liaised with the Water Corporation to ensure that the Water Efficiency Action Plan fulfils requirement for Criteria 2 of the Waterwise Council Program.

Policy and Legislative Implications

The City's Water Management Plan has identified Corporate and Community water consumption goals.

Corporate Scheme Water Goal

The corporate scheme water goal is to maintain corporate (the City's) potable water consumption at or below 2014/2015 levels (67,596kL) by 2020/2021.

10.2.1 Water Efficiency Action Plan

This goal takes into consideration the expected population growth in the City, increase facility usage, and the opening of new facilities including the Manning Community Hub.

Corporate Groundwater Goal

The corporate groundwater consumption goal is to ensure that groundwater extraction does not exceed the annual allocation (1,459,587 kL).

Community Scheme Water Goal

The community scheme water goal is to maintain total community potable water consumption at or below 2014/2015 levels (109 kL per capita per year) by 2020/2021.

This goal aligns with Department of Water's goal to reduce community water consumption by 15% from 2007/2008 to 125 kL per capita per year by 2030.

Financial Implications

The City will be required to allocate budget to implement Water Efficiency Action Plan.

Strategic Implications

The WEAP and the Water Management Plan align with the City of South Perth's Corporate Business Plan 2015-2019 and Strategic Community Plan 2015 – 2025 through the strategic direction "Enhance and develop public open spaces and manage impacts on the City's built and natural environment" and the strategic objectives and initiatives:

- 2.2 Foster and promote sustainable water, waste management and energy management practices:
 - 2.2.1 Implement, review and monitor the Water Action Plan;
 - 2.2.3 Upgrade the City's parks, reserves and streetscapes irrigation network to enable more sustainable water use;
 - 2.2.4 Implement Water Sensitive Urban Design principles in conjunction with new parks, streetscapes and drainage designs where feasible.
- 2.4 Improve the amenity of our streetscapes (residential and commercial) and public open spaces while maximising their environmental benefits.
- 3.3 Review and establish contemporary sustainable buildings, land use and best practice environmental design standards.

Sustainability Implications

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

Attachments

- 10.2.1 (a):** City of South Perth Water Efficiency Action Plan
- 10.2.1 (b):** Collier Park Village Water Efficiency Audit Report

10.2.2 Tender 23/201 “Tree Watering and Planting Services”

Location:	All
Ward:	All
Applicant:	Council
File Ref:	D-16-93603
Date:	13 December 2016
Author:	Bruce Moorman, Manager City Environment
Reporting Officer:	Mark Taylor, Director Infrastructure Services
Strategic Direction:	Environment -- Enhance and develop public open spaces and manage impacts on the City’s built and natural environment
Council Strategy:	2.4 Improve the amenity of our streetscapes (residential and commercial) and public open spaces while maximising their environmental benefits.

Summary

This report considers submissions received from the advertising of Tender 23/2016 for “Tree Watering and Planting Services”.

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

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Councillor Colin Cala

That Council approves the tender submitted by Beaver Tree Services Pty Ltd for ‘Tree Watering and Planting Services’ for the price of \$151,760 excl. GST for the first year with the next two (plus one) years subject to CPI in accordance with Tender 23/2016

CARRIED EN BLOC (6/0)

Background

A Request for Tender (RFT) 23/2016 for “Tree Watering and Planting Services” was advertised in The West Australian on Saturday 3 September and closed at 2:00pm on 28 September, 2016.

Tenders were invited as a *Schedule of Rates*. The RFT is for the “Tree Watering and Planting Services”. The contract is for a three year period with an optional year from the date on the letter of engagement at the City’s discretion.

Comment

At the close of the tender advertising period (6) six submissions had been received and these are listed in Table A below:

TABLE A - Tender Submissions

Tender Submission
1. Beaver Tree Services Pty Ltd
2. Blue Ash Pty Ltd TA Minda Mia Contracting
3. MCL Commercial Services
4. Natural Area Holdings Pty Ltd
5. Radiant Nominees Pty Ltd
6. Tree Planting and Watering

The Tenders were reviewed by an Evaluation Panel and assessed according to the qualitative criteria detailed in the RFT, as per Table B below.

TABLE B - Qualitative Criteria

Qualitative Criteria	Weighting %
1. Experience working with Local Government Authorities	30%
2. Respondents resources, skills and experience of key personnel	20%
3. Demonstrated understanding to show the process they intend to use to achieve the Requirements of the Specification	20%
4. Equipment	30%
TOTAL	100%

Based on the assessment of all submissions received for Tender 23/2016 “Tree Watering and Planting Services”, it is recommended that the tender submission from Beaver Tree Services Pty Ltd be approved by Council.

More detailed information about the tender assessment process can be found in the Evaluation Panel Member’s Report at **Confidential Attachment (a)**.

Consultation

Public tenders were invited in accordance with the *Local Government Act 1995*.

Policy and Legislative Implications

Section 3.57 of the *Local Government Act* (as amended) requires a local government to call tenders when the expected value is likely to exceed \$150,000. Part 4 of the Local Government (Functions and General) Regulations 1996 sets regulations on how tenders must be called and accepted.

The following Council Policies also apply:

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

Delegation DM607 *Acceptance of Tenders* provides the Chief Executive Officer with delegated authority to accept tenders to a maximum value of \$250,000 (exclusive of GST).

10.2.2 Tender 23/201 "Tree Watering and Planting Services"

The general Conditions of Contract forming part of the Tender Documents states among other things that:

- *The City is not bound to accept the lowest or any tender and may reject any or all Tenders submitted;*
- *Tenders may be accepted, for all or part of the Requirements and may be accepted by the City either wholly or in part. The requirements stated in this document are not guaranteed; and*
- *The Tender will be accepted to a sole or panel of Tenderer(s) who best demonstrates the ability to provide quality services at a competitive price which will be deemed to be most advantageous to the City.*

Financial Implications

The annual cost of the works is reflected in the 2016/2017 budgets and in the Long Term Financial Plan for future years.

Strategic Implications

The report is consistent with the [City's Strategic Community Plan 2015-2025](#).

Sustainability Implications

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

Attachments

- 10.2.2 (a):** Tender 23/2016 - Panel Report 'Tree Watering and Planting Services' (*Confidential*)

10.2.3 Tender 24/2016 “Mowing of Verges and Median Strips”

Location: All
Ward: All
Applicant: Council
File Ref: D-16-93604
Date: 13 December 2016
Author: Bruce Moorman, Manager City Environment
Reporting Officer: Mark Taylor, Director Infrastructure Services
Strategic Direction: Environment -- Enhance and develop public open spaces and manage impacts on the City’s built and natural environment
Council Strategy: 2.4 Improve the amenity of our streetscapes (residential and commercial) and public open spaces while maximising their environmental benefits.

Summary

This report considers submissions received from the advertising of Tender 24/2016 for the “Mowing of Verges and Median Strips”.

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

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Councillor Colin Cala

That Council approves the tender submitted by A Better Class Lawns and Gardens for the ‘Mowing of Verges and Median Strips’ for the price of \$113,929 excl. GST annually for a total of \$227,858 excl. GST over two years in accordance with Tender Number 24/2016.

CARRIED EN BLOC (6/0)

Background

A Request for Tender (RFT) 24/2016 for the “Mowing of Verges and Median Strips” was advertised in The West Australian on Saturday 3 September and closed at 2:00pm on 28 September.

Tenders were invited as a *Schedule of Rates*. The RFT is for the “Mowing of Verges and Median Strips”. The contract is for a one year period with an optional year from the date on the letter of engagement.

Comment

At the close of the tender advertising period three submissions had been received and these are tabled below:

TABLE A - Tender Submissions

Tender Submissions
1. A Better Class Lawns & Gardens
2. Landscape and Maintenance Solutions
3. MCL Commercial Services

Tenders were reviewed by an Evaluation Panel and assessed according to the qualitative criteria detailed in the RFT, as per Table B below.

TABLE B - Qualitative Criteria

Qualitative Criteria	Weighting %
1. Experience working with Local Government Authorities	30%
2. Respondents resources, skills and experience of key personnel	20%
3. Demonstrated understanding to show the process they intend to use to achieve the Requirements of the Specification	20%
4. Equipment	30%
TOTAL	100%

Based on the assessment of all submissions received for Tender 24/2016 'Mowing of Verges and Median Strips', it is recommended that the tender submission from A Better Class Lawns and Gardens be approved by Council.

More detailed information about the tender assessment process can be found in the Evaluation Panel Member's Report at *Confidential* Attachment (a).

Consultation

Public tenders were invited in accordance with the *Local Government Act 1995*.

Policy and Legislative Implications

Section 3.57 of the *Local Government Act* (as amended) requires a local government to call tenders when the expected value is likely to exceed \$150,000. Part 4 of the Local Government (Functions and General) Regulations 1996 sets regulations on how tenders must be called and accepted.

The following Council Policies also apply:

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

Delegation DM607 *Acceptance of Tenders* provides the Chief Executive Officer with delegated authority to accept tenders to a maximum value of \$250,000 (exclusive of GST).

The general Conditions of Contract forming part of the Tender Documents states among other things that:

- *The City is not bound to accept the lowest or any tender and may reject any or all Tenders submitted;*

10.2.3 Tender 24/2016 "Mowing of Verges and Median Strips"

- *Tenders may be accepted, for all or part of the Requirements and may be accepted by the City either wholly or in part. The requirements stated in this document are not guaranteed; and*
- *The Tender will be accepted to a sole or panel of Tenderer(s) who best demonstrates the ability to provide quality services at a competitive price which will be deemed to be most advantageous to the City.*

Financial Implications

The full cost of the works is reflected in the 2016/2017 and the Long Term Financial Plan for future years.

Strategic Implications

The report is consistent with the [City's Strategic Community Plan 2015-2025](#).

Sustainability Implications

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

Attachments

- 10.2.3 (a):** 24/3016 Tender for Mowing of Verges and Median Strips - Panel Report (*Confidential*)

10.3 STRATEGIC DIRECTION 3: HOUSING AND LAND USES

10.3.1 SAT Reconsideration: Proposed Amendment to Approved Mixed Development. Lot 3 No. 333 Mill Point Road, South Perth.

Location:	Lot 3 (No. 333) Mill Point Road, South Perth
Ward:	Mill Point Ward
Applicant:	Ms Ailin Gay
File Ref:	D-16-93498
Lodgement Date:	25 October 2016
Date:	13 December 2016
Author:	Cameron Howell, Senior Statutory Planning Officer
Reporting Officer:	Vicki Lummer, Director Development and Community Services
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

To reconsider Council's previous decisions relating to an amendment to the permitted trading hours planning condition for an approved two-storey plus loft Mixed Development, consisting of a Shop, Café/Restaurant and a dwelling on Lot 3 (No. 333) Mill Point Road, South Perth.

The State Administrative Tribunal (SAT) has invited Council to reconsider its previous decisions (March 2015, June 2015 and September 2015), based upon a revised proposal submitted by the applicant, in response to matters discussed during the SAT final hearing and mediation.

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

Element on which discretion is sought	Source of discretionary power
Trading hours	Deemed Provisions clause 67
Street setbacks	TPS6 cl. 7.8
Lot boundary setbacks	R-Codes clause 5.1.3
Building design	Deemed Provisions clause 67

Officer Recommendation

Moved: -

Seconded: -

That Council reconsiders its decisions dated 24 March 2015, 23 June 2015 and 22 September 2015 and 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 an amendment to an approved Mixed Development on Lot 3 (No. 333) Mill Point Road, South Perth **be approved** subject to:

(a) Deletion of Existing Conditions

1. Existing Condition 14 (trading hours) is deleted.

(b) Addition of New Conditions (Specific Conditions)

1. The maximum trading hours of the Café / Restaurant and Shop shall be limited to 7:00am to 9:00pm, 7 days a week.
2. Deliveries shall be limited to 7:00am to 5:00pm Monday to Saturday and 9:00am to 5:00pm Sunday.
3. The maximum hours of operation for the Café / Restaurant and Shop (including the patisserie and bakery) shall be limited to 5:00am to 10:00pm, 7 days a week.
4. The sale and supply of any food produced on site shall be limited to the patrons of the Cafe / Restaurant and Shop on site only.
5. Noise monitoring shall be carried out by the Applicant for the first 12 months of operation to the satisfaction of the City. In the event that compliance with the *Environmental Protection (Noise) Regulations 1997* cannot be achieved during the monitoring period, Council may revert the closing trading hours time to 5:00pm until such a time that the Applicant has successfully demonstrated the proposal is operating within the proposed limits.
6. Noise monitoring shall be carried out by the Applicant on three separate occasions. The first occasion is to be within a month of the commencement of trading from 5:00pm to 9:00pm, the second occasion is to be four months after the first occasion and the third occasion is to be four months after the second occasion. On each occasion of noise monitoring, the monitoring is to be carried out over a continuous period, between 5:00pm to 10:00pm and between 5:00am to 7:00am the following day.

After each occasion of noise monitoring, the Applicant is to report the results to the City within fourteen days.
7. The plan entitled 'Bakery 333 Mill Point Road Air Conditions & Mechanical Services Ground & First Floor Plans' and dated June 2016 is to be complied with.
8. The air conditioning and ventilation equipment is to be as specified in sections 2 and 3 of the document prepared by Healey Engineering Pty Ltd entitled 'Mill Point Road Bakery Performance Brief Air Conditioning & Ventilation' and dated 29 April 2016.
9. The acoustic measures, as contained within the revised drawings dated 24 October 2016 shall be implemented to the satisfaction of the City, and include:
 - (i) The roof structure above EAF02, extending from the building façade to the boundary wall adjoining Lot 2 (No. 331A) Mill Point Road and approximately 1.5m either side of EAF02. Roof to be sheet metal with

- 50mm thick, 11kg/m³ insulation to the underside.
- (ii) Acoustically absorbent screens shall be installed to two sides (southwest and southeast) of EAF01. Screens shall consist of 1.2mm thick steel sheet with 50mm thick, 11kg/m³ insulation to the equipment side of the screen. Height of the screens shall be 1.5 times the height of the fan above the roof.
 - (iii) A carport structure shall be constructed above the car bays adjoining the residence of Lot 4 (No. 2) Banksia Terrace. The carport shall be a metal deck roof with 50mm thick, 11kg/m³ insulation to the underside. The carport roof shall be sealed against the boundary wall to minimise any gaps.
10. Prior to the occupation of the building, a Noise Management Plan shall be prepared to the satisfaction of the City, and shall incorporate the following:
- (i) The installation of signage advising patrons of the surrounding residential area and to be respectful, courteous and to leave in a quiet manner.
 - (ii) Delivery drivers shall be instructed by management to turn off their engines while on the premises.
 - (iii) Music shall not be permitted in the alfresco area.
 - (iv) Prior to 9:00am on a Sunday, the maximum number of patrons permitted in the alfresco area shall be 18, unless the alfresco area is provided with a glass or acoustically rated Perspex (e.g. Plexiglass Soundstop) screen parallel to Banksia Terrace. The screen shall be constructed for the full length of the alfresco area to a minimum height of 1.5 metres above floor level. Soffit of slab above shall be lined with 50mm thick, 11kg/m³ insulation (or approved equivalent), which can be covered with perforated or slotted fibre cement/plywood if desired.
 - (v) All exhaust and supply air fans shall be fitted with variable speed drives to limit the speed of the fans to 60% of maximum during the night (10:00pm Sunday to Friday to 7:00am the following day and 10:00pm Saturday to 9:00am Sunday).
- The approved plan shall be implemented.

All other conditions and requirements detailed on the previous approval dated 24 March 2015 shall remain unless altered by this application.

LAPSED FOR WANT OF A MOVER

ALTERNATIVE MOTION

Moved: Mayor Sue Doherty

Seconded: Councillor Fiona Reid

That Council:

- a) Does not adopt the Officer Recommendation
- b) Advises the State Administrative Tribunal that Council was not in a position to determine the application at the Ordinary Council Meeting held on 13 December 2016, as Council did not have sufficient information and certainty about the applicant's proposal

- c) Request that the State Administrative Tribunal amends its Orders to permit Council to reconsider this application at the Ordinary Council Meeting to be held on 28 February 2017, to enable the following:
- i. To provide the applicant the opportunity to provide certain and exact details of their proposal, such as the actual intended trading hours, operating hours, staffing levels and day to day business operations to be undertaken on the site;
 - ii. To provide the applicant the opportunity to provide additional information in relation to the proposed management of potential odour impacts upon neighbouring residential properties;
 - iii. To ensure that Council has sufficient information to ascertain the likely impacts to the locality from the proposed amendments to the existing approval granted by Council on 24 March 2015; and
 - iv. To ensure that Council is in a position to consider these likely impacts as part of the reconsideration.

Reasons for Alternative

1. The applicant has been inconsistent with the details of their proposal presented to the State Administrative Tribunal and to the Council. Council cannot be certain as to the exact proposal subject of this application.
2. The applicant has made late amendments to their proposal, such as the proposed hours of operation. Council has not had sufficient time available to assess the likely impacts of the amended proposal.
3. Council requests further details of odours that would be generated from the commercial kitchen and all proposed measures that are to be implemented to address potential adverse amenity impacts to the neighbouring residential properties.
4. To provide the applicant an opportunity to review and consider amending their current proposal, including management plans, in such a manner to minimise the potential for detrimental outcomes and/or non-compliant operations taking place on the site, having regard to the relevant matters raised by presenters and Councillors at last week's Council Agenda Briefing and tonight's Ordinary Council Meeting.

CARRIED (6/0)

Background

The development site details are as follows:

Zoning	Local Commercial
Density coding	R15
Lot area	652 sq. metres
Building height limit	7.0 metres
Development potential	1 dwelling and/or permissible non-residential land uses
Plot ratio limit	0.50

The location of the development site is shown in **Figure 1** below:



Figure 1- Location Plan

In accordance with Council Delegation DC690, the proposal is referred to a Council meeting because it relates to a matter previously considered by Council.

Comment

(a) Background

An Application for Planning Approval was lodged with the City on 2 December 2014 for a “bakery and cafe with caretakers dwelling”. The proposal included the construction of ground and upper floor additions to the existing single storey building, and a change of use on the site to become a three storey Mixed Development (comprising Shop, Café / Restaurant and dwelling).

The application was considered by Council at its Ordinary Council Meeting held on 24 March 2015 where Council resolved to approve the proposal subject to conditions.

On 29 April 2015, the City received a request pursuant to subclause 7.9(7)(a)(i) of the City of South Perth Town Planning Scheme No. 6 to amend Condition 14 of the Approval to extend the operating hours from 5:00pm to 9:00pm, seven days a week. Condition 14 stated as follows:

(14) The maximum trading hours of the Café / Restaurant and Shop shall be strictly limited to 7:00am to 5:00pm, 7 days a week, with no deliveries permitted between 9:00pm and 7:00am the following day. Should any noise complaints from neighbours be received within the first 12 months of operation, Council will determine whether the complaints are valid, and if so, will impose an earlier closing time or other requirements to address the complaints.

At its meeting on 23 June 2015, Council resolved to refuse the proposed amendment to Condition 14 of the Approval.

An Application for Review was subsequently submitted to the State Administrative Tribunal for review of Council's decision of 23 June 2015.

Following an initial Directions Hearing and subsequent Mediation, Council reconsidered its decision under Section 31(1) of the *State Administrative Tribunal Act 2004* at the Ordinary Council Meeting on 22 September 2015. At that meeting, Council resolved to affirm its previous decision of 23 June 2015 to refuse the proposed amendment.

As the application was not successful upon reconsideration, the matter progressed to a Final Hearing on 14 March 2016. At the conclusion of the first day of the hearing, the Tribunal adjourned the hearing to allow the acoustic expert witnesses time to review additional material that was submitted by the applicant at the hearing. The acoustic experts were instructed to each produce a new statement on the evidence, then confer before the Tribunal and prepare a joint statement outlining points of agreement and disagreement and reasons for disagreement. The joint statement was filed with the Tribunal on 25 May 2016 and contained a number of conditions to ensure operations would accord with the *Environmental Protection (Noise) Regulations 1997*. Those conditions are reflected in the recommended conditions.

A number of Mediations occurred following this time, resulting in a revised proposal being submitted by the applicant. The key differences between the plans approved by Council on 24 March 2015 and the modified proposal dated 24 October 2016 include:

- Inclusion of a carport structure above the car parking spaces adjacent to the southern boundary to reduce noise impacts from the car parking area on neighbouring properties;
- Inclusion of a timber framed insulated wall on southern boundary to reduce noise impacts from the car parking area on neighbouring properties;
- Inclusion of a sheet metal roof on the western side of the building adjacent to the staircase to limit noise from mechanical plant on neighbouring property;
- Inclusion of air-conditioning condensers on eastern side of existing shop building to avoid visual impact of screened mechanical plant on roof;
- Inclusion of screened extraction fan on eastern corner of shop building roof;
- Inclusion of roof mounted fan on roof above ground floor foyer area;
- Minor relocation of shopfront pedestrian entry from Mill Point Road;
- Increase in bin store area and inclusion of storeroom and resulting loss of a staff toilet;
- Internal rearrangement of kitchen layout;
- Removal of seating layout configuration from seating plan;
- Identification of additional roof space within loft area for storage of mechanical plant; and
- Inclusion of skylight windows in roof above loft.

If Council accepts these modifications, including the draft conditions as recommended, by granting planning approval to the proposal, the decision replaces the earlier decision by Council. If the proposal is not approved, it is likely that the current Application for Review before the Tribunal will progress to a final hearing to determine the application.

(b) Existing Development on the Subject Site

The approved Mixed Development building is under construction.

(c) Description of the Surrounding Locality

The site has a frontage to Mill Point Road to the north and Banksia Terrace to the east and is located adjacent to single houses to the south and west. The surrounding locality predominately consists of single houses, with some grouped dwelling and multiple dwelling developments, as seen in **Figure 2** below:



Figure 2- Aerial Photograph (February 2016)

(d) Description of the Proposal

The proposal involves an amendment to the wording of planning condition 14, dated 24 March 2015 (11.2014.633.1), to extend the permitted trading hours of the shop and café/restaurant from 7:00am - 5:00pm, with deliveries until 9:00pm, to 7:00am - 9:00pm, with deliveries from 7:00am (9:00am on Sundays) to 5:00pm. Further details of the proposal are contained in the Background section of this report.

The planning approval for this development is contained within **Attachments (a)** and **(b)**. The applicant's letter, **Attachment (c)**, describes the proposal in more detail. The revised plans are contained in **Attachment (d)**.

(e) Trading Hours

TPS6 does not specify permitted trading hours for non-residential uses. However, as the site is surrounded by residential development, a planning condition to regulate the permitted trading hours was considered necessary

to address potential amenity impacts, such as noise, from early morning and late evening commercial operations.

The Council has previously considered planning applications on this site for additions to the existing Shop in May 2010 (Change of Use – Shop and Single House to Shop and Café/Restaurant) and December 2011 (Two-Storey Mixed Development), both of which contained a trading hours condition of approval, limiting trading and deliveries between 7:00am and 9:00pm, with the ability to review the permitted trading hours after 12 months of operation. However neither of these developments were constructed and these approvals have expired. The relevant conditions are as follows:

- (5) *The maximum opening hours of the Café / Restaurant shall be 7:00am to 9:00pm, seven days a week. Should any noise complaints from neighbours be received within the first 12 months of operation, the Council will determine whether the complaints are valid and if so, will impose an earlier closing time or other requirements to address the complaints. [25 May 2010]*
- (3) *The maximum opening hours of the Café / Restaurant, Shop and the delivery hours shall be strictly limited 7:00am to 9:00pm, 7 days a week. Should any noise complaints from neighbours be received within the first 12 months of operation, Council will determine whether the complaints are valid, and if so, will impose an earlier closing time or other requirements to address the complaints. [13 December 2011]*

The current application proposes to alter the wording of the trading hours condition as follows:

Existing Planning Condition 14 (refer to the Background section for the whole of this condition):

The maximum trading hours of the Café / Restaurant and Shop shall be strictly limited to 7:00am to 5:00pm, 7 days a week, with no deliveries permitted between 9:00pm and 7:00am the following day. ... [24 March 2015]

Applicant's Proposed Amendment to Planning Condition 14:

The maximum trading hours of the Café / Restaurant and Shop are 7:00am to 9:00pm, 7 days a week, with deliveries limited to 7:00am to 5:00pm, Monday to Saturday and 9:00am to 5:00pm Sunday.

If Council adopted the applicant's proposal, compared to the existing approval, this would:

- Permit trading between 5:00pm and 9:00pm, 7 days a week;
- Prohibit deliveries between 5:00pm and 9:00pm, 7 days a week;
- Prohibit deliveries between 7:00am and 9:00am, on Sundays; and
- Remove the 12 month review period.

The primary sources of potential noise impacts are anticipated to be from patrons within the café/restaurant dining area, vehicles arriving and leaving the site and the operation of mechanical equipment for the commercial business. To mitigate some of the anticipated impacts, the approved

development already includes the dining area being positioned away from the adjoining residences and the provision of high masonry dividing fences for the adjoining residential properties. The applicant's proposal now includes the following:

- Plans and documentation identifying the positioning and operation of the air conditioning and mechanical services;
- Fitting variable speed drives to all exhaust and supply fans, to limit the speed and the resultant noise produced during late evening and early morning periods;
- The installation of an acoustically screened roof structure over the extraction fan located adjacent to the 331A Mill Point Road side lot boundary;
- The installation of acoustic screens for the air conditioning and extraction fan located on the Shop roof;
- Plans identifying a carport structure with an acoustically insulated roof over the uncovered car bays;
- Monitoring the actual noise impacts after one and six months of the commencement of trading;
- Instructions to patrons and delivery drivers requesting limited levels of noise generation; and
- Restricting the use of the alfresco area, by prohibiting music at all times and limiting patron numbers on Sundays prior to 9:00am.

Noting that the site has a commercial zoning, the City considers that proposed trading hours are considered to be a reasonable balance between business operations and residential amenity. The development incorporates measures to minimise adverse impacts and as such, the proposed trading hours are not anticipated to pose an adverse amenity impact to the adjoining residential properties.

The City has received advice from the planning consultant representing Council at the Tribunal, regarding suitable wording of the new conditions. This includes a new operating hours condition and a new sale and supply to patrons on-site only condition, reflective of the applicant's evidence given during the SAT final hearing.

Amended planning conditions addressing permissible trading and operations on the site are recommended to be approved.

(f) Street Boundary Setback (New Carport Structure)

The current proposal introduces a carport structure over the five uncovered car bays at the rear of the site, to reduce noise impacts upon the neighbouring residential properties. The carport structure has been recommended by the Applicant's acoustic consultant, as otherwise a 5dB exceedance to the noise regulations on the upper floor of 2 Banksia Terrace has been measured during the evening and night periods.

10.3.1

SAT Reconsideration: Proposed Amendment to Approved Mixed Development. Lot 3 No. 333 Mill Point Road, South Perth.

The prescribed minimum Banksia Terrace (street) boundary setback is 1.5 metres (south east), unless a greater setback to protect the amenity of adjoining land in the residential zone is required, as per TPS6 clause 5.1 and Table 3. The proposed setback is between 0.2 and 0.5 metres. Therefore the proposed development does not comply with the minimum street boundary setbacks.

The proposed street boundary setbacks can be approved if the proposed development is seen to demonstrate compliance with the requirements specified in TPS6 clause 7.8.

The main building on the development site achieves the minimum 1.5 metre setback. The residential properties on Banksia Terrace in the near vicinity of the development site have appropriately 6 metre building setbacks from the street boundary. The main exception is the adjoining property (2 Banksia Terrace), which has a gate house constructed within that property's front setback area. The position of the proposed carport compared to the adjacent developments is highlighted **Figure 3** below:

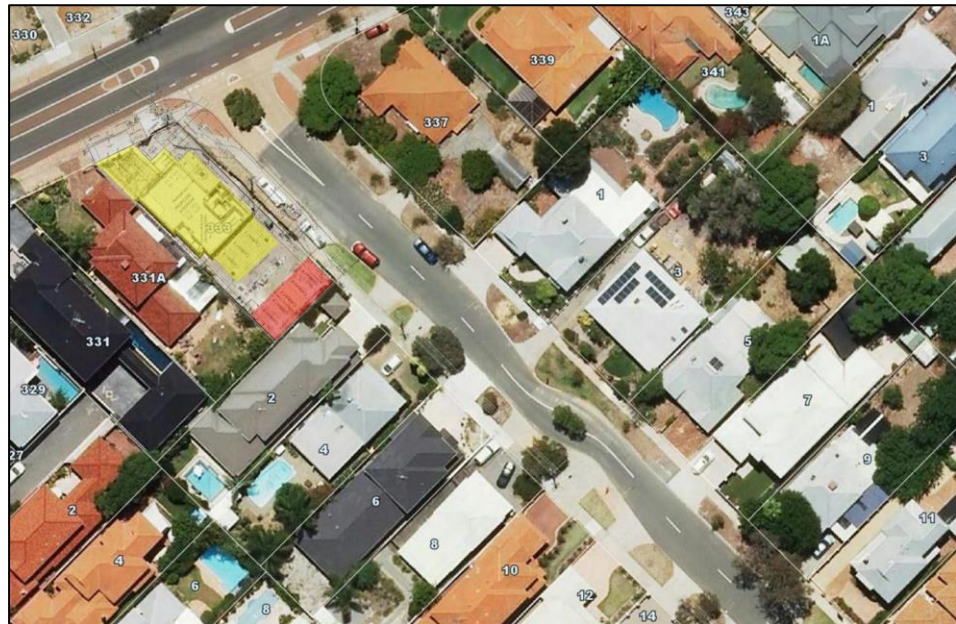


Figure 3- Proposed carport location (highlighted in red)

In relation to the Scheme's discretionary provisions, City officers provide the following comments:

- The proposed carport street setback is seen to not affect the amenity of the precinct or the wider locality and is seen to be consistent with the orderly and proper planning of the precinct.
- The proposed carport street setback has no adverse effect to the occupiers and users of the development site. The proposed carport street setback is seen to not have an adverse effect upon other inhabitants or future development of the precinct.
- The proposed carport street setback is not seen to conflict with the objectives for the City.

In this instance, it is considered that the proposal demonstrates compliance with the discretionary clause, and therefore is supported by the City.

(g) Lot Boundary Setbacks (New Carport Structure)

TPS6 clause 5.1(4)(a) specifies the minimum lot boundary setbacks for the new carport structure, being the deemed-to-comply requirements specified in clause 5.1.3 and Table 2a of the R-Codes. The proposed development does not comply with the minimum setbacks, as listed below:

- South West - setback between 0.3 and 0.5 metres from the boundary in lieu of 1.0 metre.
- South East – nil setback from the boundary in lieu of 1.5 metres.

The proposed lot boundary setbacks can be approved if the proposed development is seen to demonstrate compliance with the R-Codes clause 5.1.3 design principles.

The carport is located adjacent to the rear garden area of the south western adjoining property (331A Mill Point Road) and is located adjacent to the front garden, the portico and dwelling entrance, front bedroom windows and the side setback area of the south eastern adjoining property (2 Banksia Terrace). The existing planning approval contains a requirement for a 2.2 metre high dividing fence on both boundaries, which is shown on the development plans.

In relation to the design principles, City officers provide the following comments:

- The new carport has no impact upon privacy for the occupants of the development site or the outdoor living area for the residential component of the approved development.
- The carport is seen to pose a minor building bulk impact upon the adjoining properties. The visible component of the carport from 331A Mill Point Road (visible from the rear garden area) is primarily the side of the roof. The visible component of the carport from 2 Banksia Terrace (visible from the front garden area, front windows and the upper storey balcony) is the upper surface of the roof for effectively the full width of the development site. The top of the carport roof is approximately 0.6 metres higher than the top of the approved 2.2 metre high dividing fences.
- The carport has no overshadowing impact upon the Mixed Development building on the development site; the carport casts its shadow over car bays and vertical landscaping; the carport does not pose additional overshadowing on 2 Banksia Terrace than the approved 2.2 metre high dividing fence; the carport would pose a small amount of additional overshadowing on the 331A Mill Point Road rear garden area, compared to the approved 2.2 metre high dividing fence; the carport is not seen to pose any additional ventilation impacts to all properties compared to the existing development.
- The new roof structure poses no privacy impacts to either adjoining property.

- The reduced lot boundary setbacks reduce the potential for adverse amenity impacts to the adjoining properties in terms of noise from vehicles and people in the carpark; however these setbacks contribute to a greater visual impact than a carport compliant with the specified minimum setbacks.
- The carport would not restrict direct sun into major openings on 2 Banksia Terrace, as the carport would not create more shadow than the approved 2.2 metre high dividing fence; the carport is not adjacent to major openings on 331A Mill Point Road; the carport is not adjacent to an outdoor living area on 2 Banksia Terrace; the carport would pose a small amount of additional overshadowing on the 331A Mill Point Road rear garden area, compared to the approved 2.2 metre high dividing fence.
- The proposed lot boundary setbacks have no significant impact upon the prevailing development context and streetscape, noting the approved 2.2 metre high dividing fence.

In this instance, it is considered that the proposal demonstrates compliance with the discretionary clause, and therefore is supported by the City.

(h) Building Design (New Carport Structure)

The application of Deemed Provisions clauses 67(m) and (n) will require the design of the proposed carport structure to be considered, having regard to the compatibility of this new development with existing development on the site and adjoining properties, as well as the character of the locality. The roof form and car parking design provisions contained within Policies P351.5 and P350.03 are not applicable to this application, as the development is located in a non-residential zone and the car bays are not for residential purposes.

It is observed that the built form of the carport structure does not match the main building on the site, primarily the lower pitched skillion roof, though similar materials and colours are proposed.

It is considered that the proposed carport's design is compatible with the approved development and the existing streetscape and this design would not pose an adverse amenity impact to neighbouring properties.

In this instance, it is considered that the proposal demonstrates compliance with the relevant matters, and therefore is supported by the City.

(i) Lot Boundary Setbacks (New Roof Structure)

The revised plans include a new roof structure between the external wall of the approved building and the dividing fence (on the lot boundary between the development site and 331A Mill Point Road). This roof is positioned above an extraction fan located on the external wall of the approved building and functions as an acoustic screen, to limit noise impacts from this fan to the adjoining residential property.

The prescribed minimum lot boundary setback (south west) for the new roof structure is 0.75 metres and this structure is provided with a minimum nil setback (abutting the top of the approved dividing fence). Therefore the proposed development does not comply with the minimum setbacks referred to in TPS6 clause 5.1(4)(a), being the deemed-to-comply requirements specified in clause 5.1.3 and Table 2a of the R-Codes.

The proposed lot boundary setbacks can be approved if the proposed development is seen to demonstrate compliance with the R-Codes clause 5.1.3 design principles.

The roof structure is approximately 4 metres in width and is located adjacent to the side patio area and a dining room window of the south western adjoining property (331A Mill Point Road). The existing planning approval contains a requirement for a 2.2 metre high dividing fence on this boundary, which is shown on the development plans.

In relation to the design principles, City officers provide the following comments:

- The relatively small size of the new roof structure is not seen to pose a substantial building bulk impact upon the adjoining property.
- The new roof structure is not seen to pose any additional overshadowing or ventilation impacts to either property compared to the existing development.
- The new roof structure poses no privacy impacts.

In this instance, it is considered that the proposed new roof structure complies with the discretionary clause, and therefore its inclusion as part of the approved development is supported by the City.

(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;*
- (d) Establish a community identity and 'sense of community' both at a City and precinct level and to encourage more community consultation in the decision-making process;*
- (e) Ensure community aspirations and concerns are addressed through Scheme controls;*
- (f) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*
- (g) Protect residential areas from the encroachment of inappropriate uses;*
- (i) Create a hierarchy of commercial centres according to their respective designated functions, so as to meet the various shopping and other commercial needs of the community;*

- (j) *In all commercial centres, promote an appropriate range of land uses consistent with:*
 - (i) *the designated function of each centre as set out in the Local Commercial Strategy; and*
 - (ii) *the preservation of the amenity of the locality;*

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

(k) Matters to be considered by Local Government: Clause 67 of the Deemed Provisions for Local Planning Schemes

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application:

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (c) *any approved State planning policy;*
- (g) *any local planning policy for the Scheme area;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (n) *the amenity of the locality including the following —*
 - (i) *environmental impacts of the development;*
 - (ii) *the character of the locality;*
 - (iii) *social impacts of the development;*
- (p) *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;*
- (s) *the adequacy of—*
 - (i) *the proposed means of access to and egress from the site; and*
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
- (v) *the potential loss of any community service or benefit resulting from the development other than potential loss that may result from economic competition between new and existing businesses;*
- (w) *the history of the site where the development is to be located;*
- (x) *the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;*
- (y) *any submissions received on the application;*

- (za) the comments or submissions received from any authority consulted under clause 66;
- (zb) any other planning consideration the local government considers appropriate.

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

Consultation

(a) Design Advisory Consultants' Comments

This reconsideration did not necessitate referral to the City's Design Advisory Consultants (DAC).

(b) Neighbour Consultation

Neighbours who had previously made submissions of this development were contacted by Council's planning consultant in relation to the current amended proposal and invited to submit further comments.

The City has received 2 submissions, both against the proposal. The comments from the submitters, together with officer responses are summarised below.

Submitters' Comments	Officer's Responses
Opposed to extended trading hours – amenity impacts. [x2]	Further discussion is contained in the main section of this report. The comment is NOTED .
The bakery is outside the scope of the approved Shop and Café/Restaurant land use. e.g. scale of activities; inconsistent with Council's commercial strategy. [x2]	The Café/Restaurant and Shop land uses are defined in TPS6 Schedule 1. The use of the site is required to be consistent with these approved uses, as per the existing planning approval. Compliance actions will be initiated should the City become aware of illegal uses operating from this site. The comment is NOTED .
Objection to the setback variation (carport) – visual amenity impact. [x2]	Further discussion is contained in the main section of this report. The comment is NOTED .
Insufficient parking. e.g. availability of on-site bays, street parking, size of building. [x2]	These matters were considered in the application presented to Council in March 2015. The comment is NOT UPHELD .
Sewer impacts (carport). [x2]	The construction of the carport over the sewer line will require a separate approval from the Water Corporation. The comment is NOTED .
Noise mitigation measures may not be implemented. e.g. operator could override low speed mode at night. [x2]	The recommendation includes conditions relating to this matter. Compliance actions will be initiated should the City become aware of the site operating outside the constraints of its approval. The comment is NOTED .

Submitters' Comments	Officer's Responses
Carport affects provision of landscaping (vertical gardens). [x2]	The vertical gardens are still identified on the revised plans, however a significant portion are expected to be in full shade from the proposed carport structure. The comment is NOTED .
Monitoring should be arranged and conducted independently i.e. by the City, to obtain accurate results. [x2]	It is operator's responsibility to be compliant with statutory noise requirements. The comment is NOTED .
Operating hours – potential early morning operations on site.	A condition is included in the recommendation to address this matter. The comment is NOTED .
Impacts to neighbour's bin collection (street parking)	This revised proposal does not affect the collection of bins for adjoining residential properties. The comment is NOT UPHELD .
Odour impacts – food.	Any odour impacts from the revised proposal should be similar to the existing planning approval. The comment is NOTED .
Request relocation of mechanical equipment – reduced noise impacts.	The comment is NOTED .
Additional noise impacts expected than in applicant's documents.	The comment is NOTED .
Use of delivery vehicles	These matters have already been considered and do not relate to the reasons for Council's decision relating to evening trading hours. The comment is NOT UPHELD .

The neighbour submissions are provided in **Attachment (e)**.

(c) Internal Administration

This amendment did not necessitate internal referrals.

(d) External Agencies

This amendment did not necessitate referral to any external agencies.

Policy and Legislative Implications

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

Financial Implications

The total amount expended by the City in consultant's costs on this matter from October 2015 to November 2016 is \$119,809.37. This determination has some financial implications, should the applicant not be satisfied with Council's determination, as in this situation it is expected that the SAT appeal will continue. This will incur additional fees from Council's planning consultant to defend Council's decision at the Tribunal.

10.3.1 SAT Reconsideration: Proposed Amendment to Approved Mixed Development. Lot 3 No. 333 Mill Point Road, South Perth.

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.*

Sustainability Implications

The proposed amendment has minimal sustainability implications compared to the approved development.

Conclusion

It is considered that the proposal meets all of the relevant Scheme objectives and provisions, as the proposal is seen by the City officers to not have a detrimental impact on adjoining residential neighbours and streetscape. It is considered by the City officers that this reconsideration application should be approved by the Council and the revised conditions be applied as recommended.

Attachments

- 10.3.1 (a):** Planning Approval 24 March 2015 - Notice of Determination - 333 Mill Point Road, South Perth - 11.2014.633.1
- 10.3.1 (b):** Planning Approval 24 March 2015 - Approved Plans - 333 Mill Point Road, South Perth - 11.2014.633.1
- 10.3.1 (c):** Applicant's Reconsideration Correspondence - 333 Mill Point Road, South Perth - 11.2014.633.4
- 10.3.1 (d):** Applicant's Plans for Reconsideration - 333 Mill Point Road, South Perth - 11.2014.633.4
- 10.3.1 (e):** Neighbour Submissions - 333 Mill Point Road, South Perth - 11.2014.633.4
- 10.3.1 (f):** Site Photographs - 333 Mill Point Road, South Perth - 11.2014.633.4 .

At this point the Presiding Member read aloud her Declaration of Interest received for Item 10.3.2:

“I wish to declare an Impartiality Interest in Agenda Item 10.3.2 Proposed Additions (Toilets and Storage) to Religious Activities (Church and Church Hall) Lot 16 (No. 4) Hampden Street, South Perth on the Council Agenda for the Ordinary Council meeting of 13 December 2016. I declare that I am a member of the Church located at this site. It is my intention to remain in the Council Chamber, consider this matter on its merits and vote accordingly.”

10.3.2 Proposed Additions (Toilets and Storage) to Religious Activities (Church and Church Hall). Lot 16 (No. 4) Hampden Street, South Perth.

Location: 4 Hampden Street, South Perth
 Ward: Mill Point Ward
 Applicant: William D Harris
 File Ref: D-16-93582
 Lodgement Date: 7 December 2016
 Date: 13 December 2016
 Author: Valerie Gillum, Planning Officer Development Services
 Reporting Officer: Vicki Lummer, Director Development and Community Services
 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

To consider an application for planning approval for Additions to Religious Activities (Toilet and Storage Additions to Church and Church Hall) on Lot 16 (No. 4) Hampden Street, South Perth. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Car Parking	TPS6 Clause 7.8(1)
Street Setback	TPS6 clause 5.1(4)(a)

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Fiona Reid

Seconded: Councillor Colin Cala

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 to Religious Activities (Toilet and Storage Additions to Church and Toilet Addition to Church Hall) on Lot 16 (No. 4) Hampden Street, South Perth **be approved** subject to:

(a) Standard Conditions

340A	Boundary Wall finish from the street –Wall on Eastern side of Toilet Hall Addition	425	colours & materials- matching (addition to church)
------	--	-----	--

- 001 This approval only pertains to – 445 stormwater infrastructure
proposed church toilet block
addition, hall toilet block
addition and hall ramp/porch
addition
- 456 dividing fences - timing

(b) Specific Conditions

- (i) The original red face brick and white-painted trim to the eastern wall of the church hall shall be retained and treated with a clear finish sealant as indicated on the approved drawings;
- (ii) The applicant is requested to:
- (a) provide the City with a detailed electronic photographic record of the building's interior and exterior, prior to any portion of the building being demolished or modified; and
 - (b) at the time of construction, make good any damage to the interior or exterior of the South Perth Methodist Church (Former) which might be caused by the construction of the new toilets.
- (iii) Existing landscaping located at the north-east frontage of the site between the hall toilet addition and front property boundary shall be identified for retention on the working drawings submitted as part of a building permit application and shall be protected prior to and during construction, and shall **not** be removed without the prior approval of the City.

(c) Standard Advice Notes

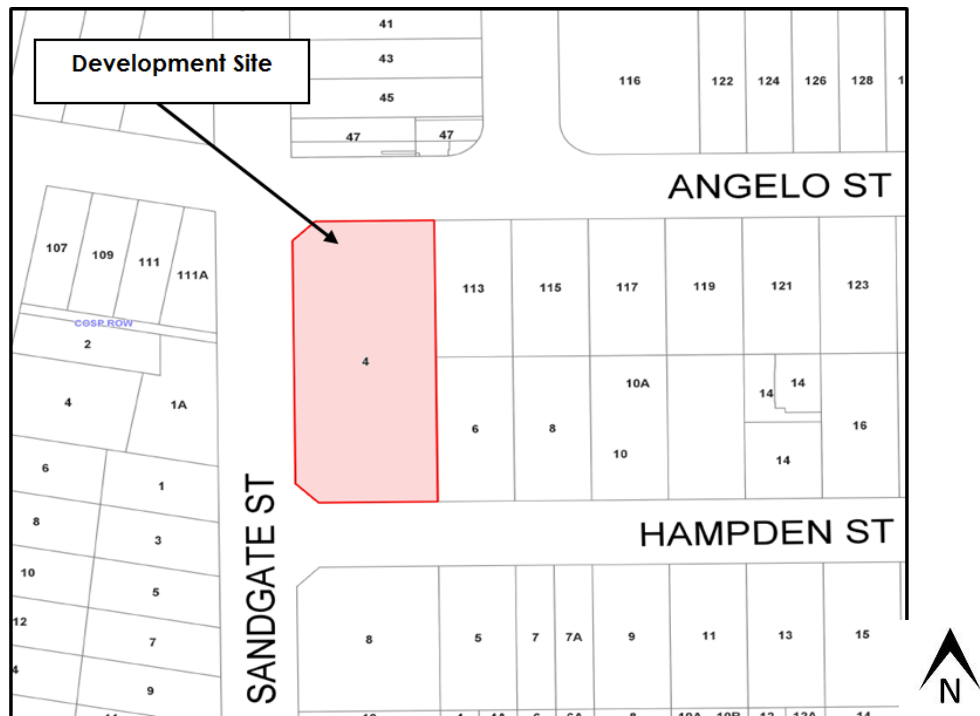
- | | | | |
|------|-----------------------------------|-----|---------------------------------|
| 700A | building permit required | 705 | revised drawings required |
| 716. | fences note- comply with that Act | 790 | minor variations- seek approval |

CARRIED (6/0)**Background**

The development site details are as follows:

Zoning	Public Assembly
Density coding	R15
Lot area	3,224 sq. metres
Building height limit	7.0 metres
Plot ratio limit	0.50

The location of the development site is shown below:



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

3. The exercise of a discretionary power

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

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 July 2016, the City received an application for Additions to an Existing Religious Activity on Lot 16 (No. 4) Hampden Street, South Perth (the **Site**).

The two buildings affected by this addition relate to the existing church located centrally on the subject site with a frontage to Sandgate Street as well as the existing Church Hall located on the north-eastern area of the subject site with a frontage to Angelo Street.

(b) Existing Development on the Subject Site

The subject site is located at Lot 16 (No. 4) Hampden Street, South Perth (the **Site**). The existing development on the Site currently features land uses of Religious Activities and associated Manse and a Child Care Centre.

(c) Description of the Surrounding Locality

The Site has a frontage to Hampden Street to the south, Angelo Street to the north and Sandgate Street to the west, located adjacent to single dwellings to the east, opposite a single dwelling and a corner shop to the north and opposite single dwellings and grouped dwellings to the west and south, as seen in **Figure 1** below:



(d) Description of the Proposal

The proposal involves the following additions and alterations:

- addition of toilets to the eastern side of the existing church hall fronting Angelo Street;
- disabled ramp to the porch entry area on the northern frontage of the church hall along Angelo Street;
- the demolition of an existing 22m² shed, located behind the existing church; and
- the construction of toilets and storage (approximately 50m²) to the existing church.

Proposed on Lot 16 (No. 4) Hampden Street, South Perth (the **Site**), as depicted in the submitted plans at **Attachment (a)** and **Attachment (b)**.

The toilet additions became necessary as currently, the only amenities for patrons to the hall and the church are located external to those buildings and within the Child Care Centre grounds. Due to recent *Child Care Regulations*, people are prohibited from using these toilets unless they have a current “working with children” clearance. After completion of these additions, the Church are proposing to demolish this toilet block and construct an additional baby’s room with associated facilities (which will be subject to a further application) and the child care centre staff will use the amenities proposed at the rear of the church.

The following components of the proposed development satisfy the *City of South Perth Town Planning Scheme No. 6 (Scheme; TPS6)* and Council Policy requirements:

- (i) Land Use;

- (ii) Plot Ratio;
- (iii) Landscaping;
- (iv) Lot Boundary Setbacks & Boundary Wall (Table 3 and Clause 5.1(4)(a)(ii) of TPS6 & P350.02);

The following components of the proposed development require the exercise of discretion to be approved and are further discussed:

- (i) Street Setback to Angelo Street (Table 3 and Clause 5.1(4)(a) of TPS6);
- (ii) Car Parking (Clause 6.3 and Table 6 of TPS6); and
- (iii) Heritage Places (Clause 6.11 of TPS6 and Council Policy P313);

(e) Street Setback – ground floor, north

The prescribed minimum street setback is 7.5 metres for buildings in the Public Assembly zone, and the proposed setback is 7.110 metres, therefore the proposed development does not comply with Table 3 of TPS6.

Council discretion- cl. 7.8.1

Council has discretionary power under clause 7.8.1 of TPS6 to approve the proposed setback of 7.1 metres in lieu of 7.5 metres, if Council is satisfied that all requirements of that clause have been met:

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

As a response to the above sub-clause, the Applicant submits the opinion that this setback is provided due to the fact that the existing setback of the hall is only 6.28 metres. The setback for the toilet block is 7.1 metres, which is behind the first wall buttress projection and permits the walls and partitions to avoid conflicting with the eastern windows or impact on the front elevation of the existing building.

Officers are of the view that the proposed setback will ensure that the amenity of the locality is preserved particularly as the additions have been designed to match the materials of the heritage building to which they are attached. The additions being setback further from the street than the adjoining residential property will ensure that views to the street from the front of the dwelling will not be obstructed. Furthermore the proposed additions are seen to benefit the users of the hall as they would no longer be inconvenienced by having to exit the building to utilise the toilet block located elsewhere on the site.

In this instance, it is recommended that the proposed setback be supported as Officers consider that the proposal complies with the discretionary clause.

(f) Car Parking

The proposed additions require a further 10 on-site car bays which is based on a calculation of 1 space per 5m² of Gross Floor Area and the application of a car parking reduction of 15% (proposed development within 400 metres of a bus stop) under City Policy P315 "Car Parking Reductions for Non-Residential Development".

Existing car bays that service this site include a combination of three (3) on-site car bays located directly adjacent the Church Hall which have access off Angelo Street and a further 13 on-street car bays located on Angelo Street and Sandgate Street directly in front of the subject site and on the opposite side of the subject site in Sandgate Street. The on-street car bays are shared between the church and child care centre. The proposed development does not comply with the car parking requirement in Table 6 of TPS6 and the applicant does not propose to provide additional car bays on site.

As a response to the above sub-clause, the Applicant submits the opinion that the proposed toilet blocks and storage will not increase the current demand for parking. The peak demand for the church is Sundays and an occasional mid-week either for funerals or ceremonies which occur rarely.

Council discretion- cl. 6.3.4

Council has discretionary power under clause 6.3.4 of TPS6 to approve the proposed car parking, if Council is satisfied that all requirements of that clause have been met. In this instance, it is recommended that the proposed car parking be approved, as the applicant has satisfied the City in relation to the following requirements of that clause (emphasis added):

- (a) 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 discretion- cl. 7.8.1

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

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

Religious Activity is listed in Table 6 of TPS6 as requiring 1 space per 5m² of Gross Floor Area and does not exclude toilets and storage areas. Officers suggest that the demand for parking would not increase as a result of these additions as they are considered ancillary to its use and would not result in there being a higher demand for parking.

Based on there being no further increase in demand for car parking as a result of this development, Officers consider that the proposal meets with the discretionary clause, and is therefore supported.

(g) Heritage Places

The City has classified the South Perth Methodist Church (Former) as a place in Management Category B of the Heritage List and as such planning approval is required. The heritage listing only applies to this building but not to other buildings on the same site.

In accordance with Clause 6.11(6) of TPS6, in considering any application for planning approval, Council shall have regard to:

- (i) the provisions of the Scheme;*
- (ii) the relevant Precinct Plan; and*
- (iii) any planning policy.*

In relation to the above, City Policy P313 'Local Heritage Listing' is a relevant policy for Council to have regard to when considering additions that are likely to change the external appearance of any building on the Heritage List.

As a response to the City's request for further information relating to the Church Hall which required consideration of built heritage conservation, an amended plan as well as a written response was submitted by the Applicant.

The applicant identified that the amended design now retains the windows along the eastern side when viewed from inside the hall (with the exception of the access door). Translucent glass adhered to the toilet side of the windows combined with the proposed skylights in the roof of the toilets, will enable light to penetrate into the hall. The roof has been lowered; thereby retaining the top white rendered painted band and buttresses external appearance. The northern elevation has been designed to match the front elevation of the old church hall and soften the loss of the east elevation.

The City's Heritage Officer reviewed the Applicant's response relating to retaining the heritage values of the church hall building and advised that the amended proposal is now considered satisfactory.

Officers consider that the amended plans adequately address the requirements of Clause 6.11 of TPS6 and recommend support with relevant conditions.

(i) 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;*
- (c) Facilitate a diversity of dwelling styles and densities in appropriate locations on the basis of achieving performance-based objectives which retain the desired streetscape character and, in the older areas of the district, the existing built form character;*
- (d) Establish a community identity and 'sense of community' both at a City and precinct level and to encourage more community consultation in the decision-making process;*
- (e) Ensure community aspirations and concerns are addressed through Scheme controls;*
- (f) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*
- (g) Protect residential areas from the encroachment of inappropriate uses;*
- (k) Recognise and preserve areas, buildings and Sites of heritage value; and*
- (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 all of these matters, subject to the recommended conditions.

(j) Matters to be considered by Local Government: Clause 67 of the Deemed Provisions for Local Planning Schemes

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application —

- (a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;
- (b) the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;
- (c) any approved State planning policy;
- (d) any environmental protection policy approved under the Environmental Protection Act 1986 section 31(d);
- (e) any policy of the Commission;
- (f) any policy of the State;

- (g) any local planning policy for the Scheme area;
- (h) the built heritage conservation of any place that is of cultural significance;
- (l) the effect of the proposal on the cultural heritage significance of the area in which the development is located;
- (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;
- (n) the amenity of the locality including the following —
 - (i) environmental impacts of the development;
 - (ii) the character of the locality;
 - (iii) social impacts of the development;
- (o) the likely effect of the development on the natural environment or water resources and any means that are proposed to protect or to mitigate impacts on the natural environment or the water resource;
- (p) 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;
- (s) the adequacy of —
 - (i) the proposed means of access to and egress from the site; and
 - (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;
- (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;
- (u) the availability and adequacy for the development of the following —
 - (i) public transport services;
 - (ii) public utility services;
 - (iii) storage, management and collection of waste;
 - (iv) access for pedestrians and cyclists (including end of trip storage, toilet and shower facilities);
 - (v) access by older people and people with disability;
- (v) the history of the site where the development is to be located;
- (x) the impact of the development on the community as a whole notwithstanding the impact of the development on particular individuals;
- (y) any submissions received on the application;
- (za) any other planning consideration the local government considers appropriate.

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

Consultation**(a) Neighbour Consultation**

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 'Consultation for Planning Proposals'. Under the 'Area 1' consultation method, individual property owners, occupiers and/or strata bodies 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 15 consultation notices were sent and two submission(s) were received, both against the proposal. The comments from the submitter(s), together with officer responses are summarised below.

Submitters' Comments	Officer's Responses
<p>What concerns us most with the church redevelopment is parking. There is insufficient parking now with cars parking on verges and taking up all available street parking. I would have thought that any business would have to provide off-street parking for staff and customers.</p>	<p>As identified in the officer's report, the addition of toilets and storage is not seen to increase demand for car parking.</p> <p>The existing situation will remain unchanged.</p> <p>NOT UPHELD.</p>
<p>Concerns were raised in relation to noise that could potentially be created by the location of two parapet walls along the boundary of the church hall.</p> <p>The neighbour's preference was to have a single parapet wall along the common boundary, which would maintain privacy and kept noise levels to a minimum.</p>	<p>Amended plans were submitted which reflect a single continuous length of boundary wall.</p> <p>The affected neighbours have since signed the amended drawings acknowledging they are happy with the new boundary wall as proposed.</p> <p>UPHELD.</p>

(b) Internal Administration

Comments were invited from the Heritage Officer and the Environmental Health Officer of the City's administration.

The **Heritage Officer** comments have been captured earlier in the report and have been supported through recommended conditions and amended plans.

The **Environmental Health Officer** raised no objections to the proposed development.

Accordingly, planning conditions and/or important notes are recommended to respond to the comments from the above officer(s).

10.3.2 Proposed Additions (Toilets and Storage) to Religious Activities (Church and Church Hall). Lot 16 (No. 4) Hampden Street, South Perth.

(c) External Agencies

The Heritage Trust was consulted by the City's Heritage Officer to seek their views in relation to the proposed additions to the Category B Listed Building and provided no comments with respect to heritage matters.

Policy and Legislative Implications

Comments have been provided elsewhere in this report, in relation to the various provisions of the Scheme, the 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 2015-2025 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/or Council Policy objectives and provisions, will not have a detrimental impact on adjoining residential neighbours and streetscape. Provided that conditions are applied as recommended it is considered that the application should be conditionally approved.

Attachments

- 10.3.2 (a):** Plans for Approval - Toilet Block and Ramp Addition to Church Hall
- 10.3.2 (b):** Plans for Approval - Toilet Block Addition to Church

10.3.3 Proposed Single House (Two-Storeys). Lot 800 (No. 34A) Sulman Avenue, Salter Point

Location: Lot 800 (No. 34A) Sulman Avenue, Salter Point
 Ward: Manning Ward
 Applicant: Novus Homes
 File Ref: D-16-93495
 Lodgement Date: 30 September 2016
 Date: 13 December 2016
 Author: Cameron Howell, Senior Statutory Planning Officer
 Reporting Officer: Vicki Lummer, Director Development and Community Services
 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

This report seeks Council's consideration of an application for planning approval for a two-storey Single House on Lot 800 (No. 34A) Sulman Avenue, Salter Point. 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-Codes Design Principles 5.1.3
Vehicular access	R-Codes Design Principles 5.3.5
Visual privacy	R-Codes Design Principles 5.4.1
Maximum ground and floor levels	TPS6 Clause 6.10

It is recommended that the application be approved.

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Councillor Colin Cala

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 Single House (Two-Storeys) on Lot 800 (No. 34A) Sulman Avenue, Salter Point **be approved** subject to:

(a) Standard Conditions

210	screening- permanent	456	dividing fences- timing
377	screening- clothes drying	470	retaining walls- if required
390	crossover- standards	471	retaining walls- timing
393	verge & kerbing works	510	tree planted on site
445	stormwater infrastructure	625	sightlines for drivers
455	dividing fences- standards		

(b) Specific Conditions

- (i) This approval does not permit:
- (A) the filling of the site between the dwelling and the River Way boundary; and
 - (B) the installation of fencing on or adjacent to the River Way boundary.
- A separate approval is required for these works.

(c) Standard Advice Notes

Note 1-2	validity (2 years)	725	fences note- comply with that Act
Note 3	appeal rights	766	landscaping- general standards
700A	building permit required	790	minor variations- seek approval

(d) Specific Advice Notes

Nil

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

CARRIED EN BLOC (6/0)

Background

The development site details are as follows:

Zoning	Residential
Density coding	R20
Lot area	440 sq. metres
Building height limit	7.0 metres
Development potential	1 dwelling
Plot ratio limit	Not Applicable

The location of the development site is shown in **Figure 1** below:

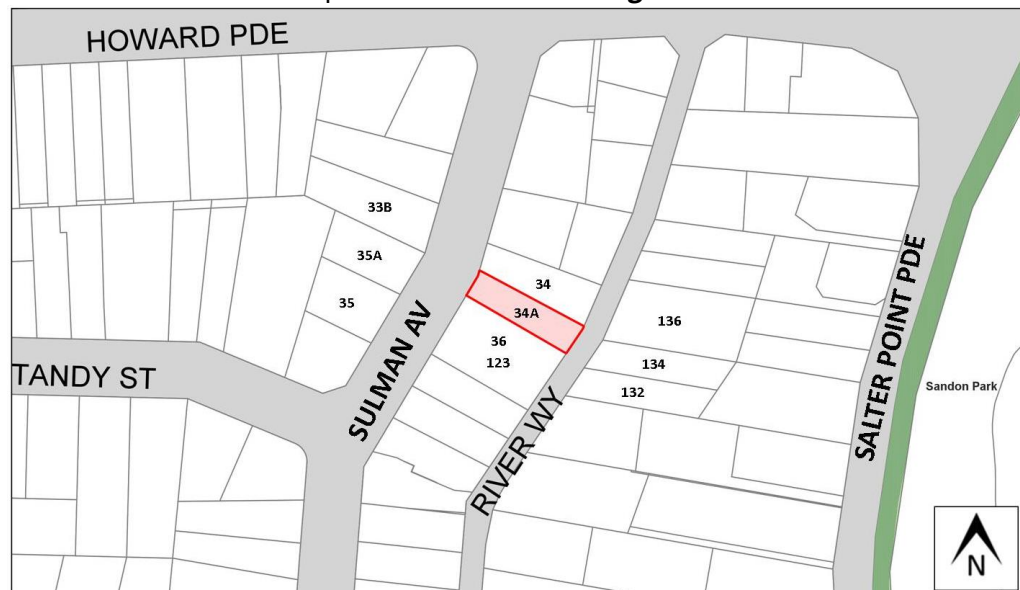


Figure 1- Location Plan

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

3. The exercise of a discretionary power

- (b) Applications on lots with a building height of 7.0 metres; having a boundary to River Way; and where the proposed building height exceeds 3.0 metres.

Comment

(a) Background

In September 2016, the City received an application for a Single House in a two-storey building on Lot 800 (No. 34A) Sulman Avenue, Salter Point (the development site). Additional information from the applicant was received in October and November 2016.

(b) Existing Development on the Subject Site

The site is vacant land.

(c) Description of the Surrounding Locality

The site has a frontage to Sulman Avenue to the west and River Way to the east and is located adjacent to two-storey with under croft dwellings to the north (Single House) and south (Grouped Dwellings), as seen in **Figure 2** below:

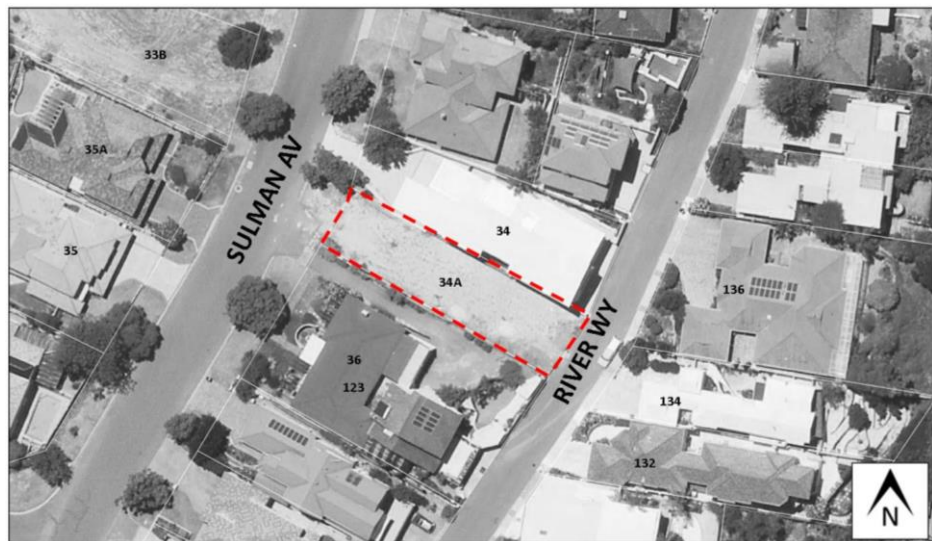


Figure 2- Aerial Photograph (February 2016)

(d) Description of the Proposal

The proposal involves the construction of a two-storey Single House on the development site, as depicted in the submitted plans at **Attachment (a)**.

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 – “P” (Permitted) (TPS6 clause 3.3 and Table 1).
- Street setbacks (R-Codes 5.1.2 and Council Policy P306 clause 1).
- Lot boundary setbacks, except Dining room north (R-Codes clause 5.1.3 and Tables 2a/2b).
- Lot boundary setbacks – walls built up to the boundary, Garage south (Council Policy P350.02 clause 1.1)
- Building height limit – 7.0 metres (TPS6 clause 6.1A).
- Open space (R-Codes clause 5.1.4).
- Garage width (R-Codes clause 5.2.2).
- Street surveillance (R-Codes clause 5.2.3).

- Street walls and fences (R-Codes clause 5.2.4 and Council Policy P306 clause 5).
- Sight lines (R-Codes clause 5.2.5).
- Outdoor living area (R-Codes clause 5.3.1).
- Parking (R-Codes clause 5.3.3; Council Policy P306 clause 3 and TPS6 clause 6.3(8)).
- Vehicular access (R-Codes clause 5.3.5 C5.2-3).
- Driveway gradient (TPS6 cl. 6.10(2)).
- Solar access for adjoining sites (R-Codes Clause 5.4.2).
- Significant views (Council Policy P350.09)

The following planning aspects require the exercise of discretion to be approved and are discussed further in the body of this report:

- Lot boundary setbacks – Dining room north (R-Codes clause 5.1.3 and Tables 2a/2b)
- Primary street (Sulman Avenue) vehicle access (R-Codes clause 5.3.5 C5.1)
- Visual privacy (R-Codes clause 5.4.1)
- Finished floor and ground levels (TPS6 clause 6.10)

These discretionary matters are also addressed by the applicant in their justification report, contained in **Attachment (b)**.

(e) Lot Boundary Setbacks

The R-Codes clause 5.1.3 and Tables 2a and 2b specify minimum lot boundary setbacks for the building. The proposed wall setbacks generally meet the minimum deemed-to-comply requirements. The following components are observed to not be compliant with the deemed-to-comply standards:

- Dining room wall (first floor, north) - setback a minimum of 2.5 metres from the boundary in lieu of 3.3 metres (based upon bulk wall length).
- Dining room wall (first floor, north) - setback a minimum of 3.2 metres from the boundary in lieu of 4.0 metres (based upon a major opening setback).

The Council can approve the proposal if Council is satisfied that the development demonstrates compliance with the lot boundary setback design principles listed in clause 5.1.3 of the R-Codes.

This Dining room window and wall are positioned adjacent to the side setback area, side external walls and non-major openings (ground floor bathroom and laundry) of the affected adjoining property (34 Sulman Avenue).

Considering that the affected component of the adjoining development has limited openings facing the proposed development and that these spaces would be used for infrequent periods, the proposed Dining room setback is not seen to pose an unreasonable building bulk impact upon the adjoining property. The proposed development does not cause the affected adjoining property to be overshadowed and is considered to adequately address

visual privacy requirements (further comment is provided in the Visual Privacy section). The existing development on the adjoining property and the proposed Dining room are seen to be sufficiently setback from each other to provide ventilation for each site and to allow adequate sunlight into the Dining room window. Hence, it is considered that the design principles have been met and it is recommended that this discretionary element be approved by the Council.

(f) Vehicular Access

The R-Codes clause 5.3.5 C5.1 specifies that the driveway should be accessed from the secondary street (River Way), rather than the primary street (Sulman Avenue).

The Council can approve the proposed driveway access from Sulman Avenue if Council is satisfied that the development demonstrates compliance with the vehicular access design principles listed in Clause 5.3.5 of the R-Codes.

The proposed driveway location is not seen to conflict with the safety and streetscape matters listed in the design principles, noting that nearly all properties abutting River Way and Sulman Avenue have a driveway off Sulman Avenue. Hence, it is considered that the design principles have been met and it is recommended that this discretionary element be approved by the Council.

(g) Visual Privacy

The R-Codes clause 5.4.1 specifies minimum visual privacy setbacks for elevated active habitable spaces. Where visual privacy requirement apply, the proposed development mostly achieves compliance with the minimum setbacks or adequate screening is provided. The following components are observed to not be compliant with the deemed-to-comply standards:

- Activity room window (ground floor, east) – less than 6.0 metres cone of vision setback to 34 Sulman Avenue property boundary.
- Dining room window (first floor, north) – less than 6.0 metres cone of vision setback to 34 Sulman Avenue property boundary.
- Scullery room window (first floor, east) – less than 6.0 metres cone of vision setback to 34 Sulman Avenue property boundary.
- Rear Balcony – less than 7.5 metres cone of vision setback to the 34 and 36 Sulman Avenue property boundaries.

The Council can approve the proposal if Council is satisfied that the development demonstrates compliance with the visual privacy design principles listed in clause 5.4.1 of the R-Codes.

These active habitable spaces are observed to look at the components of the development on the adjoining properties as identified below:

Balcony – overlooking 36 Sulman Avenue / 123 River Way

- Windows: Nil.
- External areas: Driveway area and the swimming pool area (a minor component only).

Balcony & Activity room windows – overlooking 34 Sulman Avenue

Comments grouped together. The Activity room window is located underneath the Balcony.

- Windows (non-major openings): Ground floor bathroom and walk-in-robe; first floor bedroom highlight windows.
- Windows (major openings): Nil.
- External areas: Balcony highlight opening; external walls and side setback area.

Dining room & Scullery windows – overlooking 34 Sulman Avenue

Comments grouped together due to close proximity of these windows.

- Windows (non-major openings): Ground floor bathroom, laundry and pantry; first floor bathroom and stairs; first floor bedroom highlight windows.
- Windows (major openings): Ground floor Kitchen (small opening and indirect viewing angle).
- External areas: Drying court; external walls and side setback area.

The overlooking of the adjoining properties mostly affects areas of these developments that have a lesser need for privacy, due to their infrequent use. Where overlooking of the neighbours' active habitable spaces occurs, the impact is seen to be minimised as a result of viewing angles and the size and positioning of the neighbour's windows. As a result, the proposed development is seen to minimise overlooking of areas of the adjoining properties most sensitive to privacy. Hence, it is considered that the design principles have been met and it is recommended that this discretionary element be approved by the Council.

(h) Finished Floor and Ground Levels

TPS6 Clause 6.10 specifies maximum floor and ground level requirements. Generally, a development should achieve equal cutting below and filling above the site's natural ground level, subject to permissible variations.

The proposed floor and ground levels and existing contours are highlighted in **Figure 3** below:



Figure 3- Proposed floor and ground levels and existing contours

The 'equal cut and fill' plus 100mm level for the perimeter of the building, as per TPS6 clause 6.10(1)(a) is approximately RL15.8 metres and the proposed finished floor levels are RL16.5 metres (entry section), RL16.0 metres (middle section) and RL15.5 metres (rear section). These finished levels are approximately 100-200mm higher than an 'equal cut and fill' plus 100mm calculation for each section individually.

The Council can approve the proposed levels if Council is satisfied that the development demonstrates compliance with the TPS6 clause 6.10(1)(b) requirements, in relation to compliance with clause 6.9 (the development is compliant with minimum levels), visual impact, overshadowing and a visually balanced streetscape.

It is noted by City officers that the floor levels step down with the slope of the site, with most of the floor level not being raised more than 500mm above the natural ground level underneath the building footprint. Considering the extent of the slope on the site, the development is seen by City officers to satisfactorily comply with the relevant matters for Council to consider. Hence, it is recommended that the proposed finished floor levels be approved.

The 'equal cut and fill' level for the perimeter of the site, as per TPS6 clause 6.10(3) is approximately RL15.5 metres. The proposed finished ground levels generally slope down the site. The rear alfresco has a finished level of RL15.3 metres.

The Council can approve the proposed levels if Council is satisfied that the development demonstrates compliance with the other TPS6 clause 6.10(3) requirements, in relation to visual impact, overshadowing and visual privacy.

It is noted by City officers that most of the proposed ground levels surrounding the residence are generally within 500mm of the natural ground levels across the site. The development is seen by City officers to satisfactorily comply with the relevant matters for Council to consider. Hence, it is recommended that the proposed finished floor levels be approved.

(i) 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;*
- (c) *Facilitate a diversity of dwelling styles and densities in appropriate locations on the basis of achieving performance-based objectives which retain the desired streetscape character and, in the older areas of the district, the existing built form character;*

- (d) *Establish a community identity and 'sense of community' both at a City and precinct level and to encourage more community consultation in the decision-making process;*
- (e) *Ensure community aspirations and concerns are addressed through Scheme controls;*
- (f) *Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*

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

(j) Matters to be considered by Local Government: Clause 67 of the Deemed Provisions for Local Planning Schemes

In considering an application for development approval the local government is to have due regard to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application:

- (a) *the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;*
- (b) *the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;*
- (c) *any approved State planning policy;*
- (g) *any local planning policy for the Scheme area;*
- (m) *the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;*
- (p) *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;*
- (s) *the adequacy of—*
 - (i) *the proposed means of access to and egress from the site;*
and
 - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
- (y) *any submissions received on the application;*
- (zb) *any other planning consideration the local government considers appropriate.*

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 application did not require referral to the City's Design Advisory Consultants (DAC) as the development does not meet the criteria for referral under policy P303.

(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 standard consultation method, individual property owners and occupiers at Nos. 34 and 36 Sulman Avenue and No. 123 River Way 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 2 submissions were received, both in favour of the proposal. The comments of the submitters, together with an officer response are summarised below.

Submitters' Comments	Officer's Responses
No objection to 6.0m / 7.5m visual privacy cone of vision extending over lot boundary <ul style="list-style-type: none"> - Dining room (north) - rear Balcony (north and south) <i>Plans and letters signed.</i>	The visual privacy assessment is discussed further in the main section of this report. The comments are NOTED .

(c) Other City Departments

The application did not require referrals to the other departments of the City's administration.

(d) External Agencies

The application did not require referrals to any external agencies.

Policy and Legislative Implications

Comments have been provided elsewhere in this report, in relation to the various provisions of the Scheme, the 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 2015-2025 which is expressed in the following terms:

Accommodate the needs of a diverse and growing population.

Sustainability Implications

The proposed development is seen to achieve an outcome that has regard to the sustainable design principles.

10.3.3 Proposed Single House (Two-Storeys). Lot 800 (No. 34A) Sulman Avenue, Salter Point

Conclusion

It is considered that the proposal meets all of the relevant Scheme, R-Codes and Council Policy objectives and provisions. Accordingly, it is considered that the application should be conditionally approved.

Attachments

- 10.3.3 (a):** Development Plans - 34A Sulman Avenue, Salter Point - 11.2016.358.1
- 10.3.3 (b):** Applicant's Report - 34A Sulman Avenue, Salter Point - 11.2016.358.1

At this point the Presiding Member read aloud Councillor Fiona Reid's and Councillors Travis Burrows' Declarations of Interest received for Item 10.4.1:

Councillor Fiona Reid

"I wish to declare an Impartiality Interest in Agenda Item 10.4.1 Tender 25/2016 "Construction of Ernest Johnson Community Facility" on the Council Agenda for the Ordinary Council meeting of 13 December 2016. I declare that I am a member of the South Perth-Burswood Rotary. It is my intention to remain in the Council Chamber, consider this matter on its merits and vote accordingly."

Councillor Travis Burrows

"I wish to declare an Impartiality Interest in Agenda Item 10.4.1 Tender 25/2016 "Construction of Ernest Johnson Community Facility" on the Council Agenda for the Ordinary Council meeting of 13 December 2016. I declare that I am a long term member of the junior football club. It is my intention to remain in the Council Chamber, consider this matter on its merits and vote accordingly."

10.4 STRATEGIC DIRECTION 4: PLACES

10.4.1 Tender 25/2016 "Construction of Ernest Johnson Community Facility"

Location:	Ernest Johnson Reserve
Ward:	Mill Point Ward
Applicant:	City of South Perth
File Ref:	D-16-93605
Date:	13 December 2016
Author / Reporting Officer:	Mark Taylor, Director Infrastructure Services
Strategic Direction:	Places -- Develop, plan and facilitate vibrant and sustainable community and commercial places
Council Strategy:	4.1 Develop and facilitate activity centres and community hubs that offer a safe, diverse and vibrant mix of uses.

Summary

This report considers submissions received from the advertising of Tender 25/2016 for the "Construction of the Ernest Johnson Community Facility".

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

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Councillor Colin Cala

That:

- (a) Council approves the conforming tender submitted by PACT Construction for the 'Construction of the Ernest Johnson Community Facility' in accordance with Tender 25/2016 for the negotiate price of \$5,311.663.
- (b) Council delegate the Chief Executive Officer authority to negotiate with PACT Construction, prior to entering into a contract, additional minor pre-contract variations previously removed from the project.

CARRIED (6/0)

Background

A Request for Tender (RFT) 26/2016 for the 'Construction of the Ernest Johnson Community Facility' was advertised in The West Australian on Friday 28 September 2016 and closed at 2:00pm on Tuesday 2 November 2016.

Tenders were invited as a *Lump Sum Contract*. The RFT is for the 'Construction of the Ernest Johnson Community Facility'. The Preliminary Construction Programme has construction scheduled to commence in February 2017 with completion targeted for December 2017.

Comment

At the close of the tender advertising period 16 submissions had been received from 15 companies (one alternative tender) and these are tabled below:

TABLE A - Tender Submissions

Tender Submission
1. Alita Constructions
2. BE Project (WA) Pty Ltd
3. BGC Construction Pty Ltd
4. Bistel Construction Pty Ltd
5. Broad Construction
6. CES Project Solutions
7. Crothers Construction Pty Ltd
8. Firm Construction
9. Maintenance and Construction Services (Australia) Pty Ltd
10. McCorkell Construction WA Pty Ltd
11. PACT Construction
12. PACT Construction (alternative tender)
13. Pindan Contracting Pty Ltd
14. RHG Contractors Pty Ltd
15. Shelford Constructions Pty Ltd
16. ZD Constructions 93 Pty Ltd

The Tenders were reviewed by an Evaluation Panel and assessed according to the qualitative criteria detailed in the RFT, as per Table B below.

TABLE B - Qualitative Criteria

Qualitative Criteria	Weighting %
1. Relevant Experience of Company and Personnel	30%
2. Methodology	20%
3. Company Profile	20%
4. Tenderer's Resources	20%
5. Occupational Safety and Health	5%
6. Sustainability Experience	5%
Total	100%

The weighted score of each tender submission received is noted in Table C below.

The conforming tender submitted by PACT Construction recorded the highest score in the evaluation matrix.

More detailed information about the tender assessment process can be found in the Evaluation Panel Member's Report at **Confidential Attachment (a)**.

Consultation

Public tenders were invited in accordance with the *Local Government Act 1995*.

There has been extensive community consultation over a three year period in regard to the Ernest Johnson Master-plan. This has been detailed in previous Council reports.

A Councillor briefing was held on Tuesday 29 November to discuss in detail the assessment process for Tender 25/2016 and to discuss the potential to make some variations to the project.

Policy and Legislative Implications

Section 3.57 of the *Local Government Act* (as amended) requires a local government to call tenders when the expected value is likely to exceed \$150,000. Part 4 of the Local Government (Functions and General) Regulations 1996 sets regulations on how tenders must be called and accepted.

The following Council Policies also apply:

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

Delegation DM607 *Acceptance of Tenders* provides the Chief Executive Officer with delegated authority to accept tenders to a maximum value of \$250,000 (exclusive of GST).

The general Conditions of Contract forming part of the Tender Documents states among other things that:

- *The City is not bound to accept the lowest or any tender and may reject any or all Tenders submitted;*
- *Tenders may be accepted, for all or part of the Requirements and may be accepted by the City either wholly or in part. The requirements stated in this document are not guaranteed; and*
- *The Tender will be accepted to a sole or panel of Tenderer(s) who best demonstrates the ability to provide quality services at a competitive price which will be deemed to be most advantageous to the City.*

Regulation 20 of the Local Government (Functions and General) Regulations - *Variations of Requirement before entering into Contract* states:

- If, after it has invited tenders for the supply of goods or services and chosen a successful tenderer but before it has entered into a contract for the supply of the goods or services required, the local government wishes to make a minor variation in the goods or services required, it may, without again inviting tenders, enter into a contract with the chosen tenderer for the supply of the varied requirement subject to such variations in the tender as may be agreed with the tenderer.*

Financial Implications

The City has allocated \$7.85 million in the 2016/2017 Capital Works budget for the overall Ernest Johnson Masterplan implementation project (Stages one & two). A further \$2.65 million is proposed in the Long Term Financial Plan for 2017/2018, to complete the project, for a total budget of \$10.5 million.

During the design development stage, the Project Team was concerned about keeping Stage one of the project within the allocated budget. A value management exercise was subsequently completed which resulted in the removal of several minor items from the specification. Better than expected tender prices (well within the construction estimate) has resulted in the desire by the Project Team to include them again.

This cannot be realised prior to awarding the tender, as it is not permitted by the Local Government (Functions and General) Regulations 1996. Minor variations are permitted to be negotiated with the preferred contractor prior to the contract being signed.

In conclusion, the Project Team has confidence that PACT Construction will deliver the contract (Tender 25/2016) to the timeframe specified, at the required standard and within the allocated budget. It is therefore recommended that the conforming tender submitted by PACT Construction, with the identified variations, be approved by Council.

More detailed information about the recommended identified variations is available in ***Confidential Attachment (b)***.

Strategic Implications

The report is consistent with the [City's Strategic Community Plan 2015-2025](#).

10.4.1 Tender 25/2016 “Construction of Ernest Johnson Community Facility”

Sustainability Implications

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

Attachments

10.4.1 (a): 25/2016 - Panel Report 'Construction of Ernest Johnson Community Facility' (*Confidential*)

10.4.1 (b): Tender 25/2016 - Detailed information about the recommended identified variations (*Confidential*)

10.5 STRATEGIC DIRECTION 5: INFRASTRUCTURE AND TRANSPORT

10.5.1 Establishment of a Temporary "Construction Worker" Paid Parking on Melville Parade

Location:	Melville Parade
Ward:	Mill Point Ward
Applicant:	Council
File Ref:	D-16-93606
Date:	13 December 2016
Author:	Les Croxford, Manager Engineering Infrastructure
Reporting Officer:	Mark Taylor, Director Infrastructure Services
Strategic Direction:	Infrastructure and Transport -- Plan and facilitate safe and efficient infrastructure and transport networks to meet the current and future needs of the community
Council Strategy:	5.1 Advocate for, implement and maintain integrated transport and infrastructure plans in line with best practice asset management and safe system principles.

Summary

A need has been established for the provision of additional on and off street parking within the South Perth Station Precinct to cater for the influx of construction worker vehicles. An investigation was undertaken to locate City owned or managed land within the Precinct for the establishment of a paid parking area. In accordance with the Parking Local Law and Delegation, Council must first consider the establishment of metered zones and paid parking areas prior to establishment.

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Fiona Reid
Seconded: Councillor Sharron Hawkins-Zeeb

That:

- Council endorses the establishment of a paid parking area on part Lot 275 Melville Parade (**Attachment (a)**) and adjacent street verge conditional on the WAPC approving the use of the reserve as a temporary "construction worker" carpark
- A formal review of the parking arrangement is presented to Council in 2 years

CARRIED (6/0)

Note: Councillor Fiona Reid moved the Officer Recommendation with a minor amendment to remove the ambiguity from the original part b) "A review of the parking arrangement is conducted prior to the end of the 5 year term".

Background

There is a general level of understanding within the community that the parking bays adjacent to an approved building site need to be set aside for building related activities (loading/unloading of materials). While the removal of bays is an inconvenience the offset charge goes some way to compensate for the loss. There is however no level of acceptance for any of the remaining bays in the street being

taken up by building contractors, and measures need to be in place to ensure the parking spaces are available to all.

An investigation was undertaken to locate City owned or managed land within or immediately adjacent to the South Perth Station Precinct that could be set aside as a temporary "paid parking station" for construction worker vehicles. The most likely site for such a facility is part lot 275 of P205197 Melville Parade, which extends from Scott Street northwards to the north end of Melville Parade. The area is in the ownership of the State Government and in the care of the City of South Perth.

The area is fully grassed and receives regular maintenance from City Environment. Part of the area is reticulated from the SJMP supply. In the long term it is proposed to be retained as passive open space that will be available for water storage in the event that the Scott Street pump station fails or the outfall to the river cannot function.

In the short term (i.e. 5 years), the part area could be set aside for construction workers within the Station Precinct. To control the use of the area once it is opened up, a ticket issuing facility(s) could be installed on the designated temporary parking area. This area would not only assist with the parking for both Aurelia and Civic Heart developments, but also any other developments within the area whilst alleviating the pressure of parking around the surrounding streets for residents and commercial properties.

Comment

Delegation DM679 to the Director Infrastructure Services to establish, vary and maintain parking restrictions under the City of South Perth Parking Local Law 2011 does not extend to proposals for the establishment of metered zones and paid parking areas which must be referred to Council for consideration prior to establishment. The use of the Melville Parade land as a parking area would require approval from the WAPC and prior to implementing any works the concurrence of Council. The purpose of this report is to seek the support of Council to the establishment of the parking area on the understanding that establishment can only occur with a similar acceptance by WAPC.

The temporary "construction worker" car park would be charged at the same rate as the "construction worker" timed/paid bay under the Fees and Charges Schedule i.e. \$8/day. The participating building companies will issue to their construction workers a permit to park within the temporary "construction worker" car park. The permit will need to be displayed in the vehicle in addition to a validated ticket issued from the ticket dispenser. The parking area will not be paved. The reticulation "heads" however will be protected against damage from vehicles driving on the sprinklers and continue to operate under the "normal watering regime" i.e. overnight.

Funds received from the temporary "construction worker" car park will be held in reserve and used from the reserve to:

- Reinstatement of the area and make good the reticulation once it has ceased being a temporary parking area.
- Assist with purchasing technology for enforcement of parking restrictions within the Ranger Services Department.

10.5.1

Establishment of a Temporary "Construction Worker" Paid Parking on Melville Parade

- Purchase parking sensors and ticket machines.
- Widen Melville Parade full length (Richardson Street north to beyond Stirling Street to provide street parking on at least one side and a minimum of 6.5 metres for through traffic i.e. two way "no yield")
- Other street parking projects within the Station Precinct.

The area will be regularly patrolled and enforced by the Ranger Services Department.

Consultation

The community Working Group for Parking Control Area 1 (South Perth Station Precinct) has been informed of the discussions around the establishment of a temporary "construction worker" parking area and acknowledges the need to have in place such a facility. There has been no other consultation on this matter.

Policy and Legislative Implications

The content of this report is consistent with the requirements of Part 2 of the City of South Perth Parking Local Law and Section 5.44 of the Local Government Act 1995.

Financial Implications

There are no budgetary implications with the establishment of the temporary "construction worker" car park as sufficient "start-up" monies exist for improvement works in the South Perth Station Precinct. There is a longer term financial implication with the proposal as outlined in the report and will require a reserve to be established to provide for the revenue received being directed towards other parking related improvement works within the Precinct.

Strategic Implications

This report is aligned to the City's [Strategic Community Plan 2015-2025](#).

Sustainability Implications

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

Attachments

- 10.5.1 (a):** Concept Plan - Establishment of a Temporary Construction Worker Paid Parking on Melville Parade

10.6 STRATEGIC DIRECTION 6: GOVERNANCE, ADVOCACY AND CORPORATE MANAGEMENT

10.6.1 Financial Management Accounts - Council Recess Period

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-16-93805
Date:	13 December 2016
Author / Reporting Officer:	Michael J. Kent, Director Financial and Information Services
Strategic Direction:	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
Council Strategy:	6.2 Develop and maintain a robust Integrated Planning and Reporting Framework (in accordance with legislative requirements).

Summary

This report presents the proposed financial reporting arrangements during the December to January (inclusive) period when Council meeting dates are moved forward to accommodate the Christmas period (December) and when Council is in recess (January).

These alternative reporting arrangements are necessary to ensure that Council achieves full statutory compliance with the Local Government Act Section 6.4 and Local Government (Financial Reporting) Regulation 34.

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Councillor Colin Cala

That Council endorses the alternative reporting arrangements for the November, December and January financial reports.

CARRIED EN BLOC (6/0)

Background

Local Government (Financial Management) Regulation 34 requires the City to present monthly financial activity reports to Council within 2 months of the end of the month to which the report relates. The Council recess in January and the early scheduling of the Council meeting for December makes it impractical to present the reports in the immediate following month as occurs with the financial reports during the remainder of the year.

Therefore a different reporting regime needs to be put in place for that period in order to ensure that Council can achieve full compliance with Local Government (Financial Management) Regulation 34.

In doing so, it is also important to be cognisant of the volume of financial data that Council Members would be expected to process at a single Council meeting.

Comment

The suite of monthly financial reports that Council receives at any given meeting are in excess of expected reporting standards - totalling a minimum of 13 pages of narrative and 50 pages of supporting schedules. Because each month's reports include both monthly and year to date comparatives for both budget and actual figures, it could quite reasonably be argued that the financial impacts of any previous month's figures are incorporated in the subsequent month's accounts.

However, the City's auditors have advised the administration that the literal interpretation of the regulation requires that every month's financial reports should be adopted by Council to achieve compliance with the regulation.

As a consequence of the early scheduling of the December Council meeting and the recess in January, neither the November nor December financial reports can be adopted at a Council meeting before February (when the January financial reports would be presented for adoption as well).

To expect a reader of the reports to read, understand and absorb in the vicinity of 200 pages of financial reports and schedules in a single sitting at the February Council meeting is considered to be unrealistic. Yet to achieve strict technical compliance with Local Government (Financial Management) Regulation 34, this is what needs to occur.

To manage the demands on Council Members time in preparation for the February meeting, it is proposed that the following arrangements will be put in place:

November Financial Reports

Item 10.6.1 and Attachments 10.6.1 (a), (b), (c), (d), (e), (f), (g), (h) & (i)

Item 10.6.2 and Attachments 10.6.2 (a), (b) & (c)

Item 10.6.3 & Attachment 10.6.3

All documents will be circulated to Council Members via the Council Hub during December and then will be adopted (as previously tabled) by Council resolution at the February 2017 meeting.

December Financial Reports

Item 10.6.1 and Attachments 10.6.1 (a), (b), (c), (d), (e), (f), (g), (h) & (i)

Item 10.6.2 and Attachments 10.6.2 (a), (b) & (c)

Item 10.6.3 & Attachment 10.6.3

All documents will be circulated to Council Members via the Council Hub during January and then will be adopted (as previously tabled) by Council resolution at the February 2017 meeting.

January Financial Reports

Item 10.6.1 and Attachments 10.6.1 (a), (b), (c), (d), (e), (f), (g), (h) & (i)

Item 10.6.2 and Attachments 10.6.2 (a), (b) & (c)

Item 10.6.3 & Attachment 10.6.3

Item 10.6.4 & Attachments 10.6.4 (a), (b) & (c) - Half Yearly Budget Review

10.6.1 Financial Management Accounts - Council Recess Period

All documents will be distributed as part of the regular Council Agenda via the Council Hub and will be adopted in the normal course of proceedings at the February 2017 meeting.

This process allows for an orderly processing of the information in a 'normal' monthly cycle - but adoption of the November & December financial statements will be included with the 'omnibus resolution' adopting the January reports at the February meeting, thereby achieving the adoption of all the reports in line with the regulation.

Consultation

This report is prepared to provide Council with a strategy to ensure that it achieves full compliance with its statutory financial reporting obligations notwithstanding the challenges presented by the timing of the December meeting and the Council Christmas / New Year recess.

Policy and Legislative Implications

The strategy proposed in 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

There are no direct financial implications of this report as it proposes an alternative set of reporting arrangements for the reporting of the City's financial position and financial variances.

Strategic Implications

This report is aligned to the City's [Strategic Community Plan 2015-2025](#).

Sustainability Implications

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

Attachments

Nil

At this point the Presiding Member read aloud her Declaration of Interest received for Item 10.7.1:

"I wish to declare an Impartiality Interest in Agenda Item 10.7.1 Recommendations from the Audit, Risk and Governance Committee Meeting held 29 November 2016 on the Council Agenda for the Ordinary Council meeting of 13 December 2016. I declare that one of the applicants for external membership to the Audit, Risk and Governance Committee is a neighbour of mine. It is my intention to remain in the Council Chamber, consider this matter on its merits and vote accordingly."

10.7 MATTERS REFERRED FROM COMMITTEE MEETINGS

10.7.1 Recommendations from the Audit, Risk and Governance Committee Meeting - 29 November 2016

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-16-93469
Lodgement Date:	7/12/2016
Date:	13 December 2016
Author:	Sharron Kent, Governance Officer
Reporting Officer:	Phil McQue, Manager Governance and Administration
Strategic Direction:	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
Council Strategy:	6.1 Develop and implement innovative management and governance systems to improve culture, capability, capacity and performance.

Summary

The purpose of this report is to provide the recommendations from the Audit, Risk and Governance Committee meeting held on 29 November 2016 for Council's consideration. The Minutes and Attachments of which can be found at **Attachments (a) and (b)**.

Committee Recommendations AND COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Councillor Fiona Reid

That Council adopt the following recommendations of the Audit, Risk and Governance Committee meeting held on 29 November 2016:

1. Proposed City of South Perth Dogs Local Law 2016

That the Audit, Risk and Governance Committee recommends that Council:

- In accordance with section 3.12(4) of the Local Government Act 1995, adopts the *City of South Perth Dogs Local Law 2016*, subject to:
 - o Deletion of text boxes, page numbers in the index and notes in the version to be officially Gazetted

- o Various other amendments as 'marked up' on the attachment to the report to Council
- In accordance with s3.12(5) of the *Local Government Act 1995*, resolves that the local law be published in the Government Gazette and a copy sent to the Minister for Local Government
- After Gazettal, in accordance with s3.12(6) of the *Local Government Act 1995*, resolves that local public notice be given —
 - o Stating the title of the local law
 - o Summarising the purpose and effect of the local law and the day on which it comes into operation)
 - o Advising that copies of the local law may be inspected or obtained from the City's offices
- Following Gazettal, in accordance with the Local Laws Explanatory Memoranda Directions as issued by the Minister on 12 November 2010, resolves that a copy of the local law and a duly completed explanatory memorandum signed by the Mayor and Chief Executive Officer be sent to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation
- Notes that no comments were received from the public with respect to areas designated as being where dogs are prohibited absolutely pursuant to s31(2B) of the *Dog Act 1976*, and areas that are dog exercise areas for the purposes of sections 31 and 32 of the Act

ABSOLUTE MAJORITY VOTE REQUIRED

2. Proposed City of South Perth Penalty Units Amendment Local Law 2016

That the Audit, Risk and Governance Committee recommends to Council that:

- In accordance with section 3.12(4) of the *Local Government Act 1995*, the City of South Perth Penalty Units Amendment Local Law 2016 be adopted, subject to various amendments shown 'marked up' on the attachment to the report to Council
- In accordance with s3.12(5) of the *Local Government Act 1995*, the local law be published in the Government Gazette and a copy sent to the Minister for Local Government
- After Gazettal, in accordance with s3.12(6) of the *Local Government Act 1995*, local public notice be given —
 - o Stating the title of the local law
 - o Summarising the purpose and effect of the local law (specifying the day on which it comes into operation)
 - o Advising that copies of the local law may be inspected or obtained from the City office
- Following Gazettal, in accordance with the Local Laws Explanatory Memoranda Directions as issued by the Minister on 12 November 2010, a copy of the local law and a duly completed explanatory memorandum signed by the Mayor and Chief Executive Officer be sent to the Western Australian Parliamentary Joint Standing Committee on Delegated Legislation

ABSOLUTE MAJORITY REQUIRED

3. External Membership – Expressions of Interest

That the Audit, Risk and Governance Committee recommends to Council that it:

- a) notes the Expressions of Interest (EOI) received for external community membership to the Audit, Risk and Governance Committee and recommends to Council its preferred candidate
- b) shortlists applicants 1, 2 and 5 for interview by the Chair of the Audit Risk and Governance Committee, Chief Executive Officer and Manager Governance & Administration
- c) notes that a further report will be submitted directly to the February 2017 Ordinary Council meeting recommending the preferred candidate/s for appointment

CARRIED (6/0)

Background

The Audit and Governance Committee meeting was held on 29 November 2016 with the following items listed for consideration on the Agenda:

- Audit Fraud Risk Questionnaire 2015/16
- Review Policies and Delegations
- Drones – Public Places and Local Government Property Amendment Local Law
- Parking Local Law 2016

Comment

The Audit and Governance Committee considered the following items on 8 November 2016:

1) Proposed City of South Perth Dogs Local Law 2016

This report recommends that the City makes a new Dogs Local Law 2016.

2) Proposed City of South Perth Penalty Units Amendment Local Law 2016

This report recommends that the City makes a new Penalty Units Amendment Local Law 2016.

3) External Membership – Expressions of Interest

This report considers the Expressions of Interest (EOI) received for membership to the Audit, Risk and Governance Committee.

Consultation

The 3 items were the subject of consideration at the 29 November 2016 Audit, Risk and Governance Committee meeting.

Policy and Legislative Implications

The Audit and Governance Committee meeting are held under the prescribed requirements of *Part 7 Audit of the Local Government Act 1995* and the *Local Government (Administration) Regulations 1996*.

Financial Implications

Nil

Sustainability Implications

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

Attachments

- 10.7.1 (a):** 29 November 2016 - Audit, Risk and Governance Committee meeting - Minutes
- 10.7.1 (b):** 29 November 2016 - Audit, Risk and Governance Committee meeting - Attachments

11. APPLICATIONS FOR LEAVE OF ABSENCE

11.1 REQUESTS FOR LEAVE OF ABSENCE

The following Members apply for Leave of Absence from all Council meetings as follows:

- Councillor Travis Burrows for the period 16 December 2016 – 9 January 2017 inclusive.
- Councillor Sharron Hawkins-Zeeb for the period 19 December 2016 – 30 January 2017 inclusive.
- Councillor Jessica Black for the period 22 December 2016 – 4 January 2017 inclusive

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Fiona Reid

Seconded: Mayor Sue Doherty

That Leave of Absence be granted to:

- Councillor Travis Burrows for the period 16 December 2016 – 9 January 2017 inclusive.
- Councillor Sharron Hawkins-Zeeb for the period 19 December 2016 – 30 January 2017 inclusive.
- Councillor Jessica Black for the period 22 December 2016 – 4 January 2017 inclusive

CARRIED (6/0)

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

12.1 REVOCATION OF AUGUST 2015 COUNCIL RESOLUTION: ITEM 10.5.1 BLACK SPOT PROGRAM

At the Council Agenda Briefing of 20 September 2016 Councillor Travis Burrows gave notice that at the 13 December 2016 Ordinary Council Meeting he would move the following motion.

Motion AND COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Councillor Fiona Reid

That Council:

- a) Revoke part (b) of the decision of August 2015 item 10.5.1 Black Spot Program for the reasons detailed below;
- b) Request that at the next Quarterly Budget Review the central median projects Dyson Street at Canning Highway and Saunders Street at Canning Highway, being two of the three projects included and forming part of the submission for funding under the 2016/17 State and National Black Spot Program be listed for deletion: and
- c) Request that a survey of affected property owners be undertaken prior to the implementation of any of the works.

CARRIED (6/0)

REASONS FOR MOTION

At the August 2015 Ordinary Council meeting the Officer recommendation to endorse three locations nominated and included in the submission for funding under the National and State Black Spot programs 2016/17 was amended to add a part (b) “prior to the approved work being carried out temporary barriers be installed where the permanent concrete medians will be installed to assess the impact of traffic flow in the surrounding local streets – the study to last 6 months”.

The three locations are:

1. Canning Highway at Birdwood Avenue;
2. Canning Highway at Dyson Street; and
3. Canning Highway at Saunders Street.

The reasons provided for the amendment were extensive and generally concentrated on the displacement of local traffic from streets with the median closure on Canning Highway to local streets without any treatment at the intersection.

Funding for the works as a Black Spot project does not extend to the temporary works should Council at the end of the trial period decide against implementing the work. Funding is provided on the basis of some permanent infrastructure being in place that addresses and has a positive outcome on the issues identified.

Had the first part of the officer recommendation been to nominate the three intersections for inclusion into a submission for funding under the National and State Black Spot programs 2016/17 the reasons offered for the amendment would have been sufficient justification not to proceed with the funding application simply on the basis of the inconvenience and loss of amenity in particular to the Kensington residents and to a lesser extent the Como residents living on the local streets. The median closures at the three nominated intersections prevent the right turn into and off Canning Highway with the result that traffic is redirected to the untreated intersections and has significant impact to traffic flow through local streets but also Canning Highway. The redirection of traffic to other streets as a result of the median closure at Dyson Street and at Saunders Street is of greater concern than that presented by the closure at Birdwood Avenue. Birdwood Avenue already has to contend with significant bypass traffic that ought to be utilising the signalised intersection at South Terrace and is unlikely to be as impacted to the same extent by a closure as the other two locations.

Further the amendment to require the works to be implemented as a trial for a period of six (6) months on a main road not under the control of the City may in itself be sufficient justification to put aside the decision as the trial works may not receive the support of the asset owner. Councillor S Kent.

CEO COMMENT

Canning Highway over its full length through Como has one of the highest rankings in the metropolitan area for the number of crashes. This is highlighted by the number of intersections along the Highway that have each experienced the prescribed number of crashes to warrant consideration under the State and National Black Spot Programs. The typical crash that is over represented along the

Highway is the vehicle turning right off the Highway into the side street being struck on the side by an approaching vehicle or in effecting the right turn out of the side street onto the Highway being struck in the rear by an approaching vehicle. The intersections referenced in this item can be seen as the first three of many that would qualify for funding.

Constructing a central median across an intersection is a very cost effective solution as it prevents the very movement that creates the crash. The solution is often seen as a 24 hour solution to a short term problem and is an inconvenience for those property owners who seek to use the movement for access to/from the Highway. The recent changes to the signal phasing along Canning Highway can result in significant gaps in the traffic that would enable the right turn movement to be effected with ease although at other times there would be considerable delay. The consequence of delay is frustration and frustration can lead to crashes.

Supporting the motion will have no impact on the City, the project is fully funded by the Commonwealth and the Highway is the sole responsibility of Main Roads to construct and maintain.

13. QUESTIONS FROM MEMBERS

13.1 RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS TAKEN ON NOTICE

At the 22 November 2016 Ordinary Council meeting there were no questions from Members taken on notice.

13.2 QUESTIONS FROM MEMBERS

Nil

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

Nil

15. MEETING CLOSED TO THE PUBLIC

Reports regarding these matters have been circulated separately to Councillors.

At this point, and prior to the meeting being closed to the Public, the Presiding Member announced the Declarations of Interest received from:

Councillor Fiona Reid:

"I wish to declare an Impartiality Interest in Agenda Item 15.1.1 Australia Day WA Citizen of the Year on the Council Agenda for the Ordinary Council meeting of 13 December 2016. I declare that one of the candidates is a Board Member for the not-for-profit organisation that I work for. It is my intention to remain in the Council Chamber, consider this matter on its merits and vote accordingly."

Mayor Sue Doherty

"I wish to declare an Impartiality Interest in Agenda Item 15.1.2 Property Committee – External Membership on the Council Agenda for the Ordinary Council meeting of 13 December 2016. I declare that one of the applicants for external membership to the Property Committee is a neighbour of mine. It is my intention to remain in the Council Chamber, consider this matter on its merits and vote accordingly."

Mr Geoff Glass

"I wish to declare an Financial Interest in Agenda Items 15.1.3 Recommendations from the CEO Evaluation Committee Meeting held 21 November 2016 and 15.1.3 Recommendations from the CEO Evaluation Committee Meeting held 5 December 2016 on the Council Agenda for the Ordinary Council meeting of 13 December 2016. I declare that the Officer Recommendation relates to my employment contract as the Chief Executive Officer. It is my intention to vacate the Council Chamber before the Item is discussed."

Cr Jessica Black

"I wish to declare a Financial Interest in Agenda Items 15.1.5 Advice on Prospects for a Judicial Review Application – 74 Mill Point Road, South Perth on the Council Agenda for the Ordinary Council meeting of 13 December 2016. I declare that my employer, TPG Place Match has provided professional services for this project and therefore has a financial interest. It is my intention to vacate the Council Chamber before the Item is discussed."

15.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

15.1.1 Australia Day WA Citizen of the Year

This item is considered **confidential** in accordance with the Local Government Act 1995 section 5.23(2) (h) as it contains information relating to "such other matters as may be prescribed"

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-16-94206
Date:	13 December 2016
Author:	Rene Polletta, Youth & Children's Officer

Reporting Officer: Vicki Lummer, Director Development and Community Services
Strategic Direction: Community -- Create opportunities for an inclusive, connected, active and safe community
Council Strategy: 1.3 Create opportunities for social, cultural and physical activity in the City.

15.1.2 Property Committee - External Membership

*This item is considered **confidential** in accordance with the Local Government Act 1995 section 5.23(2) (e)(iii) as it contains information relating to "a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person, where the information is held by, or is about, a person other than the local government"*

Location: Not Applicable
Ward: Not Applicable
Applicant: Council
File Ref: D-16-93461
Date: 13 December 2016
Author: Phil McQue, Manager Governance and Administration
Reporting Officer: Geoff Glass, Chief Executive Officer
Strategic Direction: 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
Council Strategy: 6.3 Continue to develop best practice policy and procedure frameworks that effectively guide decision-making in an accountable and transparent manner.

15.1.5 Advice on the prospects for a judicial review application - 74 Mill Point Road, South Perth

*This item is considered **confidential** in accordance with the Local Government Act 1995 section 5.23(2) (d) as it contains information relating to "legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting"*

Location: 74 Mill Point Road
Ward: Mill Point Ward
Applicant: Council
File Ref: D-16-93706
Date: 13 December 2016
Author / Reporting Officer: Vicki Lummer, Director Development and Community Services
Strategic Direction: Housing and Land Uses -- Accommodate the needs of a diverse and growing population

15.1.3 Recommendations from the CEO Evaluation Committee Meeting - 21 November 2016

*This item is considered **confidential** in accordance with the Local Government Act 1995 section 5.23(2) (a) as it contains information relating to "a matter affecting an employee or employees"*

Location: City of South Perth
 Ward: Not Applicable
 Applicant: Council
 File Ref: D-16-93463
 Date: 13 December 2016
 Author: Phil McQue, Manager Governance and Administration
 Reporting Officer: Geoff Glass, Chief Executive Officer
 Strategic Direction: 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
 Council Strategy: 6.3 Continue to develop best practice policy and
 procedure frameworks that effectively guide decision-
 making in an accountable and transparent manner.

15.1.4 Recommendations from the CEO Evaluation Committee Meeting - 5 December 2016

*This item is considered **confidential** in accordance with the Local Government Act 1995 section 5.23(2) (a) as it contains information relating to "a matter affecting an employee or employees"*

Location: City of South Perth
 Ward: Not Applicable
 Applicant: Council
 File Ref: D-16-93822
 Date: 13 December 2016
 Author: Phil McQue, Manager Governance and Administration
 Reporting Officer: Geoff Glass, Chief Executive Officer
 Strategic Direction: 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
 Council Strategy: 6.3 Continue to develop best practice policy and
 procedure frameworks that effectively guide decision-
 making in an accountable and transparent manner.

MOTION TO CLOSE THE MEETING TO THE PUBLIC

Moved: Councillor Jessica Black
Seconded: Councillor Travis Burrows

That Agenda *Items 15.1.1, 15.1.2, 15.1.3, 15.1.4 and 15.1.5* be considered in closed session, in accordance with *s5.23(2) of the Local Government Act 1995*

15.1.1 Australia Day WA Citizen of the Year

Item 15.1.1 is considered confidential in accordance with the Local Government Act 1995 section 5.23(2) (h) as it contains information relating to "such other matters as may be prescribed"

15.1.2 Property Committee - External Membership

Item 15.1.2 is considered confidential in accordance with the Local Government Act 1995

section 5.23(2) (e)(iii) as it contains information relating to "a matter that if disclosed, would reveal information about the business, professional, commercial or financial affairs of a person, where the information is held by, or is about, a person other than the local government"

15.1.3 Recommendations from the CEO Evaluation Committee Meeting - 21 November 2016

Item 15.1.3 is considered confidential in accordance with the Local Government Act 1995 section 5.23(2) (a) and (a) as it contains information relating to "a matter affecting an employee or employees and a decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting"

15.1.4 Recommendations from the CEO Evaluation Committee Meeting - 5 December 2016

Item 15.1.4 is considered confidential in accordance with the Local Government Act 1995 section 5.23(2) (a) and (a) as it contains information relating to "a matter affecting an employee or employees and a decision to close a meeting or part of a meeting and the reason for the decision are to be recorded in the minutes of the meeting"

15.1.5 Advice on the prospects for a judicial review application - 74 Mill Point Road, South Perth

Item 15.1.5 is considered confidential in accordance with the Local Government Act 1995 section 5.23(2) (d) as it contains information relating to "legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting".

CARRIED (6/0)

The Presiding Member then invited the Gallery to vacate the Chamber and advised that the doors would be re-opened following the discussion and voting on the confidential Items.

Following discussion and voting on Items 15.1.1 and 15.1.2, the Presiding Member announced that she would bring forward Item 15.1.5 for discussion and voting.

At 8.08pm the Presiding Member invited Cr Jessica Black to vacate the Chamber.

At 8.12pm Cr Jessica Black returned to the Chamber.

At 8.13pm the Presiding Member invited Mr Geoff Glass and the Council Officers (with the exception of Mr Phil McQue, Manager Governance and Administration) to vacate the Chamber for discussion on Items 15.1.3 and 15.1.4.

MOTION TO RE-OPEN THE MEETING TO THE PUBLIC

Moved: Councillor Colin Cala

Seconded: Councillor Fiona Reid

That the meeting be re-opened to the public.

CARRIED (6/0)

At 8.19pm the Presiding Member invited Mr Geoff Glass, Council Officers and members of the Public to return to the Chamber.

15.2 PUBLIC READING OF RESOLUTIONS THAT MAY BE MADE PUBLIC

The Governance Officer read aloud the Council Resolutions of the Confidential Items (*note: the Items remain confidential*):

15.1.1 Australia Day WA Citizen of the Year

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Jessica Black

Seconded: Councillor Colin Cala

That the Council adopts the Officer Recommendation as per the Confidential Report.

CARRIED (6/0)

15.1.2 Property Committee - External Membership

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Councillor Fiona Reid

That the Council adopts the Officer Recommendation as per the Confidential Report.

CARRIED (6/0)

15.1.5 Advice on the Prospects for a Judicial Review Application - 74 Mill Point Road, South Perth

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Colin Cala

Seconded: Councillor Fiona Reid

That the Council adopts the Officer Recommendation as per the Confidential Report.

CARRIED (5/0)

15.1.3 Recommendations from the CEO Evaluation Committee Meeting - 21 November 2016

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Mayor Sue Doherty

That the Council adopts the Officer Recommendation as per the Confidential Report.

CARRIED (6/0)

15.1.4 Recommendations from the CEO Evaluation Committee Meeting - 5 December 2016

Officer Recommendation AND COUNCIL DECISION

Moved: Councillor Travis Burrows

Seconded: Councillor Jessica Black

That the Council adopts the Officer Recommendation as per the Confidential Report.

CARRIED (6/0)

16. CLOSURE

The Presiding Member thanked the Chief Executive Officer and Council Officers for their support in 2016. She then thanked everyone for their attendance and wished everyone a happy Christmas. The meeting closed at 8.21pm.

17. RECORD OF VOTING

13/12/2016 7:23:38 PM

7.1 Confirmation of Minutes

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 7:24:20 PM

7.2 Noting of Briefings

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 7:26:28 PM

8.1 Petition

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 7:27:27 PM

8.4 Council Delegates' Reports

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 7:31:37 PM

9.1 En Bloc Motion

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 7:37:38 PM

10.3.1 SAT Reconsideration: Proposed Amendment to Approved Mixed Development. Lot 3 No. 333 Mill Point Road, South Perth.

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 7:40:45 PM

10.3.2 Proposed Additions (Toilets and Storage) to Religious Activities (Church and Church Hall). Lot 16 (No. 4) Hampden Street, South Perth.

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 7:42:25 PM

10.4.1 Tender 25/2016 "Construction of Ernest Johnson Community Facility"

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 7:51:50 PM

10.5.1 Establishment of a Temporary "Construction Worker" Paid Parking on Melville Parade

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 7:53:13 PM

10.7.1 Recommendations from the Audit, Risk and Governance Committee Meeting - 29 November 2016

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

No: Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland, Casting Vote

13/12/2016 7:54:31 PM

11 Requests for Leave of Absence

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 8:01:02 PM

12.1 Revocation of August 2015 Council Resolution: Item 10.5.1 Black Spot Program

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 8:03:19 PM

15. Motion to Close the Meeting to the Public

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 8:05:51 PM

15.1.1 Australia Day WA Citizen of the Year

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 8:07:07 PM

15.1.2 Property Committee - External Membership

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 8:11:59 PM

15.1.5 Advice on the prospects for a judicial review application - 74 Mill Point Road, South Perth

Motion Passed 5/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland, Cr Jessica Black

13/12/2016 8:14:29 PM

15.1.3 Recommendations from the CEO Evaluation Committee Meeting - 21 November 2016

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 8:17:34 PM

15.1.4 Recommendations from the CEO Evaluation Committee Meeting - 5 December 2016

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

13/12/2016 8:18:07 PM

Motion to Re-open the Meeting to the Public

Motion Passed 6/0

Yes: Mayor Sue Doherty, Cr Travis Burrows, Cr Fiona Reid, Cr Jessica Black, Cr Sharron Hawkins-Zeeb, Cr Colin Cala

Absent: Cr Cheryle Irons, Cr Ken Manolas, Cr Glenn Cridland

APPENDIX ONE

6.1 RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE: 22 NOVEMBER 2016

<p>1. David Cooper of 20 Forrest Street, South Perth Received Late at the meeting: 22 November 2016</p>	<p>Response provided by: Vicki Lummer, Director Development and Community Services</p>
<p>1. What is the limit of the City's delegated authority in changing setbacks to that specified in the Codes and specifically varying the maximum height of zero lot line from 3.5 metres to great than 6 metres?</p>	<p>The Delegations from Council are contained within DC 690 available on the City's web page. Delegation in the above circumstance is limited to those applications which in the officer's opinion do not represent a significant departure from the scheme, the Residential Design Codes or relevant planning policies.</p>
<p>2. Geoff Defrenne, 24 Kennard Street, Kensington Received Late at 12.05pm: 22 November 2016</p>	<p>Response provided by: Phil McQue, Manager Governance and Administration</p>
<p><i>[Preamble] Questions on Notice: The answers to my September questions were answered in the October minutes.</i></p>	
<p>1. Is it acceptable to the council that it is effectively a two month wait before subsequent questions can be asked based on the provided answers?</p>	<p>Questions are taken on notice in the following scenarios:</p> <ol style="list-style-type: none"> 1. If the question(s) were submitted on time (ie. not less than 24 hrs prior to the meeting) but unable to be answered at the meeting due to the research required to adequately respond. 2. If the question(s) were submitted late (ie. less than 24 hrs prior to the meeting) including submission at the meeting. <p>The Council's process is that the answers to questions taken on notice are provided within the Minutes of the next Ordinary meeting of Council.</p>

<p>2. Were the answers to my September questions in the October meeting agenda or were the answers to my questions mentioned at any time during the October meeting?</p>	<p>Your submission was received at 2.41pm on 27 September 2016 (the day of the September Council meeting).</p> <p>In the Minutes (Appendix) of the September 2016 meeting it was recorded your questions were received late and therefore taken on notice and that a response would be provided in the Minutes of the October 2016 Ordinary Council meeting’.</p> <p>Answers to Public Question time submissions are not included in Agendas, they are included in Minutes.</p>
<p>3. If the council confirms the draft minutes of the October meeting as presented, is the CEO or any councillor prepared to affirm under oath that the answers to my September questions were in the agenda or were mentioned at the October meeting?</p>	<p>This is not applicable – refer A1 and A2 above.</p>
<p><i>[Preamble]</i></p> <p>9.31. Terms used</p> <p>In this Subdivision, unless the contrary intention appears –</p> <p>authorised employee, in the context of certifying a copy of –</p> <p style="padding-left: 40px;">a local law of a local government; or</p> <p style="padding-left: 40px;">any other document of or adopted by it,</p> <p>to be a true copy, means an employee of the local government who is authorised to so certify either by the CEO, or a person acting with CEO’s authority;</p> <p>certified copy means a copy that is certified by an authorised employee to be a true copy.</p> <p>9.37. Using meeting minutes as evidence</p> <p>Evidence of a matter that is recorded in a document purporting to be a certified copy of all or any part of confirmed meeting minutes may be given by tendering the document.</p> <p>In subsection (1) –</p> <p>meeting minutes means the minutes of a meeting of a council or committee in which the matter is recorded.</p>	
<p>4. Is there a requirement that the minutes of the council meetings reflex a true and proper record of the meeting?</p>	<p>Yes.</p>

<p><i>[Preamble]</i></p> <p><i>Manning Hub: In September 2016 I asked the following questions using my August question and answer as preliminary context.</i></p> <p><i>Q. Does the City have proposed lease agreements with the proposed tenants including the term of the tenancy and annual lease?</i></p> <p><i>A. Yes the City has proposed peppercorn leases for the child health clinic, playgroup and Moorditj Keila and a paid lease for the football club and gridironclub which will be calculated on the formula of 0.01% of the insured value of the facility. All leases are 5 years with a 5 year option and all come with responsibilities on the groups for cleaning and maintenance.</i></p> <p><i>Football Club: In September I asked the following question:</i></p> <p><i>Q. What is the estimated lease payable by the football club?</i></p> <p><i>A. The clubrooms and change rooms will be jointly leased with Manning Rippers FC and Perth Blitz Gridiron Club.</i></p>	
5. Is the answer provided an acceptable answer to the council?	The City was still negotiating with the Clubs at the time of the questions, which made it difficult to provide a definitive financial response to your question.
6. Did the council understand when asked what the estimated lease payable by the football, I wanted a dollar amount?	The City was still negotiating with the Clubs at the time of the questions, which made it difficult to provide a definitive financial response to your question.
7. Has the council any idea of the dollar amount per annum the football club will pay for the lease of the premises within a range of \$300 per annum?	The two clubs will each pay an annual lease fee of approximately \$1500-\$2000.
8. Is an estimate of the dollar amount per annum too hard a calculation for the administration to calculate?	The City was still negotiating with the Clubs at the time of the questions, which made it difficult to provide a definitive financial response to your question.
9. Does the administration need any assistance estimating a dollar amount per annum that the football club will pay per annum?	The City was still negotiating with the Clubs at the time of the questions, which made it difficult to provide a definitive financial response to your question.
10. Does the council believe that providing very poor answers to council questions is a waste of time for the council and public as well as a waste of resources by the council administration?	The City was still negotiating with the Clubs at the time of the questions, which made it difficult to provide a definitive financial response to your question.

[Preamble] Agenda Item 6.1: I note in tonight's agenda at item 6.1 it states the responses to previous questions taken on notice.

11. Will the answers to my October questions taken on notice be provided at tonight's meeting?

The October 2016 Minutes state that your questions were received at the meeting (late) and were taken on notice and that a response would be provided in the Minutes of the November 2016 Ordinary Council meeting, as is standard practice

12. If the answers are not provided tonight, is the agenda item deceptive and misleading conduct by the council?

No.

13. Have the answers to my October questions taken on notice been prepared?

Yes.

APPENDIX TWO

6.2 PUBLIC QUESTION TIME: 13 DECEMBER 2016

1. Paul Ruthven of 5/24 Charles Street, South Perth Received: 12 December 2016	Response provided by: Geoff Glass, Chief Executive Officer
<i>[Preamble] Table A of Schedule 9 in Town Planning Scheme 6 says that: "Where a building abuts the street boundary, a canopy should be provided that extends sufficiently over the footpath to provide a reasonable degree of shade". The Oxford Dictionary defines shade as: "Comparative darkness and coolness caused by shelter from direct sunlight." Note the use of the term "Comparative darkness."</i>	
<ol style="list-style-type: none">1. How do the clear glass canopies that have been installed on the Pinnacles building in Charles Street meet the definition of shade with respect to darkness?2. How do any alleged UV or thermal properties of these clear glass canopies satisfy the requirement for "comparative darkness"?3. What will the City of South Perth be doing to ensure that the provisions for shade in the Town Planning Scheme are satisfied at the Pinnacles site?	<p>First of all with respect to the Preamble I wish to make a couple of comments.</p> <p>With regards to Table A of Schedule 9 that you refer to and which applies to the South Perth Station Precinct it is structured in 3 columns - Elements, Guidance Statements and Development Requirements. Your selected quote is from the heading Guidance Statements.</p> <p>With respects to the Elements there are 15 and you are referring to Element 9 titled Canopies.</p> <p>With respect to the Guidance Statement for Canopies the full text states:</p> <p>‘Where a building abuts the street boundary, a canopy should be provided that extends sufficiently over the footpath to provide a reasonable degree of shade and shelter to pedestrians’.</p> <p>Note it refers to shade and shelter to pedestrians, not just shade.</p> <p>Next to the Guidance Statement is then the Development Requirements. With respect to Canopies it states:</p> <p>‘Where a building abuts the street boundary a canopy with a minimum projection depth of 2.5m shall be provided over the street footpath’.</p>

In your preamble you have provided a definition of shade and that is acknowledged.

Amongst other things my interest is with the definition and application of Guidance Statements and in that I would understand that its meaning in this context (that is in relation to Element 9) it is a statement of intent or an objective. A Guidance Statement in Schedule 9 as applied to this Element is similar to a Scheme Objective. It is an objective, it is not the actual prescribed requirement.

The actual prescribed requirement in this instance is a canopy with a minimum projection depth of 2.5m over the street footpath.

I understand that the provision of a canopy formed part of the approved plans.

For the Development Approval the material for the canopy was not specified (although as you have presented the drawings show an opaque material except over the entry ways). Note for the Building Permit it specified a 'glass canopy on dark grey painted steelwork' and the accompanying plans showed it to be clear.

In summary clearly the canopy will satisfy the prescribed Development Requirement as it does project 2.5m from the building line over the street footpath.

No doubt it will provide shelter and in terms of shade I would agree that it will only partially meets that objective. The glass material I am assured will have some shading qualities. I am informed that it will block 21% of the variable light transmission for instance, and it will block about half the sun's heat and it will contain insulation for both heat transfer and noise.

Additionally in this instance no existing street trees were removed and there is a level of landscaping and new street trees that form the approved development that will assist in providing some level of shading and shelter over time.

On the basis of this information, therefore the City will be satisfied that the canopy as under construction will in fact satisfy the Development Requirements.

<p>2. Vicki Redden of 14/63 Mill Point Road, South Perth Received at the meeting: 13 December 2016</p>	<p>Response provided by: Geoff Glass, Chief Executive Officer</p>
<p><i>[Preamble] I've said it before and will keep doing so - Unlimited Bonus Heights, Zero set back podiums will go down in history to be THE worst planning decisions to be promoted by the South Perth Planning group,including the DAC.</i></p> <p><i>This city is renowned and loved for its treed street scapes, cities all over the world are trying to green or re-green their cities as they realise how healthy it is for the people who live and work there.....</i></p> <p><i>The Pinnacles looming over the Zoo - supposedly of "exceptional design" with its zero set backs, it has destroyed all the existing street trees and there was supposed to be something else to replace that natural shade. This builder has provided no shade; it does not meet the requirements, and it is not what was approved by JDAP!</i></p>	
<p>1. What else has been changed that we can't see and who approved the changes to the Pinnacles design to allow clear non-compliant glass awnings above the pathways?</p>	<p>As you said this is a similar question to the previous question asked and it is a matter of understanding the Guidance Statement and the actual prescribed requirement. As to what else has changed that we can't see - this is a speculative question so I am not sure what that might or might not be and I am not aware that there are other things that have been changed that we cannot see. With regard to destroying the existing street trees I would be interested to know if that is the case. I have seen aerial photographs of the site prior to the development approval and in fact there were not street trees in that particular location along Labouchere, and if there were I would be interested to find out - they certainly were not on the aerial photographs that I have seen and there is landscaping and street trees being put in as part of this development beyond the canopy. Obviously they will be small and they would take time but in time it is expected that they would offer shade. There are also the street trees on the Charles Street side. Once again I am not sure whether there were or were not trees there but there are replacement trees in place to offer a certain amount of softening and shade.</p>

[Preamble] Civic Heart as we all know is requesting an extension of 12 months on its planning approval - because they have not substantially commenced building. It is unclear whether this is because sales are too soft or because of the technical issues due to the soft ground. Surely the structural design work was undertaken before the initial development application was lodged or at least in the 2 years since approval.

Poor market conditions are not a valid reason for extending an approval period, although this is clearly the primary reason for the request.

What we do know is that the original approval of this building by JDAP was wrong! as confirmed by the Chaney decision and again by 3 QCs at the appeal. This raises the same question we asked regarding the GlassHouse approval extension --- can JDAP give an extension for a proposal that they know is non-compliant with TPS6 and contradicts 2 Supreme Court Decisions and Amendment 46?

2. Have all the reasons for a change to the approval been made public?
And if not will they be?

Response provided by Mr Cameron Howell:

We had a request come through by phone today asking for the cover letter that came with the application to be put up online and that was done a few hours ago. It is fairly short containing a few reasons why they lodged the application. Otherwise everything else would be part of the assessment for determination.

Response provided by Mr Geoff Glass:

Whatever we have that can be made public in terms of the reason has been made public.

[Preamble] JDAP can approve a change to an approval without undertaking a full assessment, IF the change is minor. But the Local Government Act (2005) and our planning advice, does not consider extension of an approval, for a non-compliant building, a minor change.

3. Will council obtain good, independent legal advice to ensure that it recommends the correct legal position to JDAP ?

We continue to take legal advice, I would hope that it is good and it is independent and we would commit to do so in this case too.

DISCLAIMER

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

These Minutes were confirmed at a meeting on Tuesday 28 February 2017.

Signed _____

Presiding Member at the meeting at which the Minutes were confirmed