

# AGENDA.

## Ordinary Council Meeting

26 September 2017

### Notice of Meeting

Mayor and Councillors

The next Ordinary Council Meeting of the City of South Perth Council will be held on Tuesday 26 September 2017 in the City of South Perth Council Chamber, Cnr Sandgate Street and South Terrace, South Perth commencing at 7.00pm.



GEOFF GLASS  
CHIEF EXECUTIVE OFFICER

22 September 2017

# 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 19.9km<sup>2</sup> divided into four wards. Each ward is represented by two Councillors, presided over by a popularly elected Mayor. Councillor profiles provide contact details for each Elected Member.

[www.southperth.wa.gov.au/Our-Council/](http://www.southperth.wa.gov.au/Our-Council/)

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# Ordinary Council Meeting - Agenda

## 1. DECLARATION OF OPENING

## 2. 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 that provides rules and guidelines which apply to the conduct of meetings.*

### 3.2 AUDIO RECORDING OF THE COUNCIL MEETING

*This meeting will be 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".*

## 4. ATTENDANCE

### 4.1 APOLOGIES

### 4.2 APPROVED LEAVE OF ABSENCE

## 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. Members must declare to the Presiding Member any potential conflict of interest they have in a matter on the Council Agenda.*

## 6. PUBLIC QUESTION TIME

### 6.1 RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE

At the 22 August 2017 Ordinary Council Meeting questions were Taken on Notice. The responses to these questions can be found in the **Appendix**.

### 6.2 PUBLIC QUESTION TIME: 26 SEPTEMBER 2017

*The Presiding Member to invite those members of the public who submitted questions to read their questions.*

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

### **7.1 MINUTES**

#### **7.1.1 Ordinary Council Meeting Held: 22 August 2017**

##### **Officer Recommendation**

That the Minutes of the Ordinary Council Meeting held 22 August 2017 be taken as read and confirmed as a true and correct record.

#### **7.1.2 CEO Evaluation Committee Meeting: 18 September 2017**

##### **Officer Recommendation**

That the Minutes of the CEO Evaluation Committee Meeting held 18 September 2017 be taken as read and confirmed as a true and correct record.

### **7.2 CONCEPT BRIEFINGS**

*The following Concept Briefings which have taken place since the last Ordinary Council Meeting are in line with the 'Best Practice' approach to Council Policy P672 "Agenda Briefings, Concept Forums and Workshops", and document to the public the subject of each Briefing. This practice is recommended by the Department of Local Government and Communities "Council Forums" Operational Guidelines as a way of advising the public and being on public record.*

#### **7.2.1 Related Party Transactions - 7 August 2017**

Officers of the City provided Council with an overview of Related Party Transactions at a Concept Briefing held 7 August 2017.

##### **Attachments**

**7.2.1 (a):** Related Party Transactions Concept Briefing – 7 August 2017 - Notes

#### **7.2.2 Connect South Project Status - 29 August 2017**

Officers of the City provided Council with an overview of the Connect South Project Status at a Concept Briefing held 29 August 2017.

##### **Attachments**

**7.2.2 (a):** Connect South Project Status Concept Briefing - 29 August 2017

#### **7.2.3 Canning Highway Scheme Amendment Concept Briefing - 5 September 2017**

Officers of the City provided Council with an overview of the Canning Highway Scheme Amendment at a Concept Briefing held 5 September 2017.

##### **Attachments**

**7.2.3 (a):** Canning Highway Scheme Amendment Concept Briefing - 5 September 2017 - Notes

## **7.2.4 Council Agenda Briefing - 19 September 2017**

Officers of the City presented background information and answered questions on Items to be considered at the September 2017 Ordinary Council Meeting at the Council Agenda Briefing held 19 September 2017.

### **Attachments**

**7.2.4 (a):** Council Agenda Briefing - 19 September 2017 - Notes

#### **Officer Recommendation**

That the Notes of the:

- Related Partry Transactions Concept Briefing held 7 August 2017;
- Connect South Project Status Concept Briefing held 29 August 2017;
- Canning Highway Scheme Amendment Concept Briefing held 5 September 2017; and
- Council Agenda Briefing held 19 September 2017

be noted.

## **8. PRESENTATIONS**

### **8.1 PETITIONS**

### **8.2 GIFTS / AWARDS PRESENTED TO COUNCIL**

### **8.3 DEPUTATIONS**

*Deputations were heard at the Council Agenda Briefing held 19 September 2017.*

### **8.4 COUNCIL DELEGATES REPORTS**

### **8.5 CONFERENCE DELEGATES REPORTS**

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



## 10. REPORTS

### 10.2 STRATEGIC DIRECTION 2: ENVIRONMENT

#### 10.2.1 Tender 07/2017: Provision of Ground Maintenance, Turf Wickets Preparation & Croquet Court Preparation

Location:	All
Ward:	All
Applicant:	Council
File Reference:	D-17-79457
Meeting Date:	26 September 2017
Author(s):	Paul Baines, Procurement Coordinator
Reporting Officer (s):	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 07/2017 for the Provision of Ground Maintenance, Turf Wickets Preparation & Croquet Court Preparation.

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

That:

- (a) Council approves the tender submitted by Malta Management Pty Ltd for the Provision of Ground Maintenance, Turf Wickets Preparation & Croquet Court Preparation in accordance with Tender Number 07/2017 for the period of two (2) years, with the option to extend for a further three (3) year period at the City's discretion.
- (b) the resolved tender price be included in the Minutes of this meeting.

#### Background

A Request for Tender (RFT) 07/2017 for the Provision of Ground Maintenance, Turf Wickets Preparation & Croquet Court Preparation was advertised in The West Australian on Saturday 1 July 2017 and closed at 2:00pm on Tuesday, 25 July 2017.

Tenders were invited as a *Lump Sum Contract*.

The RFT is for the Provision of Ground Maintenance, Turf Wickets Preparation & Croquet Court Preparation.

**Tender 07/2017: Provision of Ground Maintenance, Turf Wickets Preparation & Croquet Court Preparation**

The contract is for the period two (2) years, with the option to extend for a further three (3) year period at the City's discretion.

**Comment**

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

TABLE A - Tender Submission

<b>Tender Submission</b>
1. Environmental Industries Pty Ltd
2. Green Options Pty Ltd
3. Malta Management Pty Ltd
4. Programmed Property Services Pty Ltd
5. Total Pitch Care 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

<b>Qualitative Criteria</b>	<b>Weighting %</b>
1. Plant and Equipment. Contractor must supply own equipment to carry out this work	30
2. Referees	10
3. Demonstrated ability to carry out the service, refer to Conditions of Tendering No. 32 (Contractor's Methodology)	40
4. Demonstrated experience in turf and wicket maintenance	20
<b>TOTAL</b>	<b>100</b>

The tender submitted by Malta Management Pty Ltd recorded the highest score.

Based on the assessment of all submissions received for Tender 07/2017 Provision of Ground Maintenance, Turf Wickets Preparation & Croquet Court Preparation, it is recommended that the tender submission from Malta Management Pty Ltd be approved by Council.

More detailed information about the tender assessment process can be found in the Evaluation Panel Member's Report - **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.

**10.2.1 Tender 07/2017: Provision of Ground Maintenance, Turf Wickets Preparation & Croquet Court Preparation**

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.*

**Financial Implications**

The full cost of the works is reflected in the 2017/2018 budget/s.

**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**

- 10.2.1 (a):** RFT 07 2017 Turf & Wicket Evaluation Panel Recommendation Report (*Confidential*)

## 10.3 STRATEGIC DIRECTION 3: HOUSING AND LAND USES

### 10.3.1 Proposed Single House (Two-Storey) - Lot 276 No. 19 Salter Point Parade, Salter Point

Location:	Salter Point
Ward:	Manning Ward
Applicant:	Avena Homes
File Reference:	D-17-78833
DA Lodgement Date:	5 April 2017
Meeting Date:	26 September 2017
Author(s):	Kevin Tang, Statutory Planning Officer
Reporting Officer (s):	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 a Single House (Two-Storey) on Lot 276 No. 19 Salter Point Parade, Salter Point. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Significant Views	TPS6 clause 6.1A (9)
Vehicular Access	R-Codes Clause 5.3.5
Open space	R-Codes Clause 5.1.4
Street surveillance	R-Codes Clause 5.2.3
Boundary walls	R-Codes Clause 5.1.3 and P350.02
Visual privacy	R-Codes Clause 5.4.1

#### Officer Recommendation

That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for planning approval for a Single House (Two-Storey) on Lot 276 No.19 Salter Point Parade, Salter Point, **be approved** subject to:

#### Conditions

- (1) The development shall be in accordance with approved plans at all times unless otherwise approved by the City.
- (2) Prior to the submission of a building permit application, details of the front fence shall be provided and the front fence shall comply with Council Policy P350.7 to the satisfaction of the City.
- (3) Prior to the submission of a building permit application, details of the surface of the boundary wall(s) to the Garage not visible from the street, on the western and northern sides of the lot shall be provided. The finish of the boundary wall is to be compatible with the external walls of the neighbour's dwelling, to the satisfaction of the City.
- (4) The height of any wall, fence or other structure, excepting one brick pier (maximum size of 470 mm x 470 mm), shall be no higher than 0.75 metres within 1.5 metres of where any driveway meets any public street, to the

satisfaction of the City.

- (5) Prior to occupation of the dwelling, the existing vehicular crossover shall be modified in accordance with the approved plans, to the satisfaction of the City. (Refer to Advice Note 4)
- (6) All stormwater from the property shall be discharged into soak wells or sumps located on the site unless otherwise approved by the City.
- (7) External clothes drying facilities shall be provided for each dwelling, and shall be screened from view from all streets or any other public place.

#### Advice Notes

- (1) Prior to lodging an application for building permit, the applicant/owner is required to satisfactorily address the outstanding planning matters identified in Condition(s) (2) and (3). If associated actions are incomplete, the application for building permit will not be accepted by the City.
- (2) PN01
- (3) PN02
- (4) Advice note relating to crossover
- (5) Advice note relating to Bushfire Prone Areas
- (6) PN13
- (7) PN21
- (8) PNX1
- (9) PNX2
- (10) PNX3
- (11) Engineering Infrastructure Advice relating to stormwater management, dewatering, property line levels and crossing design.

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

#### Background

The development site details are as follows:

<b>Zoning</b>	Residential
<b>Density coding</b>	R20
<b>Lot area</b>	759 sq. metres
<b>Building height limit</b>	3.5 metres
<b>Development potential</b>	1 dwelling

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. Developments involving exercise of a discretionary power**

- (a) Applications in areas situated within Precinct 13 - Salter Point which:
- (i) have been assigned Building Height Limits of 3.0 metres, 3.5 metres or 6.5 metres; and
  - (ii) will result in any obstruction of views of the Canning River from any buildings on neighbouring land, having regard to the provisions of Clause 6.1A(9) of the Scheme.

**6. Amenity impact**

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

**7. Neighbour comments**

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

**Comment**

**(a) Background**

In April 2017, the City received an application for a Single House (Two-Storey) on Lot 267 (No. 19) Salter Point Parade, Salter Point (the **Site**). Currently, there is an existing single storey brick and tile single house on the subject site.

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

The Site has a site area of 759m<sup>2</sup> and a frontage to Salter Point Parade to the east, located adjacent to residential development, as seen in **Figure 1** below:

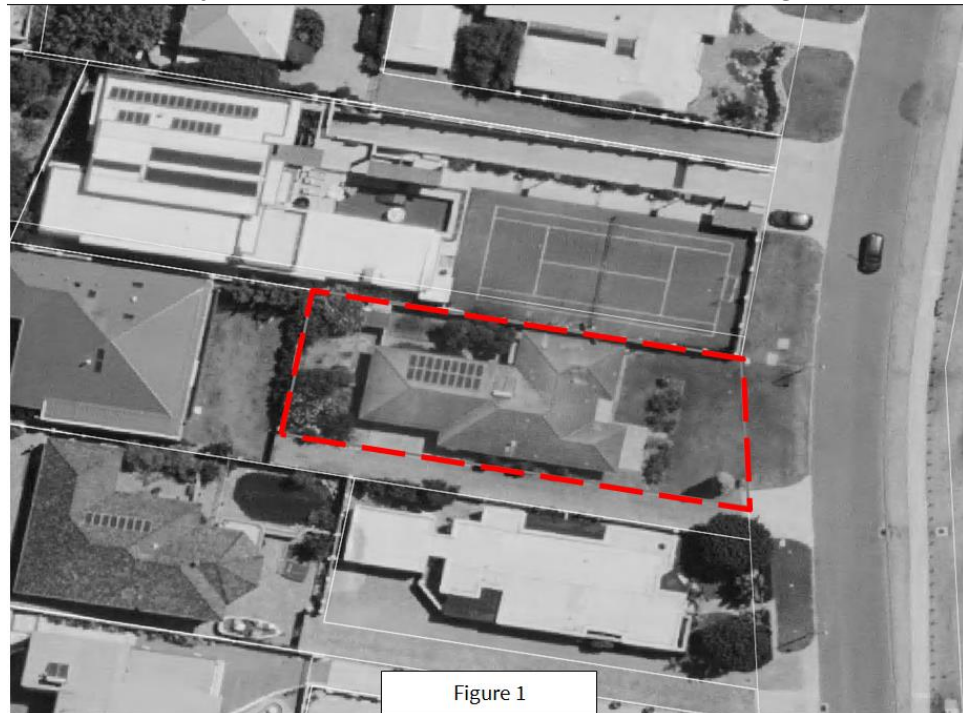


Figure 1

**(c) Description of the Proposal**

The proposal involves the demolition of the existing development and the construction of a two-storey single house on the Site. The proposal includes five bedrooms, dining room, living room, kitchen, ablution rooms and lounge on the ground floor and a guest bedroom on the first floor. The site has its frontage to Salter Point Parade to the east but has an easement over the battleaxe leg of the property to the rear on the south side for vehicular access.

The proposal has been amended as a result of the City's planning assessment. The latest development plans are provided at **Attachment (a)** and the applicant's justification is provided at **Attachment (b)**. Furthermore, site photographs showing the existing condition of the site with the surrounding built environment are illustrated in **Attachment (c)**.

**(d) Scheme and R-Codes Provisions**

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

- Land use – “Single House” is a “P” (Permitted) land use on the subject site zoned “Residential” with a density coding of R20 (Table 1 of TPS6);
- Street setback (R-Codes Clause 5.1.2);
- Setback of Garages and Carports (R-Codes Clause 5.2.1 and Council Policy P350.03)
- Garage Width (R-Codes Clause 5.2.2)
- Street Walls and Fences (R-Codes Clause 5.2.4 and Council Policy P350.07)
- Sight lines (Council Policy P350.07)
- Parking (R-Codes Clause 5.3.3);

- Design of Car Parking Spaces and Accessways (R-Codes Clause 5.3.4 and Council Policy P350.03)
- Driveway gradients (TPS6 Clause 6.10.2 and Council Policy P350.03);
- Minimum ground and floor levels (TPS6 Clause 6.9);
- Maximum ground and floor levels (TPS6 Clause 6.10);
- Stormwater management (TPS Clause 6.8);
- Solar access for adjoining sites (R-Codes Clause 5.4.2);
- External Fixtures (R-Codes Clause 5.4.4);
- Essential facilities (R-Codes Clause 5.4.5);
- Trees (Council Policy P350.05);
- Outdoor living area (R-Codes Clause 5.3.1);

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

- Significant views (Building height restrictions in Precinct 13 'Salter Point') (TPS6 Clause 6.1A(9));
- Vehicular access (R-Codes Clause 5.3.5 and Council Policy P350.03);
- Open space (R-Codes Clause 5.1.4);
- Street surveillance (R-Codes Clause 5.2.3);
- Boundary walls (R-Codes Clause 5.1.3 and Council Policy P350.02);
- Visual privacy (R-Codes Clause 5.4.1);

**(e) Significant views**

Clause 6.1A (9) of TPS6 contains additional building height restrictions on lots located in Salter Point where building height limits are 3.0 metres, 3.5 metres or 6.5 metres. A person shall not erect or add to a building unless the Council is satisfied that views of the Canning River from any buildings on neighbouring land will not be significantly obstructed. Clause 6.1A (4) of TPS6 also stipulates that the Council may impose restriction on roof height where the proposal would have an adverse impact on or be out of character with development on the development site or within the focus area; or contravene any planning policy adopted under clause 9.6 relating to the design of buildings, significant views, or maintenance of streetscape character.

Clause 7.8 (2) of TPS6 stipulates that Council's discretionary power shall not be exercised with respect to Building Height Limits referred to in clause 6.1A.

The neighbouring properties to the west and southwest of the site currently enjoy views of the Canning River (significant view); upon consultation regarding the proposed development and the potential impact on their views, eight written objections on the loss of views were submitted to the City.

Photos and illustrations on the image below show viewing corridors from rear lots along Salter Point Parade and River Way that would be potentially affected by the proposed development.





*Intramaps Image showing the viewing corridors from the adjoining rear lots towards the Canning River*

Photos taken from site visits to adjoining properties are provided at **Attachment (d)**. The viewing corridors of the following properties would potentially be affected:

- 20 Salter Point Parade
- 19A Salter Point Parade
- 18A Salter Point Parade
- Properties along River Way

The potential view impacts on the above properties are further discussed below:

20 Salter Point Parade – the proposed house will have minimal impact on this property and the landowners of 20 Salter Point have no objections to the proposal.

19A Salter Point Parade - A surveyed diagram and photomontage to demonstrate the potential obstruction on views of Canning River from this property are provided at **Attachment (e)** by the landowner. Although it is noted that this property will be affected most by the proposed development, the potential obstruction of views is not considered to be significant as a large portion of views to Canning River will be retained.

18A Salter Point Parade – this house has been designed to have its main view corridors toward the northeast of the property, however, the proposed development will not significantly obstruct the view in front of the house. Photos of main viewpoints have been provided at **Attachment (d)**.

Properties along River Way – properties along River Way have also been consulted with respect to potential loss of views during the public consultation period. It is considered that these properties are located on a much higher ground and their views will not be significantly affected. The aerial photo below shows the existing streetscape from Salter Point Parade:



The applicant has provided further justification with respect to significant views at **Attachment (b)**.

Whilst it is difficult to produce an absolute visual representation of the potential obstruction of views of significance without special computer visualisation programs, the City has also produced an alternative photomontage to demonstrate the view impacts based on the following information:

- The width of the proposed first floor building (6.2m) against the distance between tennis court light post to the east and the existing house on 18 Salter Point Parade (20m);
- The height of tennis court light post to the east (8.33m AHD), the height of the roof pitch (8.6m AHD) and first floor walls (7.186m AHD) of the proposed house and the height of the existing pencil pine tree on the subject site (8.93m AHD);
- The height of building wall on 18 Salter Point Parade (5.45m AHD) and the height of the proposed ground storey wall height (5.56m AHD);

The photomontage is provided in **Attachment (f)** and presents a more significant impact than that submitted by the applicant (refer to **Attachment (b)**). On the basis of photomontages provided, Council is required to consider whether the proposed building will cause significant obstruction on the existing views of Canning River.

Whilst it is acknowledged that the proposed building will cause obstruction of views of Canning River from the adjoining properties, the extent of obstruction is not considered to be significant as the adjoining properties will still retain a substantial portion of views of Canning River. In addition, it is evident that there are at least three existing properties on Salter Point Parade within the same focus area that contain similar two storey developments. The applicant has demonstrated that the roof line of the development has been restricted to minimise obstruction to views. The single storey roof has a pitch of 14 degrees and therefore allows views of the river to be maintained for adjoining properties to the rear of the site. The wall heights of the proposed development are not excessive and have been restricted. In addition it is noted that the applicant has had to increase the Finished Floor Level in order to comply with clause 6.9 of TPS6.

Accordingly, it is considered that the proposed development will not cause significant obstruction to views of Canning River from adjoining properties and is in keeping with the existing character of the focus area.

**(f) Vehicular access**

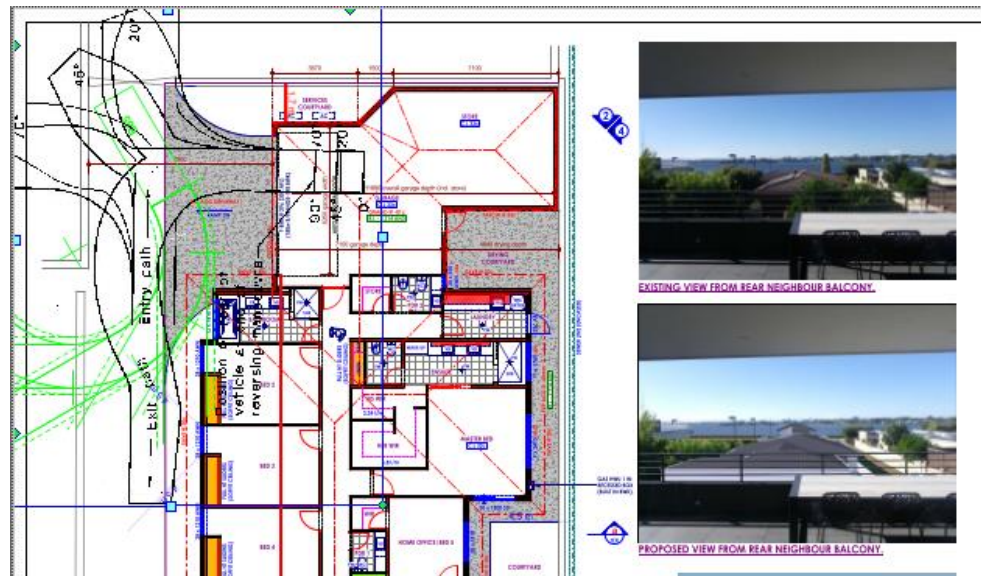
	<b>Deemed-to-comply provision</b>	<b>Proposed</b>
Vehicular access	Driveways designed for two way access to allow for vehicles to enter the street in forward gear (in single forward and reverse movements into and from the parking bay) where the distance from a car space to the street is 15m or more	Driveway designed for vehicles to enter the street in forward gear with more than single forward and reverse movements into and from the parking bay
<p><i>Design Principles:</i>  <i>Vehicular access provided for each development site to provide:</i></p> <ul style="list-style-type: none"> <li>• <i>Vehicle access safety;</i></li> <li>• <i>Reduced impact of access points on the streetscape;</i></li> <li>• <i>Legible access;</i></li> <li>• <i>Pedestrian safety;</i></li> <li>• <i>Minimal crossovers; and</i></li> <li>• <i>High quality landscaping features</i></li> </ul>		

Clause 5.3.5 of R-Codes requires that driveways are designed for two way access to allow for vehicles to enter the street in forward gear where the distance from a car space to the street is 15m or more. The proposed garage is located at the rear of the site and is set back 37m from the street boundary.

Council Policy P350.03 – Car Parking and Access provides two ways to achieve compliance with the vehicular access requirement:

- Compliance with one of the six templates provided in P350.03; or
- Compliance with the Australian Standard 2890.1 (AS2890.1) and the entry and exit manoeuvres being designed to facilitate single forward and reverse movements into and from the parking bay;

As illustrated below, using the swept path provided in the AS2890.1, it is considered that the proposed innermost car bay will not be able to comply with Council policy requirement.



Although it will take a vehicle more than one single forward and reverse movement to enter the street in a forward gear, there is a 7.9m turning space in front of the proposed garage and it is a low density residential area. The only other property using this battleaxe leg is 19A Salter Point Parade

Accordingly, it is considered that the vehicular access variation satisfies the design principles of the R-Codes for the following reasons:

- Vehicle and pedestrian safety are not compromised by the proposed development;
- No additional access point or crossover on the streetscape is being created.

**(g) Open Space**

	Deemed-to-comply provision	Proposed
Open space	379m <sup>2</sup> (50%)	354.7m <sup>2</sup> (46.7%)
<p><i>Design Principles:</i>                      Development incorporates suitable open space for its context to:</p> <ul style="list-style-type: none"> <li>• Reflect the existing and/or desired streetscape character or as outlined under the local planning framework;</li> <li>• Provide access to natural sunlight for the dwelling;</li> <li>• Reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework;</li> <li>• Provide an attractive setting for the buildings, landscape, vegetation and streetscape;</li> <li>• Provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and</li> <li>• Provide space for external fixtures and essential facilities;</li> </ul>		

Clause 5.1.4 of R-Codes requires a minimum of 50% open space for all residential development under R20 density coding. The proposed development only provides 46.7% open space and is therefore seeking a variation of 3.3%.

The applicant’s justification is provided in **Attachment (b)**.

A number of two storey residential developments can be found in the same focus area along Salter Point Parade, namely Nos 22 and 25 Salter Point Parade. The proposed development is consistent with the building bulk of the focus area and will not detract from the existing streetscape. The proposal includes a landscaped courtyard in the middle and a generous outdoor living area in the front. The proposed design also has a very inviting and open alfresco and outdoor entertaining area, which provide the opportunity for the owners to use this area for outdoor pursuits including swimming in the pool whilst also providing an attractive setting for the streetscape. The proposed drying court and service areas have been clearly defined on the plans and clearly demonstrate there is adequate area for external fixtures and essential facilities.

Accordingly, it is considered that the proposed open space variation satisfies the design principle for the following reasons:

- The proposal does not present a huge building bulk and does not detract from the existing streetscape within the focus area;
- Generous outdoor living areas, including a courtyard and swimming pool, are being proposed for the occupants to pursue outdoor living activities;
- Adequate area is provided for external fixtures and essential facilities.

**(h) Street surveillance**

	Deemed-to-comply provision	Proposed
Street surveillance	The street elevation of the dwelling to address the street with clearly definable entry points visible and accessed from the street	The main entry to the proposed house is located on the southern elevation, not visible from the street.
Design principle: <i>Buildings designed to provide for surveillance (actual or perceived) between individual dwellings and the street and between common areas and the street, which minimise opportunities for concealment and entrapment.</i>		

The applicant's justification has been provided in **Attachment (b)**.

The proposed dwelling provides a large open terrace on the first floor and an outdoor living area with a swimming pool and permeable glass front fence on the ground floor. Accordingly, it is considered that the proposed street surveillance variation satisfies the design principles for the following reason:

- The proposed building has been designed to provide sufficient surveillance between individual dwellings and the street and between common areas and the street, which minimise opportunities for concealment and entrapment.

(i) **Boundary Walls**

	<b>Deemed-to-comply provision</b>	<b>Proposed</b>
Boundary walls	Walls not higher than 3.5m with an average of 3m or less, up to a maximum length of the greater of 9m or one-third the length of the balance of the lot boundary behind the front setback, to one side boundary only	Two boundary walls are being proposed on the north and west lot boundaries of the development site
<p><i>Design principle:</i>  <i>Buildings built up to boundaries (other than the street boundary) where this:</i></p> <ul style="list-style-type: none"> <li>• <i>Makes more effective use of space for enhanced privacy for the occupants or outdoor living areas;</i></li> <li>• <i>Does not compromise the design principle contained in clause 5.1.3 P3.1 (building bulk, direct sun and ventilation and privacy);</i></li> <li>• <i>Does not have any adverse impact on the amenity of the adjoining property;</i></li> <li>• <i>Ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted;</i></li> <li>• <i>Positively contributes to the prevailing development context and streetscape;</i></li> </ul> <p><i>Amenity factor assessment in P350.02:</i></p> <ul style="list-style-type: none"> <li>• <i>Streetscape character;</i></li> <li>• <i>Outlook from (i) the front of an adjoining dwelling or its front garden, if the proposed boundary wall is located forward of that adjoining dwelling; or (ii) any habitable room window of an adjoining dwelling;</i></li> <li>• <i>Visual impact of building bulk where the proposed boundary wall is situated alongside an outdoor living area on an adjoining lot; and</i></li> <li>• <i>Amount of overshadowing of a habitable room window or outdoor living area on an adjoining lot. The amenity impact of the boundary wall will be deemed to be acceptable where the overshadowing caused by the boundary wall does not exceed the overshadowing caused by a wall that conforms to the Residential Design Codes 'deemed-to-comply' setback;</i></li> </ul>		

The applicant's justification has been provided in **Attachment (b)**.

The proposed boundary walls are built to create a drying court and courtyard in the middle section of the house to make effective use of space for enhanced privacy for the occupants. Being a single storey building, the proposed boundary walls will not have unacceptable building bulk impact on the adjoining land. No properties to the south will be affected by the proposed boundary walls. Hence there is no significant overshadowing impact on the adjoining properties. There will also be no privacy impacts as there are no major openings being proposed on the boundary walls

Accordingly, it is considered the proposed boundary walls variation satisfies the design principles for the following reasons:

- The proposed boundary walls make effective use of space for enhanced privacy for the occupants and outdoor living areas;
- The proposed boundary walls have no significant solar, streetscape, building bulk and privacy impacts.

**(j) Visual Privacy**

	<b>Deemed-to-comply provision</b>	<b>Proposed</b>
Visual Privacy	Major openings and unenclosed outdoor active habitable spaces, which have a floor level of more than 0.5m above natural ground level and overlook any part of any other residential property behind its street setback line are set back, in direct line of sight within the cone of vision from the lot boundary, as below: Bedrooms and studies – 4.5m; Habitable rooms other than bedrooms and studies – 6m; Unenclosed outdoor active habitable spaces – 7.5m	First floor open terrace with a setback of 5.3m to the north and south lot boundaries, in lieu of 7.5m
<p><i>Design principle:</i>  <i>Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:</i></p> <ul style="list-style-type: none"> <li>• <i>Building layout and location;</i></li> <li>• <i>Design of major openings;</i></li> <li>• <i>Landscape screening of outdoor active habitable spaces; and/or</i></li> <li>• <i>Location of screening devices;</i></li> </ul>		

The first floor open terrace is proposed to be built with no privacy screening, however, there is an existing tennis court in the front part of 20 Salter Point Parade to the north and a driveway (battleaxe leg) to the south.

Accordingly, it is considered that the proposed visual privacy variation satisfies the design principle for the following reason:

- The first floor terrace does not overlook any habitable spaces or outdoor living areas.

**(k) 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:

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

**(l) 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 matters listed in clause 67 of the Deemed Provisions to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application.

The proposed development is considered satisfactory in relation to a number of matters for the reasons addressed in this report.

**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'. Individual property owners, occupiers and/or strata bodies at Nos 20, 19A, 18A and 18 Salter Point Parade and Nos 116, 120 and 124 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 seven consultation notices were sent and eight submission(s) were received, all objecting to the proposal. Submitters from the first round of consultation have also been further consulted on the amended plans. A schedule of submissions, applicant's response and City's comment is provided at **Attachment (g)**. A full copy of submissions is provided at *Confidential Attachment (h)*.

**(b) Manager, Engineering Infrastructure**

The Manager, Engineering Infrastructure was invited to comment on a range of issues relating to stormwater management. A copy of Engineering Advice is provided at **Attachment (i)**.

Accordingly, should Council approve this proposal, planning conditions and/or advice notes are recommended to have consideration to the comments from the above officer.

**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**

Council's determination may have financial implications if the application is subject to an appeal to the State Administrative Tribunal. City officers would likely be invited to participate in any mediation.

**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 with a planned mix of housing types and non-residential land uses.



**Sustainability Implications**

Noting the favourable orientation of the lot, the officers observe that the proposed outdoor living areas and open terrace have access to winter sun. Hence, the proposed development is seen to achieve an outcome that has regard to the sustainable design principles.

**Conclusion**

It is considered that the proposal meets all of the relevant Scheme, R-Codes and/or Council Policy objectives and provisions, as it will not cause a significant obstruction of views of Canning River from the adjoining properties and will be in keeping with the existing character of the locality. The proposed dwelling satisfies the wall height and roof pitch requirements of the scheme and, due to the lower pitched roof of the ground floor, view corridors are maintained. Accordingly, it is considered that the application should be conditionally approved.

**Attachments**

- 10.3.1 (a):** Development Plans
- 10.3.1 (b):** Applicant's written justification and response to submissions
- 10.3.1 (c):** Site Photos
- 10.3.1 (d):** Photos of significant views from the affected properties
- 10.3.1 (e):** Photomontage provided by an adjoining landowner
- 10.3.1 (f):** View analysis produced by the City
- 10.3.1 (g):** Schedule of summarised submissions, applicant's response and City's comment
- 10.3.1 (h):** Submissions (*Confidential*)
- 10.3.1 (i):** Engineering Comments

### 10.3.2 Proposed Workshop (Outbuilding) Addition to Single House. Lot 355 (No. 1/56 & No. 2/56) Edgecumbe Street, Como.

Location:	1/56 & 2/56 Edgecumbe Street, Como
Ward:	Como
Applicant:	Lidia and Rob Pino
File Reference:	D-17-78914
DA Lodgement Date:	18 August 2017
Meeting Date:	26 September 2017
Author(s):	Valerie Gillum, Planning Officer Development Services
Reporting Officer (s):	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 a single storey workshop (outbuilding) addition to a single house on Lot 356 (No. 1/56 and No. 2/56) Edgecumbe Street, Como. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Side and Rear Setbacks	Canning Bridge Activity Centre Plan (CBACP) Requirement 5.6 of Element 5.

#### Officer Recommendation

That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for development approval for a single storey workshop (outbuilding) addition to a single house on Lot 356 (No. 1/56 and No. 2/56) Edgecumbe Street, Como **be approved** subject to:

#### CONDITIONS:

- (1) The development shall be in accordance with the approved plans unless otherwise authorised by the City.
- (2) Prior to the lodgement of a building permit, Strata Lots 1 and 2 shall be amalgamated as indicated on the approved plans, to the satisfaction of the City. (Refer to Advice Note (1) and (5))
- (3) Prior to the lodgement of a building permit, details of the surface of the boundary wall to the workshop (outbuilding) not visible from the street, on the southern side of the lot shall be provided. The finish of the boundary wall is to be compatible with the external walls of the neighbour's dwelling unless the owner(s) of the adjoining property consent to another finish and their written agreement for the selected finish is supplied to the City. The finish of the wall shall be to the satisfaction of the City. (Refer to Advice Note (1))
- (4) The workshop (outbuilding) is not to be used as an Ancillary

Accommodation without prior approval of the City.

- (5) The workshop (outbuilding) is approved as a non-habitable structure only.
- (6) The external materials and finish of the proposed workshop (outbuilding) (with the exception of the boundary wall on the southern side identified in Condition (3) above) shall match with those of the existing building as detailed on the approved plans.
- (7) Prior to completion of the workshop (outbuilding) the applicant shall construct a crossover between the road and the property boundary in accordance with the approved plans, to the satisfaction of the City. (Refer to Advice Note (6))
- (8) All stormwater from the property shall be discharged into soak wells or sumps located on the site unless otherwise approved by the City.
- (9) Hard standing areas approved for the purpose of car parking or vehicle access shall be maintained in good condition at all times, free of potholes and dust and shall be adequately drained, to the satisfaction of the City.
- (10) The height of any wall, fence or other structure, shall be no higher than 0.75 metres within 1.5 metres of where any driveway meets any public street, to the satisfaction of the City.

**ADVICE NOTES:**

- (1) Prior to lodging an application for building permit, the applicant/owner is required to satisfactorily address the outstanding planning matters identified in Condition(s) (2) and (3). If associated actions are incomplete, the application for building permit will not be accepted by the City.
- (2) The workshop (outbuilding) is not to be used for any commercial purposes.
- (3) PN01, PN02, PN14, PN26, PN13, PNX1, PNX2 and PNX3.

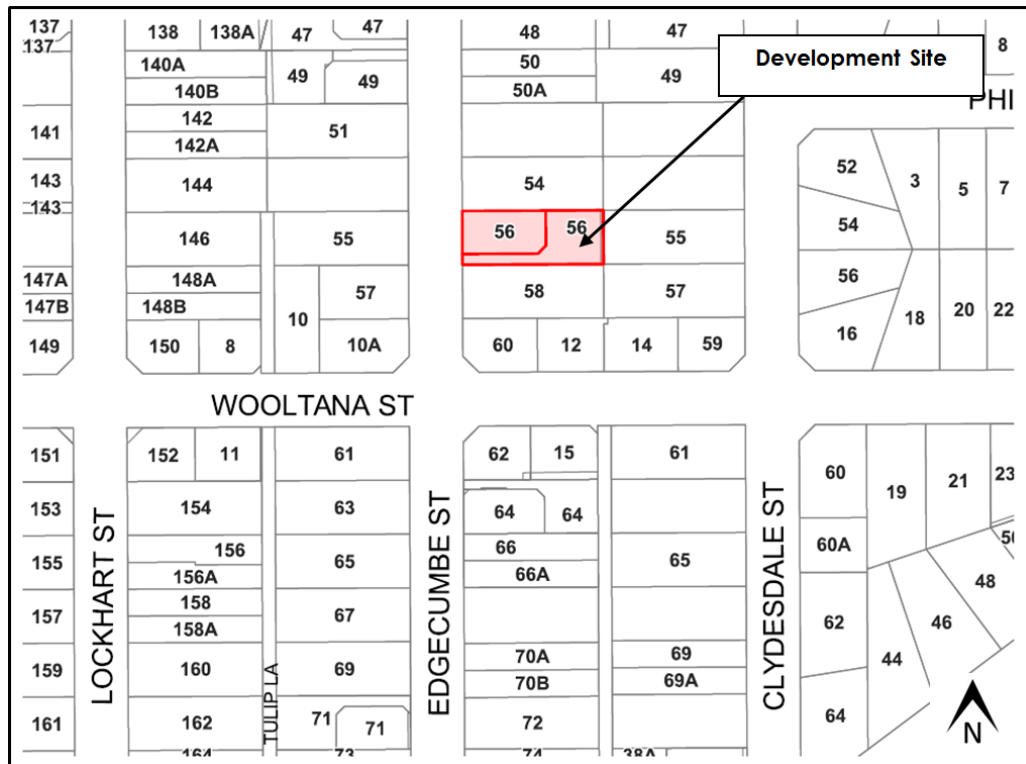
**FOOTNOTE:** *A full list of Standard Conditions and Advice Notes is available for inspection at the Council Offices during normal business hours.*

**Background**

The development site details are as follows:

<b>Zoning</b>	Centre Zone Canning Bridge Activity Centre Plan (CBACP) Quarter: Davilak (Q4) CBACP ZONE: H4 (Residential Development Up to 4 Storeys)
<b>Density coding</b>	Not Applicable
<b>Lot area</b>	1063 sq. metres
<b>Development potential</b>	Convenience Store, Corner Store, Multiple Dwelling, Grouped Dwelling, Aged or Dependant Person's Dwelling, Single Bedroom Dwelling, Residential Building, Recreation – Public, Home Occupation, Home Office
<b>Existing Land Use</b>	Single Dwelling

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.

**Comment**

**(a) Background**

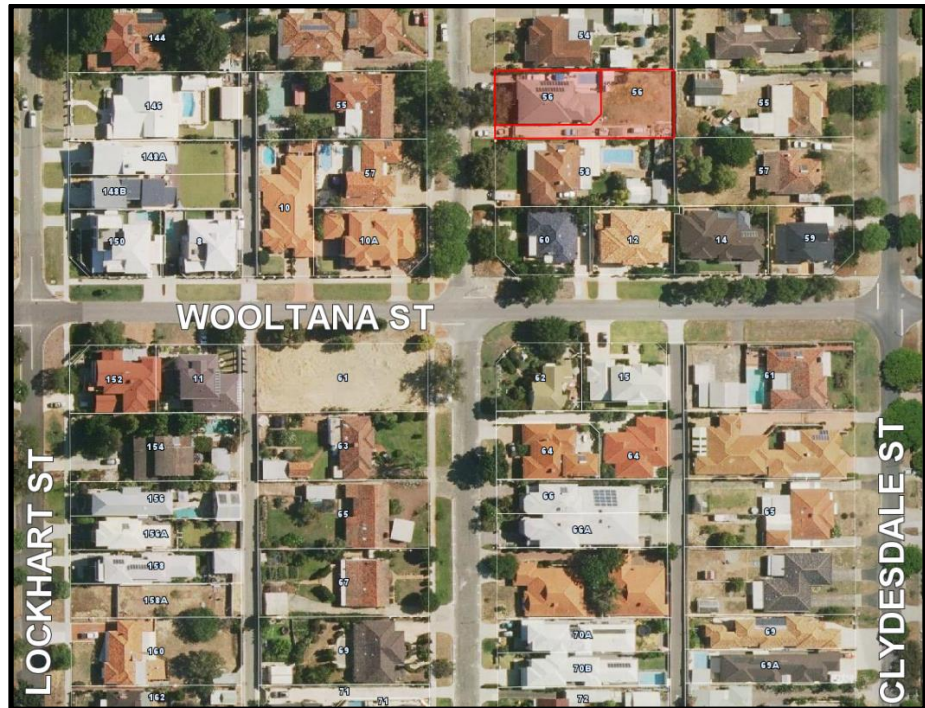
The subject application was received by the City on 28 July 2017 proposing a single storey workshop (outbuilding) addition to a single house on Lot 356 (No. 1/56 and No. 2/56) Edgecumbe Street, Como (the **Site**).

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

The subject site is located at Lot 356 (No. 1/56 and 2/56) Edgecumbe Street (the **Site**). The site is strata titled with two (2) lots in a battleaxe configuration. The existing development on the Site currently features land use of a 'single house' and a 'vacant lot' of which both lots are in the same ownership which will be amalgamated in the near future, as depicted in the site photographs at **Attachment (a)**.

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

The Site has a frontage to Edgecumbe Street to the west and located adjacent to single houses to the north, east and south, as seen in **Figure 1** below:



**(d) Description of the Proposal**

The proposal involves the construction of a single storey workshop (outbuilding) addition to a single house on the Site, as depicted in the submitted plans at **Attachment (a)**. The development is serviced by a separate driveway that is 3 metres wide. The workshop (outbuilding) includes provision of two (2) car bays, gym, storage areas (including a mezzanine), shower/toilet facilities and an attached alfresco area. The workshop (outbuilding) has a gross floor area of 174m<sup>2</sup> inclusive of 27m<sup>2</sup> of mezzanine storage area.

The City's Town Planning Scheme No. 6 defines an outbuilding as *'a store shed, detached laundry, private workshop, carport or garage, machinery room, or the like, appurtenant to and used in conjunction with the principal use of associated buildings'* and although a gymnasium has been included as part of the workshop (outbuilding), this is to be used infrequently and is ancillary to the main function as a workshop.

The following applicable planning aspects have been assessed and found to be compliant with the provisions of the Canning Bridge Activity Centre Plan (CBACP), TPS6 and relevant R-Codes and Council Policy requirements, and therefore have not been discussed further in the body of this report:

- Land use – “Preferred Land Use” - (Element 1 – CBACP).
- Heights (Element 3 of CBACP).
- Street Setbacks (Element 4 of CBACP).
- Open Space and Landscaping (Element 10 of CBACP)
- Parking (Element 18 of CBACP, clause 6.3(6) and (8) of TPS6).
- Sewerage and Drainage (clause 6.8 of TPS6).
- Finished floor and ground levels (TPS6 clause 6.10).
- Driveway gradient (TPS6 cl. 6.10(2)).
- Vehicular access (Council Policy P350.03).
- Utilities & Facilities (TPS6 cl. 4.3(p) and R-Codes 5.4.5)

**Proposed Workshop (Outbuilding) Addition to Single House. Lot 355 (No. 1/56 & No. 2/56)  
Edgumbe Street, Como.**

- Sight Lines (TPS6 cl. 4.3(p) and R-Codes 5.2.5).
- Boundary Wall (Clause 1 and 2 of Council Policy P350.02).
- Building Design of Car Parking Structures (Clause 2.4 of Council Policy P350.03).

Elements of the CBACP not listed above are either not applicable to this development due to the proposal being an ancillary addition to an existing house or would only apply to comprehensive new development.

The following planning aspect requires the exercise of discretion to be approved and is discussed further in the report:

- (i) Side and Rear Setbacks (Requirement 5.6 of Element 5 of CBACP).

The proposal complies with the Canning Bridge Activity Centre Plan and relevant R-Codes requirements and Council policies, with the exception of the remaining non-complying aspects discussed below.

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

**(e) Side and Rear Setbacks**

	<b>Deemed-to-Comply Requirement 5.6 of Element 5 of CBACP</b>	<b>Proposed</b>
Workshop (Outbuilding) Setback from Rear (Eastern) Boundary	4.0 metres	1.6 metres
Workshop (Outbuilding) Setback from Left Hand Side (Northern) Boundary	4.0 metres	1.03 metres
Workshop (Outbuilding) Setback from Right Hand Side (Southern) Boundary	4.0 metres	Nil
<p><b><i>Desired Outcome D05</i></b>  <i>To provide a continuity of frontage at ground and podium levels to encourage activity whilst providing interest. To allow opportunities for tower elements to access sunlight, ventilation and view corridors throughout the area from and between multi-level developments.</i>  <i>To ensure that development opportunities throughout the precinct are maximised. Developers should minimise overlooking and overshadowing of adjacent and adjoining properties through appropriate design response, supported by the setback provisions of this Element.</i></p>		

The proposed workshop (outbuilding) is proposed as ancillary to the single house currently located at No. 1/56 Edgumbe. Strata Lot 1 and 2/56 Edgumbe Street and will be amalgamated by the owners to enable the workshop (outbuilding) to be associated with the house on one allotment. Although the structure is considerably large for an ancillary workshop (outbuilding) addition, the owners have identified that this is their family home and the proposed addition will provide the space that their growing family will require in years to come. If Council is supportive of the proposed workshop (outbuilding) addition, it is suggested that a condition on an approval be included to ensure that these lots are amalgamated prior to

lodgement of a building permit and that the structure not be used as an ancillary dwelling or for any other habitable purposes.

Accordingly, it is considered that the proposed setbacks to the north, east and south satisfies the Desired Outcome of the Canning Bridge Activity Centre Plan for the following reasons:

- Continuity of frontage at ground and podium levels will be maintained as the proposed addition is located at the rear of the property and will not be viewed from the street;
- The proposed workshop (outbuilding) will not affect the tower elements of future development on adjacent properties in regard to access to sunlight, ventilation and view corridors as the structure is at ground level;
- The proposed workshop (outbuilding) will not limit development opportunities within the precinct as the structure is an addition to a preferred use within the Canning Bridge Activity Centre;
- The proposed workshop (outbuilding) is a non-habitable structure at ground level and will therefore not result in overlooking to neighbouring properties; and
- The single storey workshop (outbuilding) has minimal impact on the amenity of the adjoining properties.

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

- (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 this matter.

**(g) 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 matters listed in clause 67 of the Deemed Provisions to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application. The proposed development is considered satisfactory in relation to all of these matters as addressed in this report, 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 standard consultation method, individual property owners, occupiers and/or strata bodies at Nos 54 and 58 Edgumbe Street and Nos 53A, 53B, 55 and 57 Clydesdale Street 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 nine (9) consultation notices were sent and no submission(s) were received.

**(b) Engineering Infrastructure Department**

Engineering Infrastructure was invited to comment on issues relating to drainage, car parking and access.

The Engineering Infrastructure Department provided comments with respect to crossover design, vehicle movement and drainage. Planning conditions and important notes are recommended to deal with issues raised by the Engineering Infrastructure Department.

**(c) Other City Departments**

Comments were invited from the Environmental Health section of the City's administration. The Environmental Health section raises no objections in relation to the proposed development.

**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 workshop (outbuilding) will have minimal sustainability implications compared to the existing single house.

**Conclusion**

The proposed workshop (outbuilding) is an ancillary addition to the single house on the subject site. Although side and rear setbacks of the Canning Bridge Activity Centre Plan are varied, the addition is not considered to have a negative impact on the streetscape due to the location of the structure at the rear of the property or on the amenity of the adjoining properties.



**10.3.2 Proposed Workshop (Outbuilding) Addition to Single House. Lot 355 (No. 1/56 & No. 2/56)  
Edgumbe Street, Como.**

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

**Attachments**

- 10.3.2 (a):** Development Plans
- 10.3.2 (b):** Applicant's Justification Letter

### 10.3.3 Proposed Change of Use from Office to Indoor Sporting Activities (Fitness Classes) at Lot 106 (No. 3/53) Labouchere Road, South Perth

Location: 3/53 Labouchere Road, South Perth  
 Ward: Mill Point Ward  
 Applicant: Mr Christopher Duncan  
 File Reference: D-17-79083  
 DA Lodgement Date: 25 July 2017  
 Meeting Date: 26 September 2017  
 Author(s): Brendan Phillips, Statutory Planning Officer  
 Reporting Officer (s): 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 Councils consideration of an application for development approval for a change of use from 'Office' to 'Indoor Sporting Activities (Fitness Classes)' on Lot 106 (No. 3/53) Labouchere Road, South Perth. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Use not listed as a preferred use	TPS6 – Schedule 9A, Element 2

#### Officer Recommendation

That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for development approval for a change of use from 'Office' to 'Indoor Sporting Activities (Fitness Classes)' on Lot 106 (No. 3/53) Labouchere Road, South Perth **be approved** subject to:

#### Conditions:

- The development shall be in accordance with the approved plans unless otherwise approved by the City.
- The hours of opening for the Indoor Sporting Activities (Fitness Classes) use hereby approved shall be limited to the following:
  - Monday and Wednesday: 5:30am -10:00am, 12:00pm – 2:00pm, and 4:00pm – 8:00pm;
  - Tuesday and Thursday: 5:30am – 10:00am, and 4:00pm – 8:00pm;
  - Friday: 5:30am – 10:00am;
  - Saturday: 6:00am – 10:00am;
  - Sunday: Closed.
- Prior to use*, the applicant shall prepare and submit a Parking Management Plan for staff and patrons to the satisfaction of the City. The plan shall outline how the parking for the proposed development will be managed and identify practical strategies to minimise parking demand and conflict

10.3.3

**Proposed Change of Use from Office to Indoor Sporting Activities (Fitness Classes) at Lot 106 (No. 3/53) Labouchere Road, South Perth**

between different users.

4. The Parking Management Plan shall be implemented and adhered to all times, to the satisfaction of the City.
5. *Prior to use*, all noise attenuation measures, identified in the Environmental Noise Assessment completed by Lloyd George Acoustics Pty Ltd (reference: 17084095-01) shall be implemented and adhered to all times, to the satisfaction of the City.
6. A separate application is to be submitted for any proposed signage that is not exempt from planning approval.

**Advice Notes**

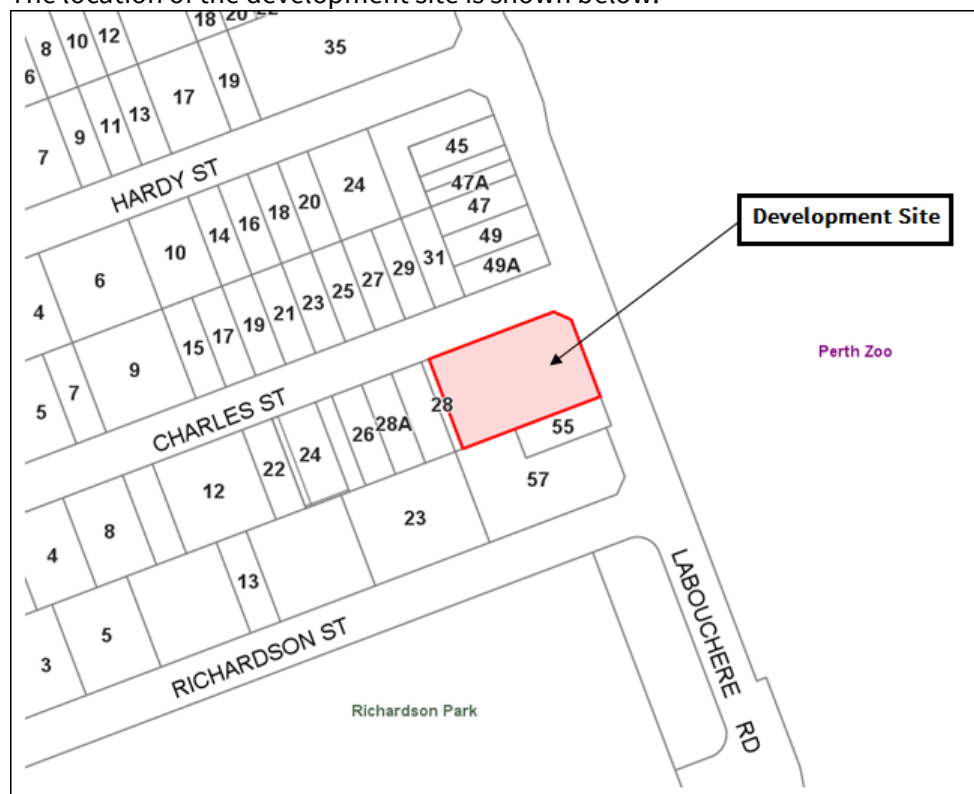
- (i) PN01
- (ii) PN02
- (iii) PNX1

**Background**

The development site details are as follows:

<b>Zoning</b>	Mixed Use Commercial (Scott-Richardson Precinct of South Perth Station Precinct (SPSP))
<b>Density coding</b>	R60/R80
<b>Lot area</b>	202m <sup>2</sup> (tenancy only)
<b>Building height limit</b>	Subject to special height controls of SPSP
<b>Development potential</b>	N/A – change of use application only
<b>Plot ratio limit</b>	N/A – change of use application only

The location of the development site is shown below:



**Figure 1: Location of development site.**

**10.3.3 Proposed Change of Use from Office to Indoor Sporting Activities (Fitness Classes) at Lot 106 (No. 3/53) Labouchere Road, South Perth**

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:

**1. Specific Uses**

*This power of delegation does not extend to determining applications for planning approval relating to the following uses:*

*Uses not listed in Table A of Schedule 9A, Special Control Area, South Perth Station Precinct.*

**Comment**

**(a) Background**

In July 2017, the City received an application for a change of use from Office to Indoor Sporting Activities (Fitness Classes) on Lot 106 (No. 3/53) Labouchere Road, South Perth (the **Site**).

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

The existing development at the Site currently features a mixed use development up to twenty (20) storeys in height. The subject tenancy is located on the ground floor fronting Labouchere Road. The tenancy is currently vacant.

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

The Site is situated at the corner of Labouchere Road and Charles Street, as seen in **Figure 2** below:



**Figure 2: Aerial image of site.**

**(d) Description of the Proposal**

The proposal involves the change of use of a ground floor tenancy from Office to Indoor Sporting Activities (Fitness Classes) on Lot 106 (No. 3/53) Labouchere Road, South Perth (**Site**), as depicted in the submitted plans at **Attachment (a)**. The applicant is proposing that the use will have the following hours of opening:

- i) Monday and Wednesday: 5:30am -10:00am, 12:00pm – 2:00pm, and 4:00pm – 8:00pm;
- ii) Tuesday and Thursday: 5:30am – 10:00am, and 4:00pm – 8:00pm;
- iii) Friday: 5:30am – 10:00am;
- iv) Saturday: 6:00am – 10:00am;
- v) Sunday: Closed.

It is proposed that a maximum of 24 clients and 2 staff members would occupy the premises at any given time. The use would contain 12 different ‘exercise stations’ with members using the facilities on a rotational basis, progressing through each exercise station every 3 minutes (ie. one round). Members are able to enter the facility at any time during the opening hours, and simply wait for the next ‘round’ to commence. A full circuit of 12 rounds is anticipated to take approximately 40 minutes, taking into account a short waiting period of 30 seconds to move to the next exercise station. It is also noted that the subject tenancy has three vehicle parking bays allocated, as well as visitor parking available.

The Applicant’s letter, **Attachment (a)**, describes the proposal in more detail. Furthermore, the site photographs show the relationship of the Site with the surrounding built environment at **Attachment (b)**.

The following components of the proposed development do not satisfy the *City of South Perth Town Planning Scheme No. 6 (Scheme; TPS6)* and Council Policy requirements:

- (i) Land use.

The proposal complies with the Scheme and relevant Council policies, with the exception of the remaining non-complying aspects, with other significant matters, all as discussed below.

**(e) Land Use**

The proposed land use of Indoor Sporting Activities (Fitness Classes) is not identified as either a preferred or discretionary land use in Schedule 9A – Special Control Area SCA1 – South Perth Station Precinct of TPS6. Notwithstanding, Schedule 9A provides criteria for considering a use not listed in element 2.5. The proposed land use is to be assessed against this element, as the tenancy forms part of ‘comprehensive new development’. On this basis, it is considered prudent to assess the land use in the same manner as the originally approved office land use. Element 2.5 of Schedule 9A states the following:

*Any land use not listed in Development Requirements 2.1, 2.2, 2.3 and 2.4 is not permitted unless the use satisfies Element 2 Guidance Statements (a) and (b).*

As such, an assessment must be made against the applicable guidance statements to ascertain the compatibility of the land use within the Scott-Richardson precinct.

The guidance statements of Element 2 are as follows:

- a) The ground floors of buildings are the most important in engendering interaction between the public and private realms. As such, for the Mends and Scott-Richardson Sub-Precincts, non-residential uses are expected at the ground floor level to enhance the public / private interface.*
- b) Within Element 2 'Ground Floor Land Uses', the sole purpose of designating uses as either 'preferred' or 'discretionary' is to indicate their appropriateness for location on the ground floor of a building. This does not indicate their appropriateness within a particular Sub-Precinct. (To determine whether a land use is 'preferred' or 'discretionary' within a particular Sub-Precinct, refer to Element 1.)*

In relation to point a) above, the proposed Indoor Sporting (Fitness Classes) land use is considered to appropriately satisfy this provision as the use would activate the street front. This proposed land use, being a non-residential use, would facilitate interaction between the public and private realms, particularly during opening hours. In this regard, the proposed Indoor Sporting Activities (Fitness Classes) use is considered to be comparable to an office use in terms of its interaction with the street. It could be reasonably expected that clients may use public or private facilities in close proximity prior to, or concluding, exercising at the subject site, resulting in a strong connection between the private and public realms. This is deemed to achieve a similar outcome to that of clients or customers using public and private facilities before or after an appointment within an office tenancy.

It is further noted that, if the proponent was to submit an application for external signage, there are provisions within Schedule 9A encompassing the transparency of signage, and ensuring that a certain percentage of the facade allows for visibility into the tenancy. Taking these provisions into account, it is considered that site would maintain a strong interaction with the street.

In relation to point b) above, regard is given to the guidance statement specifically relating to the Scott-Richardson Sub Precinct within Element 1 of Schedule 9A. This particular guidance statement outlines the following:

*For the Scott-Richardson Sub-Precinct the traditional Office and small scale shops and other commercial uses are encouraged on the ground and lower floors with residential on the upper floors.*

It is noted that this guidance statement does contemplate 'other commercial uses'. As the proposed Indoor Sporting Activities (Fitness Classes) use is not increasing the floor area of the tenancy, the built form outcome is effectively unchanged. Moreover, the proposed use is deemed to provide a comparable street interaction impact to an office use, if not an improved interaction with the streetscape.

While it is recognised that the proposed use would not necessitate similar numbers of staff that would typically be working within an office tenancy, the use is considered to contribute to improving the self-sufficiency of the South Perth Station Precinct. It should be noted that a number of other office tenancies have been approved in the adjoining commercial building to the west of site, with the Indoor Sporting Activities (Fitness Classes) use providing for increased diversity of land uses.

If, in the future, the proponent elected to alter the opening hours of the proposed use, it is noted that a variation application would be required. Notwithstanding, it is recommended that such an application be dealt with under delegated authority if the proposed change to opening hours is minor.

**(f) Car Parking**

The vehicle parking allocation originally approved remains compliant with the requirements in Schedule 9A of TPS6, despite a different land use being proposed. The car parking calculation is based on the floor area of non-residential uses other than Tourist Accommodation. Therefore, the vehicle parking is not seeking a variation from the requirements outlined in Schedule 9A as there is no change to the floor area of the tenancy.

It is noted that the visitor parking bays are located behind a security gate in the complex. This arrangement was approved as part of the original application and subsequently this matter should not be retrospectively reviewed. However, it is recommended that a condition be imposed on the approval requiring the applicant to devise an appropriate parking management plan for both staff and customers.

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

- (e) Ensure community aspirations and concerns are addressed through Scheme controls;*
- (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.

**(h) 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 matters listed in clause 67 of the Deemed Provisions to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application. The proposed development is considered satisfactory in relation to all of these matters as addressed in this report, subject to the recommended conditions.

**Consultation**

**(i) 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 surrounding the Site were invited to inspect the plans and to submit comments during a minimum 14-day period

During the advertising period, a total of 242 consultation notices were sent and four (4) submissions were received, with all submissions objecting to the proposal. The comments from the submitter(s), together with officer responses are summarised below.

Submitters' Comments	Officer's Responses
<i>Parking – how will members of the gym obtain access to internal car bays</i>	A condition of approval is recommended to require the applicant to provide a satisfactory parking management plan. The comment is <b>NOTED</b> .
<i>Noise – the level of noise generated by the Indoor Sporting Activity use will be excessive</i>	The applicant has provided an acoustic report demonstrating that the proposal will achieve compliance with the Environmental Protection (Noise) Regulations 1997. This report has also been endorsed by the City's internal Environmental Health department. This comment is <b>NOT UPHELD</b> .
<i>Hours of opening – uncomfortable with people attending the gym at early/late hours of the day</i>	The proposed hours of opening are not considered to be inappropriate for the site, noting that the area is an inner city location and it should be reasonably expected, if not encouraged, for businesses to operate beyond typical business hours (ie. 9am-5pm) so as to improve activation of the street throughout the day. The comment is <b>NOT UPHELD</b> .



<i>Use – the proposed use is incompatible with the area and is significantly different from the retail/office uses designated for the tenancy</i>	The use has been supported on the basis of compliance with the applicable guidance statements identified in Schedule 9A. It is considered that the use would improve activation and the vitality of the area. The comment is <b>NOTED</b> .
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The applicant has also provided a response to the submissions received during the advertising period. Refer to **Attachment (c)** for a copy of the response to submissions.

**(j) Internal Administration**

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

The Environmental Health section provided comments with respect to noise management. Environmental Health requested that an acoustic report be provided by the applicant to demonstrate that the proposal will comply with the Environmental Protection (Noise) Regulations 1997. The proponent submitted an acoustic report to the City which Environmental Health have deemed acceptable. Refer to **Attachment (d)** for a copy of the acoustic report.

Accordingly, a planning condition is recommended so that the recommendations of the acoustic report are implemented to the satisfaction of the City.

**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 a non-residential land use of a non-sensitive nature, it is considered that the development enhances sustainability by providing local businesses and employment opportunities.

**Conclusion**

It is considered that the proposal meets all of the relevant Scheme and/or Council Policy objectives and provisions, as it will not have a detrimental impact on adjoining residential neighbours subject to compliance of recommended conditions. In addition, it is considered the proposed Indoor Sporting Activities (Fitness Classes) use will improve interaction with the streetscape, as well as being complementary to existing uses in the immediate vicinity of the site. Provided that

**10.3.3 Proposed Change of Use from Office to Indoor Sporting Activities (Fitness Classes) at Lot 106 (No. 3/53) Labouchere Road, South Perth**

the conditions are applied as recommended, it is considered that the application should be conditionally approved.

**Attachments**

- 10.3.3 (a):** Development Plans for 3/53 Labouchere Road
- 10.3.3 (b):** Site Photos - 3/53 Labouchere Road
- 10.3.3 (c):** Response to submissions by applicant - 3/53 Labouchere Road - Change of use to Indoor Sporting Activities
- 10.3.3 (d):** Acoustic Report - 3/53 Labouchere Road - Indoor Sporting Activities

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

### 10.6.1 Financial Management Reports - August 2017

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-17-78827
Date:	26 September 2017
Author:	Andre Brandis, Manager Finance
Reporting Officer:	Colin Cameron, Director Corporate 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

The monthly financial statements have been reformatted and incorporated in one package (**Attachments (a) – (i)**). High level analysis is contained in the comments of this report.

#### Officer Recommendation

That Council:

- (a) Note the financial statements and report for the month ended 31 August 2017 in accordance with regulation 34 (1) of the Local Government (*Financial Management*) Regulations 1996.
- (b) Note the 2016/17 year end processes are still to be finalised including accruals, that is likely to impact on these reports presented to Council.

#### Background

Regulation 34(1) of the Local Government (*Financial Management*) Regulation 1996, requires each Local Government to present a statement of financial activity, reporting on income and expenditure, as set out in the annual budget. In addition, Regulation 34(5) requires a Local Government to adopt a percentage or value to report on material variances between budgeted and actual results. The 2017/18 Budget, adopted on 10 July 2017, has increased the amount to \$10,000 or 10% for the 2017/18 financial year.

In previous years the monthly reports were presented in two separate agenda item reports, with multiple attachments. These two separate reports, as well as numerous attachments have been streamlined to one agenda item and one attachment. The attachment (Financial Management Report) provides similar information, with less duplication. By way of example, each Financial Management Report contains the Original Budget and the Annual Budget, thereby allowing a quick comparison between the adopted Budget and any Budget Adjustments

approved by Council. This change eliminates the need for the 'Reconciliation on Budget Movements' reports (formerly Attachments g and h).

### **Comment**

The Statement of Financial Activity, a similar report to the Rate Setting Statement, is required to be produced monthly in accordance the Local Government (*Financial Management*) Regulations. This financial report is unique to Local Government, drawing information from other reports to include Operating Revenue and Expenditure, Capital Income and Expenditure as well as transfers to reserves and loan funding. The Statement of Financial Activity has commentary provided on variances, in accordance with the Regulations.

Actual Income from Operating Activities for the year to date is \$45.07m in comparison to budget of \$44.85m. Expenditure from Operating Activities for the year to date is \$7.02m in comparison to budget of \$10.27m. Variations in the month of August are common with a lower activity at the commencement of the year, awaiting the Budget adoptions, as well as many year-end processes currently being undertaken.

In terms of the Capital Summary, actual Capital Revenue for the year to date is \$0.13m in comparison to the budget of \$0.20m. Actual Capital Expenditure for the year to date is \$1.41m in comparison to the budget of \$2.32m.

Cash and Investments balance was \$81.6m, traditionally a high point of the annual cycle, following collection of rates issued with payments being received during August.

The City holds a portion of its funds in financial institutions that do not invest in fossil fuels. Investment in this market segment is contingent upon all of the other investment criteria of Policy P603 being met. Currently the City holds 63.9% of its investments in institutions funding fossil fuels as a subsidiary bank investing in fossil fuels.

### **Consultation**

No external consultation is undertaken.

### **Policy and Legislative Implications**

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

### **Financial Implications**

The preparation of the monthly financial reports occurs from the resources provided in the Annual Budget.

### **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.

**10.6.1 Financial Management Reports - August 2017**

**Attachments**

- 10.6.1 (a):** Statement of Financial Position
- 10.6.1 (b):** Statement of Change in Equity
- 10.6.1 (c):** Statement of Financial Activity
- 10.6.1 (d):** Summary of Operating Revenue and Expenditure
- 10.6.1 (e):** Summary of Capital
- 10.6.1 (f):** Schedule of Significant Variances
- 10.6.1 (g):** Summary of All Council Funds
- 10.6.1 (h):** Summary of Cash Investments
- 10.6.1 (i):** Statement of Major Debtor Categories

## 10.6.2 Listing of Payments

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-17-78828
Date:	26 September 2017
Author:	Andre Brandis, Manager Finance
Reporting Officer:	Colin Cameron, Director Corporate 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

A list of accounts paid under delegated authority (Delegation DC602) between 1 August 2017 and 31 August 2017 is presented to Council for information. During the reporting period, the City made the following payments:

EFT Payments to Creditors	(737)	\$8,911,459.20
Cheque Payment to Creditors	(46)	\$313,097.82
<b>Total Monthly Payments to Creditors</b>	<b>(783)</b>	<b>\$9,224,557.02</b>
Cheque Payments to Non-Creditors	(133)	\$395,418.86
<b>Total Payments</b>	<b>(916)</b>	<b>\$9,619,975.88</b>

### Officer Recommendation

That the Listing of Payments for the month of August 2017 as detailed in **Attachment (a)**, be received

### Background

Local Government (*Financial Management*) Regulation 11 requires the development of procedures to ensure the approval and authorisation of accounts for payment. These controls are documented Policy P605 - Purchasing and Invoice Approval and Delegation DM605 sets the authorised purchasing approval limits.

After an invoice is approved for payment by an authorised officer, payment to the relevant party must be made and the transaction recorded in the City's financial records. Payments in the attached listing are supported by vouchers and invoices.

### Comment

A list of payments made during the reporting period is prepared and presented to the next ordinary meeting of Council and recorded in the minutes of that meeting. The payment listing is now submitted as **Attachment (a)** to this Agenda.

## 10.6.2 Listing of Payments

It is important to acknowledge that the presentation of this list of payments is for information purposes only as part of the responsible discharge of accountability.

The report records payments classified as:

- **Creditor Payments**

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

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

- **Non Creditor Payments**

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

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

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

### **Consultation**

Nil.

### **Policy and Legislative Implications**

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

### **Financial Implications**

The payment of authorised amounts are within existing budget provisions.

### **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](#). This report contributes to the City's financial sustainability by promoting accountability for the use of the City's financial resources.

### **Attachments**

**10.6.2 (a):** Listing of Payments - August 2017

### 10.6.3 Strategic Community Plan

Location:	City of South Perth
Ward:	All Wards
Applicant:	Council
File Ref:	D-17-78829
Meeting Date:	26 September 2017
Author(s):	Vanessa Loncar, Manager Organisational Planning & Performance
Reporting Officer(s):	Colin Cameron, Director Corporate 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

The purpose of this report is to seek Council endorsement to adopt the finalised Strategic Community Plan 2017-2027.

#### Officer Recommendation

That Council adopt the finalised Strategic Community Plan 2017-2027 as per **Attachment (a)**.

#### Background

A Strategic Community Plan is a long term, overarching strategy and planning document that outlines the community's aspirations and priorities for the future and sets out the key strategies required to achieve these. The Plan is a living document which has a partial review in two years' time and a full review in four years' time, in order to reflect the community's changing aspirations and priorities.

The intent of the plan is to:

- Engage the community and articulate a vision, outcomes and priorities;
- Provide local government with a clear understanding of community priorities and long term impacts that will translate to service, asset and land use planning requirements; and
- Guide local government priority setting within the Corporate Business Plan.

A Strategic Community Plan is a legislative requirement as part of the Integrated Planning and Reporting Framework (IPR). The IPR provides a framework for establishing local priorities that are linked to operational functions.

The City will use the Strategic Community Plan to:

- Define clear priorities , processes and long and short term plans
- Priorities budget and resource allocations



- Direct land use, infrastructure, services and asset management, operations and planning
- Direct workforce planning
- Inform other key strategies and plans

**Consultation**

The City embarked on a major review of its 10 year Strategic Community Plan 2013-2023 and developed the Vision 2027 project to engage the community in the review. The engagement activities provided the community and stakeholders with the opportunities to have a say about the City's future and to contribute to shaping the City's priorities for the next 10 years.

The City's Vision 2027 Community and Stakeholder engagement project started in October 2016 and finished in July 2017. Approximately 1300 Community, stakeholders, staff and Council were directly involved in developing the Strategic Community Plan, the activities held are as follows:

- two surveys
- two events
- four workshops
- various Staff and Council meetings
- various social media and online engagement tools.

The City's Vision 2027 Community and Stakeholder engagement project included four stages:

**Stage One: Community Survey**

The Vision 2027 community survey was open from 7 November to 12 December 2016 and asked the community what they liked about the City, ideas for the future and priorities.

**Stage Two: Community and Stakeholder Workshops**

In Stage Two, the City held four workshops at which 60 community members further explored the priorities, discussed visions, reviewed strategies from the Strategic Community Plan 2013-2023 and drafted new strategies.

**Stage Three: Draft Strategic Community Plan released for community and stakeholder engagement**

In Stage Three, a draft Strategic Community Plan was developed taking into account community and stakeholder input from the survey and workshops. The draft plan was then presented to Council at the June 2017 Council meeting.

Council approved the draft and the City invited Community and stakeholders to provide feedback via the City's online engagement portal [yoursay.southperth.wa.gov.au](http://yoursay.southperth.wa.gov.au).

The survey was open from 3 July to 31 July and asked Community to comment on the strategies within the Plan which have been grouped in four categories; Community, Economic, Environment (Built and Natural) and Leadership.

30 responses were received and the feedback (in brief) is as follows:

- Not descriptive enough, need more information on each of the Strategic Directions i.e. need to know the how, why, what and where.
- Need to see connection to what the public have suggested.
- General comments with regards to: Foreshore, Westralian Centre, Heritage, Community and Climate change.

A summary of the feedback can be found in **Attachment (b)**.

#### **Stage Four: Final Strategic Community Plan 2017-2027 presented to Council for adoption**

Following the conclusion of the consultation, all comments were considered and the final Strategic Community Plan was revised to reflect the feedback from the community. Where the feedback hasn't resulted in changes to the plan, the feedback has been noted and/or passed onto City Officers for action.

The following changes have been made to the Strategic Community Plan:

1. Further explanation throughout the document
2. Addition of priorities and aspirations under the heading "What our Community told us"
3. Addition of "Role of the Community"
4. Introduction of outcomes to improve connection for the Community, and group similar strategies together, improve the clarity of the Strategic Community Plan and improve reporting for the Corporate Business Plan.
5. The strategies have essentially remained unchanged, however one of the strategies has been separated into two (1.1 (A) and 1.2 (B)).

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

Section 19C(9) of the Local Government (Administration) Regulations 1996 requires local governments to have a Strategic Community Plan for the district that covers a period of at least ten financial years. It is also a requirement to review the current plan at least once every four years.

#### **Financial Implications**

The updated Strategic Community Plan will help guide the City's financial planning, including the Strategic Financial Plan and annual budgets.

#### **Strategic Implications**

This report will replace the City's [Strategic Community Plan 2015-2025](#).

#### **Sustainability Implications**

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

#### **Attachments**

- 10.6.3 (a):** Strategic Community Plan 2017-2027
- 10.6.3 (b):** Strategic Community Plan 2017-2027 - Community Feedback

#### 10.6.4 Proposed Waste Amendment Local Law 2017

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-17-79659
Meeting Date:	26 September 2017
Author(s):	Sharron Kent, Governance Officer
Reporting Officer(s):	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.

#### Summary

This report recommends that the City adopt a Waste Amendment Local Law to correct a minor error in the City of South Perth Waste Local Law 2017.

#### Officer Recommendation

That the Council:

- in accordance with s3.12(3)(a)(b) of the *Local Government Act 1995*, gives state-wide and local public notice stating that:
  - a) it proposes to make a Waste Amendment Local Law, and a summary of its purpose and effect;
  - b) copies of the proposed local law may be inspected at the City offices; and
  - c) submissions about the proposed local law may be made to the City within a period of not less than six weeks after the statutory public notice is given.
- provide a copy of the local law to the Ministers for the Environment and Local Government in accordance with s3.12(4) of the *Local Government Act 1995*;
- note that the results of the public submission period will be presented to Council for consideration; and
- note that whilst the Waste Amendment Local Law is being made, that where the City of South Perth Waste Local Law 2017 local law is publicly available in the meantime, whether in hard copy or electronic form, it be accompanied by a copy of this undertaking to amend it.

*Simple Majority Vote Required*

#### Background

The *City of South Perth Waste Local Law* was Gazetted in May 2017. It regulates the collection of municipal waste in the City.

The WA Parliamentary Joint Standing Committee on Delegated Legislation (JSCDL) has requested that an addition be made to the City's Waste local law to deal with objection and appeal rights.

### Comment

The JSCDL has written to the City requesting the addition of a clause to add appeal and objection rights available under Part 9 of the Local Government Act 1995. In doing so, the Committee advised that:

*It is clear that your instrument is based on the WALGA template local law, but unfortunately this template differed from the one approved by the previous Committee in its Report No. 77, 'Inquiry into a Proposed Template Waste Local Law'. The Committee is however aware that the WALGA published template omitted the absent clause in error, and that this has now been rectified.*

*In line with its treatment of other local governments in the same position, the Committee requests that the Council of the City of South Perth provides an undertaking that, within six months of the date of this letter, it will amend the Waste Local Law to include an "Objection and appeal rights" clause along the lines of that at clause 5.1 of the revised WALGA template and also:*

- *That any necessary consequential amendments arising from that amendment will be made; and*
- *That where the local law is publicly available in the meantime, whether in hard copy or electronic form, it will be accompanied by a copy of those undertakings.*

*The Committee resolved further to move a Notice of Motion to disallow the local law in the Legislative Council. This should not necessarily be taken as an indication that the Committee will resolve to recommend the disallowance of the law, but merely to afford the Committee and the Council time to resolve this matter satisfactorily.*

There is no reason not to agree with the Committee's request. As such, a simple amendment to add a proposed clause 5.1 as follows (and consequential renumbering of the balance of Part 5 of the Local Law) should be made:

#### **5.1 Objection and appeal rights**

Division 1 of Part 9 of the Local Government Act 1995 applies to a decision under this local law to grant, vary or cancel –

- (a) An approval under clause 2.7(b);
- (b) An exemption under clause 2.8(2);
- (c) An approval under clause 2.10(1);
- (d) An authorisation under clause 3.2(1)(c); and
- (e) An approval under clause 3.3.

For reference, an approval under clause 2.7(b) relates to a request to vary the position of a bin on collection day; an exemption under clause 2.8(2) relates to general exemptions; an approval under clause 2.10(1) is for conditions of the bulk refuse collection to be varied; an authorisation under clause 3.2(1)(c) allows removal of waste from receptacles on private premises; and an approval under clause 3.3 relates to removal of waste from receptacles in a public place.

**Consultation**

Section 61 of the Waste Avoidance and Resource Recovery specifies that waste local laws are to be made in accordance with the process set out by sections 3.11 to 3.17 of the Local Government Act 1995. The process to amend a local law is the same as making one and is set out in s3.12 of the Local Government Act 1995.

In this respect, section 3.12(3) of the Local Government Act 1995 requires a local government to give State-wide and local public notice stating that it proposes to make a local law, the purpose and effect of which is summarised in the notice for a period of 6 weeks after it first appears.

Feedback from this consultation must be considered by Council before it resolves to make the local law.

**Policy and Legislative Implications**

Local laws (and amendments to them) are made using the process set out in section 3.12(3) of the Local Government Act 1995.

The Act requires the person presiding at a Council meeting to give notice of the purpose and effect of the proposed local law by ensuring that the purpose and effect is included in the agenda for the meeting, and that the minutes of the meeting include the purpose and effect of the proposed local law.

The purpose and effect of the proposed *City of South Waste Amendment Local Law Local 2017* is:

Purpose

To amend the City of South Perth Waste Local Law 2017 to insert a right of objection and appeal where the local law provides for decisions to grant, renew, vary, or cancel an approval, exemption or authorization.

Effect

The City of South Perth Waste Local Law 2017 is amended.

The proposed Amendment Local Law is attached.

**Financial Implications**

There are some administrative expenses involved in making the proposed Amendment Local Law.

**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**

**10.6.4 (a):** Proposed Waste Amendment Local Law 2017

### 10.6.5 Financial Interest Returns 2016/2017

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-17-79660
Meeting Date:	26 September 2017
Author(s):	Sharron Kent, Governance Officer
Reporting Officer(s):	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.

#### Summary

This report presents to Council the lodging of the Financial Returns in accordance with the *Local Government Act 1995 (the Act)* and the City's Management Practice M676 '*Financial Interest Returns*'.

#### Officer Recommendation

That the Report on the lodging of the Financial Returns for the period 1 July 2016 to 30 June 2017 be received.

#### Background

The *Local Government Act 1995 (the Act)* requires newly-elected Council members and 'designated employees' (ie. employees with a power of delegation) to lodge a primary return within three months of the commencement of their term of office or employment; and the lodgement of an annual return for each financial year thereafter. Annual returns must be lodged with the CEO by or before 31 August each year. The CEO must lodge his return directly with the Mayor by 31 August each year.

These Returns are held on a Register of Financial Interests, which is available for public inspection upon request.

The City's *Management Practice M676 'Financial Interest Returns'* sets out the process that must be followed in order to comply with the Act, including a requirement to report back to Council.

#### Comment

Primary and Annual Returns for the period 1 July 2016 to 30 June 2017 have now been completed in compliance with statutory requirements by all Elected Members and all designated employees.

Receipt of these Returns has been acknowledged, and the Returns have been placed on the *Register of Financial Interests*.

## 10.6.5 Financial Interest Returns 2016/2017

### **Consultation**

Nil

### **Policy and Legislative Implications**

The Report records compliance with the statutory requirements governing the lodgement of Financial Interest Returns as required by *the Local Government Act 1995*.

The report is consistent with the City's Management Practice *M676 Financial Interests Returns* that requires the Chief Executive Officer to prepare a report to Council on the lodging of Returns as soon as practicable after 31 August each year.

### **Financial Implications**

Nil

### **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

### 10.6.6 Policy 696 Related Party Disclosures

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	Not Applicable
File Ref:	D-17-78916
Meeting Date:	26 September 2017
Author(s):	Christine Lovett, Corporate Support Officer
Reporting Officer(s):	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:	6.2 Develop and maintain a robust Integrated Planning and Reporting Framework (in accordance with legislative requirements).

#### Summary

As a result of changes to the Australian Accounting Standards, all local governments from 1 July 2016 onwards are required to disclose certain related party relationships and related party transactions, in order to comply with Australian Accounting Standard (AASB) 124 Related Party Disclosures.

#### Officer Recommendation

That Council adopts Policy P696 Related Party Disclosures.

#### Background

AASB 124 is the Australian Accounting Standard that provides '*a framework for reporting relationships between the key decision makers in a reporting entity and the reporting entity. This relationship is commonly described as related party*'.

Its objective is to ensure that local government financial statements contain the necessary disclosures to the possibility that its financial position may have been affected by the existence of related parties and by transactions with such parties. Its aim is to enhance transparency and accountability, rather than detect fraud or misconduct.

#### Comment

As a result of the changes to the Australian Accounting Standards, the City is required to establish and implement systems to identify related parties to enable recording of related party transactions from 1 July 2016. If the transactions are material, they will need to be disclosed in the City of South Perth 2016/17 Annual Financial Report in accordance with the requirements set out in AASB 124.

Policy P696 Related Party Disclosures (**Attachment a**) aims to enhance the City's transparency and accountability and defines the parameters and level of disclosure and reporting required by the City in order to achieve compliance with the Australian Accounting Standard AASB 124 – Related Party Disclosures.



## 10.6.6 Policy 696 Related Party Disclosures

As required by legislation, the City's 2016/17 Annual Report will outline all Related Party Disclosures.

It is important to note that these new disclosure requirements are in addition to the existing Local Government Act 1995 and associated Regulations pertaining to Annual and Primary Return Disclosures and Disclosures of Interests, Gifts and Travel.

### Consultation

The Western Australian Local Government Association (WALGA) Annual General Meeting in August 2017 resolved the following:

*That:*

- 1. WALGA lobbies on behalf of local governments for an exempt regulation to be introduced to the Local Government (Financial Management) Regulations 1996 seeking an exemption from complying with AASB 124 Related Party Disclosures and Business Operating Procedure – Related Party Disclosures; and*
- 2. This include WALGA considering the matter as part of the Local Government Act 1995 review process.*

This matter has been the subject of a Councillor Briefing on Monday 7 August 2017. The City has consulted with its auditors and other local governments on AASB 124.

### Policy and Legislative Implications

Australian Accounting Standard AASB 124 – Related Party Disclosures.

### Financial Implications

There will be administrative expenses associated with the implementation and monitoring of Related Party Disclosures.

### 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

**10.6.6 (a):** Related Party Disclosures

## 10.6.7 Proposed Council Meeting Schedule - 2018

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-17-79666
Date:	26 September 2017
Author:	Sharron Kent, Governance Officer
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:	6.1 Develop and implement innovative management and governance systems to improve culture, capability, capacity and performance.

### Summary

This report seeks Council's consideration of the City of South Perth's proposed Council meeting schedule for the period January - December 2018.

### Officer Recommendation

That the proposed City of South Perth meeting schedule for the period January - December 2018, as detailed within this report, be adopted and advertised.

### Background

The Local Government Act 1995 requires local governments at least once a year to give local public notice of the dates, time and place at which the Ordinary Council and Committee meetings (which are required to be open to the public) are held over the next 12 months. A Council resolution is required to adopt the proposed City of South Perth Council Meeting Schedule for 2018.

### Comment

The proposed meeting schedule for January - December 2018 is as follows:

Council Agenda Briefing	Ordinary Council Meeting
<i>January Recess</i>	<i>January Recess</i>
20 February	27 February
20 March	27 March
17 April	24 April
22 May	29 May
19 June	26 June
24 July	31 July
21 August	28 August
18 September	25 September
23 October	30 October
20 November	27 November
11 December	18 December

Typically, the City of South Perth holds its Council Agenda Briefings at 5.30pm on the third Tuesday of each month, with the Ordinary Council Meetings held at 7.00pm on the fourth Tuesday of each month.

The following are the exceptions for 2018:

- January - when the Council is in recess, any urgent matters that may arise that the Chief Executive Officer does not have authority to deal with will be the subject of a Special Meeting of Council. Part 3 of the Standing Orders Local Law 2007 'Calling and Convening Meetings' refers; and
- December - to accommodate the Christmas holidays the meetings have been brought forward a week, as is standard practice.

Public Holiday	2018
New Year's Day	Monday 1 January
Australia Day	Friday 26 January
Labour Day	Monday 5 March
Good Friday	Friday 30 March
Easter Monday	Monday 2 April
ANZAC Day	Wednesday 25 April
Western Australia Day	Monday 4 June
Queen's Birthday	Monday 24 September
Christmas Day	Tuesday 25 December
Boxing Day	Wednesday 26 December

School Holidays	2018
End Term One	Saturday 14 April - Sunday 29 April
End Term Two	Saturday 30 June - Sunday 15 July
End Term Three	Saturday 22 September - Sunday 7 October
End Term Four	Saturday 14 December 2018 - Sunday 3 February 2019

It is proposed that all Ordinary Council Meetings and Council Agenda Briefings for the 2018 calendar year continue to be held in the Council Chamber commencing at 7.00pm and 5.30pm, respectively.

Special Council Meetings

Special Council meetings are generally called on an 'as needed' basis and as a result it is not possible to predict in advance when such meetings will be held. Should a Special Council meeting be convened, the Chief Executive Officer will give each Council member notice, before the meeting, of the date, time, place and purpose of the meeting.

### **Consultation**

It is proposed to advertise the City of South Perth Council 2018 Meeting Schedule in the Southern Gazette newspaper, on the City's website, on the Civic Centre noticeboard, and at both the City's Libraries.

In accordance with normal practice the contents of Agendas for all Council meetings will be included on the City's website under 'Minutes/Agendas', displayed on the noticeboard outside the Civic Administration building and also at both the City's Libraries.

### **Policy and Legislative Implications**

Adopting the Council Meeting Schedule for the forthcoming year is in common with past practice and in line with the *Local Government Act* Regulations r.12(1) (Act s5.25(1)(g)) which state that:

- (1) *"At least once each year a local government is to give local public notice of the dates on which and the time and place at which*
- (a) the ordinary council meetings; and*
  - (b) the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public,*
- are to be held in the next 12 months."*

### **Financial Implications**

There are no financial implications associated with the setting of meeting times, over and above the normal costs associated with the advertising and holding of Council meetings.

### **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.

## 11. APPLICATIONS FOR LEAVE OF ABSENCE

### 11.1 REQUESTS FOR LEAVE OF ABSENCE

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

- Mayor Sue Doherty for 6 October 2017; and
- Councillor Jessica Black for the period 21 September 2017 – 16 October 2017, inclusive.

#### **Officer Recommendation**

That Leave of Absence be granted to:

- Mayor Sue Doherty for 6 October 2017; and
- Councillor Jessica Black for the period 21 September 2017 – 16 October 2017, inclusive.

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

### 12.1 AUSTRALIA DAY (COUNCILLOR CHERYLE IRONS)

At the Council Agenda Briefing held Tuesday 19 September 2017 Councillor Cheryle Irons gave notice that at the 26 September 2017 Ordinary Council Meeting she would move the following Motion.

#### **Motion**

That the Council continues to authorise the City continue to celebrate Australia Day on the 26th January of each and every year.

#### Reasons for the Motion

As we are all well aware, there are three councils in the Eastern States who have moved motions to have Australia Day moved from the 26<sup>th</sup> January. This I believe will continue to escalate to other Councils.

Some of the residents in South Perth have raised this with me and are worried that our Council will move Australia Day from the 26<sup>th</sup> January.

On Australia Day we celebrate our remarkable country along with 24 million Australians. These ceremonies and celebrations begin with welcome to country to acknowledge our Indigenous Australians and conclude with the newest Australian.

This is a day that we are all proud Australians where we come together to be united, not divided especially when there are so many countries in the world fragmented by conflict and violence.

We must stay strong as a Nation and celebrate along with the oldest Australian to the newest baby born in our wonderful Country.

We are the most successful multicultural society in the world and this is cause for celebrations.

Let's not turn our back on Australian values and let's continue to celebrate Australia day on the 26<sup>th</sup> January.

#### CEO Comment

For many years the City has combined the Australia Day Citizenship Ceremony planning and logistics with the other celebrations on the foreshore, utilising the marquee and other infrastructure in the morning for the Citizenship ceremony and later in the day for other activities. The City has no plans to change this arrangement.

## **12.2 PENALTIES FOR PUBLIC REALM TREE DAMAGE (COUNCILLOR GLENN CRIDLAND)**

At the Council Agenda Briefing held 19 September 2017 Councillor Glenn Cridland gave notice that at the 26 September 2017 Ordinary Council Meeting he would move the following Motion.

### **Motion**

That the Council request the City produce a report for presentation to the November Ordinary Council meeting on options for, and impediments to, very substantially increasing the penalty for public realm tree damage / destruction offences including the introduction of graduated offences and penalties and the introduction of mandatory reparation orders for convicted offenders.

### Reasons for the Motion

1. The recent destruction of the 70 year old 20 metre tall tree on the Mends Street foreshore emphasised the gross inadequacy (\$5,000 maximum penalty) of the current tree damage offences under the South Perth local laws and the practical difficulties in recovering full compensation for the loss of amenity and putative costs of tree replacement (in particular where there are no readily available / replantable mature trees of similar grand stature).
2. There are alternative models already in force in Western Australia (including in fisheries and native vegetation protection) that can provide options for a framework for establishing a framework of adequate and appropriate penalties for offences of differing moral culpability and impact upon the public and including mandatory penalty / compensation schemes.
3. The provisions of (restraints?) of the Local Government Act on offence creation / penalty setting needs to also be carefully assessed in this process.Councillor G Cridland.

### CEO Comment

Local Laws are made under Section 3.10 of the *Local Government Act 1995*. However, section 3.10 restricts the penalty that may be imposed by a local government for an offence under that local law. Section 3.10 provides:

- “(1) A local law made under this Act may provide that contravention of a provision of the local law is an offence, and may provide for the offence to be punishable on conviction by a penalty not exceeding a fine of \$5,000”.*
- (2) If the offence is of a continuing nature, the local law may make the person liable to a further penalty not exceeding a fine of \$500 in respect of each day or part of a day during which the offence has continued.*
- (3) The local law may provide for the imposition of a minimum penalty for the offence.*
- (4) The level of the penalty may be related to –
  - (a) the circumstances or extent of the offence;*
  - (b) whether the offender has committed previous offences and, if so, the number of previous offences that the offender has committed.”**

The City’s *Public Places and Local Government Property Local Law 2011* (PPLGPLL) contains a number of provisions that prohibit the removal or damage of a tree located on local government property, clause 4.2, clause 4.4(1) (a) and clause 6.1 (c).

The City’s PPLGPLL already imposes the maximum penalty allowed to be imposed by the City for a tree offence. Clause 10.7 of the PPLGPLL provides:

- “(1) A person who fails to do anything required or directed to be done under this local law, or who does anything which under this local law that person is prohibited from doing, commits an offence.*
- (2) A person who commits an offence under this local law is liable, on conviction, to a penalty not exceeding \$5,000, and if the offence is of a continuing nature, to an additional penalty not exceeding \$500 for each day or part of a day during which the offence has continued”.*

Section 3.10 (3) of the *Local Government Act 1995* gives a local government the power to impose a minimum penalty for an offence under a local law. Therefore the Council could consider amending the PPLGPLL to impose a minimum penalty for a tree offence.

### *Increasing the ‘modified penalty unit’ for a tree offence*

Section 9.16(2) of the *Local Government Act 1995* allows a local government to ‘prescribe’ offences if a prosecution for the offence could be commenced by the local government and the local government is satisfied that:

- a commission of the offence would be a relatively minor matter; and

- only straightforward issues of law and fact would be involved in determining whether the offence was committed, and the facts in issue would be readily ascertainable.

A prescribed offence can be the subject of an infringement notice under section 9.21 of the *Local Government Act 1995*, which provides an alleged offender with the opportunity to pay a modified penalty to avoid prosecution for the offence in court.

Schedule 2 of the PPLGPLL provides that each tree offence is a prescribed offence attracting a modified penalty unit of 20, which is a penalty of \$200.

Section 9.17(3) of the *Local Government Act 1995* provides that, unless otherwise prescribed by regulation, the modified penalty that a local law may prescribe for an offence is not to exceed 10% of the maximum fine that could be imposed for that offence by a court.

Given the maximum fine a Court can impose is \$5,000, the Council could consider amending the PPLGPLL to increase the modified penalty unit for a tree offence from 20 penalty units to 50 penalty units, which would increase the penalty to \$500.

#### ***Imposing graduated penalties***

Section 3.10(4) of the *Local Government Act 1995* provides that a local government may impose a penalty for an offence that takes into account the circumstances or extent of the offence and / or whether the offender has committed previous offences. The Council could consider amending the PPLGPLL to impose graduated penalties for a tree offence - for example, a \$2,000 fine for a first offence, \$3,500 for a second offence and \$5,000 for a third offence or for offences which the City considers to be particularly serious.

#### ***Conclusion***

In summary:

- the Council cannot increase the maximum penalty for a tree offence above \$5,000 (plus a further \$500 per day for continuing offences);
- the Council could consider introducing:
  - minimum penalties;
  - graduated penalties; and
- the Council could consider increasing the prescribed 'modified penalty' stated in the for PPLGPLL each tree offence from \$200 to \$500.



## 13. QUESTIONS FROM MEMBERS

### 13.1 RESPONSES TO PREVIOUS QUESTIONS FROM MEMBERS TAKEN ON NOTICE

At the 22 August 2017 Ordinary Council Meeting questions were Taken on Notice. The responses to these questions can also be found in the **Appendix**.

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

## 15. MEETING CLOSED TO THE PUBLIC

*The Chief Executive Officer advises that there are matters for discussion on the Agenda for which the meeting may be closed to the public, in accordance with section 5.23(2) of the Local Government Act 1995.*

*The Reports regarding these matters have been circulated separately to Councillors.*

### 15.1 MATTERS FOR WHICH THE MEETING MAY BE CLOSED

#### 15.1.1 Information Systems Strategy

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

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	City of South Perth
File Ref:	D-17-78826
Meeting Date:	26 September 2017
Author(s):	Jeff Jones, Manager Information Systems
Reporting Officer(s):	Colin Cameron, Director Corporate 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:	6.1 Develop and implement innovative management and governance systems to improve culture, capability, capacity and performance.

### 15.1.2 Appointment of Design Review Panel members

*This item is considered **confidential** in accordance with the Local Government Act 1995 section 5.23(2) (b) as it contains information relating to "the personal affairs of any person"*

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	City of South Perth
File Ref:	D-17-79662
Meeting Date:	26 September 2017
Author / Reporting Officer:	Vicki Lummer, Director Development and Community 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:	6.3 Continue to develop best practice policy and procedure frameworks that effectively guide decision-making in an accountable and transparent manner.

#### **Officer Recommendation**

That the following Agenda Items be considered in closed session, in accordance with *s5.23(2) of the Local Government Act 1995*:

- 15.1.1 Information Systems Strategy
- 15.1.2 Appointment of Design Review Panel members

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

**16. CLOSURE**



## APPENDIX

### 6.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE: 22 AUGUST 2017

<b>1. Mr Harry Anstey of 21 River View Street, South Perth Received late at the meeting</b>	<b>Response provided by: Mr Mark Taylor, Director Infrastructure Services</b>
1. When does Council propose replanting the median strip in Labouchere Road, Autumn almost gone?	There are no plans to replant trees on these medians until the outcome of the upgrade to Labouchere Road, including access to the Civic Heart site, is known.  This Winter, fifteen street trees have been planted in the immediate area around where the trees were removed as well as over 70 other trees in the Mill Point area at large.
2. If not, this year why?	The City is at least six months away from finalising the road design. Trees may be included in the final design depending on the size of the medians.

### 13.1 RESPONSES FROM PREVIOUS QUESTIONS FROM MEMBERS TAKEN ON NOTICE: 22 AUGUST 2017

<b>1. Councillor Fiona Reid</b>	<b>Response provided by: Mark Taylor, Director Infrastructure Services</b>
<p>1. Have we had any further news on when the footpath at Mill Point Road be opened at the 'Aurelia' site?</p>	<p>The below ground works for the sewer and water main have now been completed and the Builder is keen to progress with the paving of the area in front of Aurelia. The City has identified a safety issue at Aurelia with vehicles exiting the Kwinana Freeway to travel south along Mill Point Road. As a pedestrian activity area the narrow paths in front of Aurelia do not inspire strong feelings of safety. Various forms of pedestrian protection are being assessed and will be presented to Council in the near future.</p>
<p>2. What authority (or tools) does the City of South Perth have to expedite the reopening of the footpath?</p>	<p>The City can ensure footpaths are kept open as it is public land (road reserve) however ensuring public safety during construction activities is paramount.</p>
<b>2. Councillor Ken Manolas</b>	<b>Response provided by: Mark Taylor, Director Infrastructure Services</b>
<p>1. My concern is that developers are allowed to close off these streets and what can Council do to about enforcing safety for the pedestrians, keeping the streets open?</p>	<p>Development Approval and Building Licenses have been issued for buildings which cannot be constructed without closing footpaths and sections of the street. The Aurelia and Echelon developments both have zero setbacks on the property boundary and extended canopies at first floor level. The canopies are constructed as an integral part of the first floor slab and the footpath must be closed for that work to be progressed. Both buildings have extensive below ground grouting pre-works before basements and the "raft" slab footings can be poured. Both buildings also rely on precast panel units that are transported to site and lifted into position. Maintaining separation of pedestrians and construction activities is essential for the safety of pedestrians and the workforce alike.</p> <p>The Echelon building requires all of the verge to complete the "continuous concrete pour" for the "raft" footing, and all further concrete pours for the out of ground elements will require, at specific times, the South Perth Esplanade to be closed. The lifting of precast panels will require both the verge and part of the South Perth Esplanade to be available for construction.</p>

It is therefore not possible to allow full access past the site during the day without compromising public safety and exposing the City to possible insurance claims.

It is acknowledged that outside of core work hours access around the site would be possible if the metal fence was set back off the current kerb line. This has been done and a path will be constructed along this edge. The path will be open each evening and weekends unless there is approved / scheduled works at those times.

