

AGENDA.

Council Agenda Briefing

20 February 2018

Notice of Meeting

Mayor and Councillors

The next Council Agenda Briefing of the City of South Perth Council will be held on Tuesday 20 February 2018 in the City of South Perth Council Chamber, Cnr Sandgate Street and South Terrace, South Perth commencing at 5.30pm.



GEOFF GLASS
CHIEF EXECUTIVE OFFICER

16 February 2018

Please note: The lodgement of the City's report for the development application at 264-270 Canning Highway (Farmer Jacks), Como has now been deferred. The City will advise all submitters of the relevant meeting dates when confirmed.

Our Guiding Values

Trust

Honesty and integrity

Respect

Acceptance and tolerance

Understanding

Caring and empathy

Teamwork

Leadership and commitment

Disclaimer

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

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

Further Information

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

- **Council Meeting Schedule**

Ordinary Council Meetings are held at 7.00pm in the Council Chamber at the South Perth Civic Centre on the fourth Tuesday of every month between February and November. Members of the public are encouraged to attend open meetings.

- **Minutes and Agendas**

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

- **Meet Your Council**

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

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

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Council Agenda Briefing - Agenda

1. DECLARATION OF OPENING

2. ATTENDANCE

2.1 APOLOGIES

2.2 APPROVED LEAVE OF ABSENCE

3. AUDIO RECORDING OF 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.

4. DECLARATIONS OF INTEREST

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

5. DEPUTATIONS

6. DRAFT FEBRUARY REPORTS AS LISTED IN THE APPENDIX

7. CLOSURE

APPENDIX

10.3 STRATEGIC DIRECTION 3: ENVIRONMENT (BUILT AND NATURAL)

10.3.1 SAT Reconsideration: Proposed Single House (Single-Storey) on Lot 276 (No. 19) Salter Point Parade, Salter Point

Location:	Salter Point
Ward:	Manning Ward
Applicant:	Averna Homes
File Reference:	D-18-10161
DA Lodgement Date:	5 April 2017
Meeting Date:	20 February 2018
Author(s):	Allerding & Associates, Consultant
Reporting Officer(s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy:	3.2 Sustainable Built Form

Summary

The City received an application for development approval for a Single House (Two-Storey) on Lot 276 No. 19 Salter Point Parade, Salter Point in April 2017. The application was recommended by officers for approval, however was refused by Council at the 26 September 2017 Ordinary Council Meeting. A full copy of the officer's report and Council's reasons for refusal are detailed in the Minutes of the 26 September 2017 Ordinary Council Meeting.

On 5 October 2017 the applicant lodged an Application for Review of Council's determination with the State Administrative Tribunal (SAT). The original proposal has been modified following mediation sessions and as such SAT issued an order on 29 January 2018 to enable Council to reconsider the matter under s31 of the SAT Act.

Council is being asked to exercise discretion for the modified plans 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
Lot boundary setbacks	R-Codes Clause 5.1.3
Boundary walls	R-Codes Clause 5.1.3 and P350.02
Visual privacy	R-Codes Clause 5.4.1

Consultant Recommendation

That pursuant to Section 31 of the *State Administrative Tribunal Act* that the Council reconsider its decision on 26 September 2017 and that pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for development approval for a Single House (Single-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, revised plans shall be provided that incorporate the following:
 - (i) The provision of a mature tree within the street setback area or elsewhere on the development site.
- (3) Prior to occupation of the dwelling, at least one tree, not less than 3.0 metres in height at the time of planting, and of a species approved by the City shall be planted within the street setback area or elsewhere on the site. The tree shall be maintained in good condition thereafter.
- (4) 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 P350.07 to the satisfaction of the City.
- (5) 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.
- (6) 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.
- (7) 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)
- (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) External clothes drying facilities shall be provided for each dwelling, and shall be screened from view from all streets or any other public place.
- (10) Prior to occupation of the dwelling obscure glazing to the southern kitchen/scullery window shall be installed to prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes of WA*. The obscure glazing shall be installed and remain in place permanently, 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) PN01
- (3) PN02
- (4) Advice note relating to crossover
- (5) Advice note relating to Bushfire Prone Areas

10.3.1

SAT Reconsideration: Proposed Single House (Single-Storey) on Lot 276 (No. 19) Salter Point Parade, Salter Point

- (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:

Zoning	Residential
Density coding	R20
Lot area	759 sq. metres
Building height limit	3.5 metres
Development potential	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.

4. Applications previously considered by Council

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

6. Amenity impact

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

7. Neighbour comments

In considering any application, the assigned delegate shall fully consider any comments made by any affected 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**). The application was recommended by officers for approval, however was refused by Council at the 26 September 2017 Ordinary Council Meeting.

On 5 October 2017, the applicant lodged an Application for Review of Council's determination with the State Administrative Tribunal (SAT). The original proposal has been modified following mediation sessions, and as such, SAT issued an order on 29 January 2018, to enable Council to reconsider the matter under s31 of the SAT Act.

The modifications arising from the mediation sessions include:

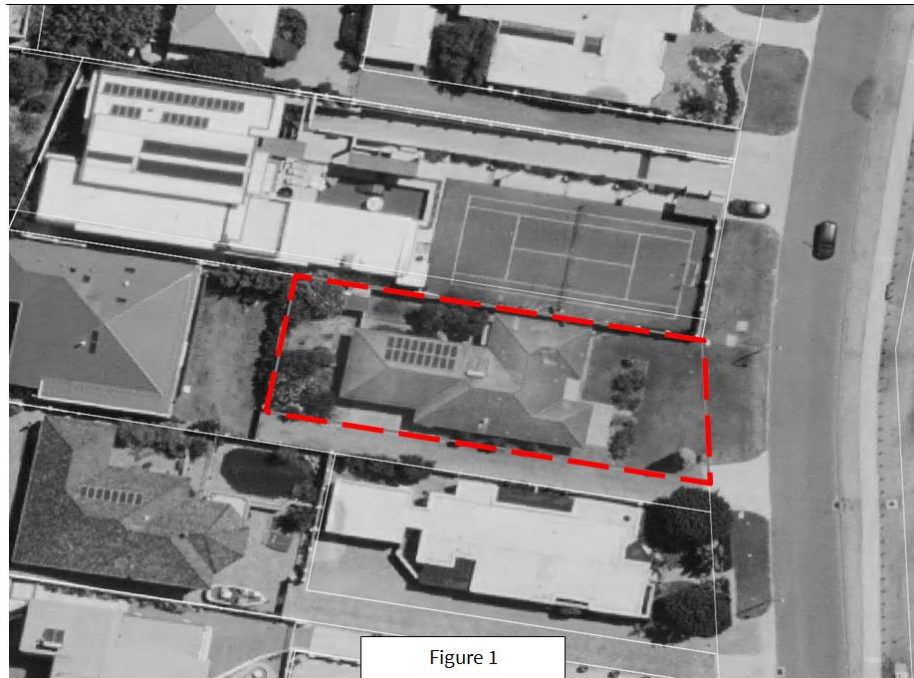
- Removal of the second floor (loft and terrace) from the dwelling;
- Roof pitch of single storey dwelling retained at 14°32';
- Site coverage increased from 52.97% to 54.87%;
- Portion of rear garage boundary wall amended with the 45° wall modified to a 90° wall;
- Southern side setbacks to Bedrooms 2, 3 and 4 and to kitchen and scullery reduced to 1.2m and 2.3m, respectively;
- Eaves to southern side of dwelling have been deleted;
- Raised parapet wall/pier on the southern boundary (abutting driveway) has been deleted; and

SAT Reconsideration: Proposed Single House (Single-Storey) on Lot 276 (No. 19) Salter Point Parade, Salter Point

- Raised parapet walls at the front of the dwelling at 38c & 40c have been deleted and replaced with a single pitched roof.

(b) Description of the Surrounding Locality

The Site has a site area of 759m² and a frontage to Salter Point Parade to the east, located adjacent to residential development, as seen in **Figure 1** below. Currently, there is an existing single storey brick and tile single house on the Site.



(c) Description of the Proposal

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

The proposal has been amended as a result of the SAT mediation process. The latest development plans are provided at **Attachment (a)**. Furthermore, site photographs showing the existing condition of the site with the surrounding built environment are illustrated in **Attachment (b)**.

(d) Scheme and R-Codes Provisions

The following components of the proposed development require discretionary assessments against the *City of South Perth Town Planning Scheme No. 6* (Scheme; TPS6) the *Residential Design Codes of WA* (R-Codes) and or Council Policy requirements:

- 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);

- Lot boundary setbacks (R-Codes Clause 5.1.3);
- Boundary walls (R-Codes Clause 5.1.3 and Council Policy P350.02); and
- 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. The Site has a building height limit of 3.5 metres measured from 2.3 metres above Australian Height Datum (AHD) pursuant to Clause 6.1A(2)(b). 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.

The modified proposal has a maximum building height of 4.8 metres AHD (top of pitch) and a wall height of 3.0 metres AHD.

Clause 6.1A (4) of TPS6 also stipulates that, whilst the measurement of the height of a building excludes the roof height, 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 modified proposed development and the potential impact on their views, five 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 (c)**. 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:

The City has commissioned an independent landscape architect to undertake 3D modelling of the view impacts based on information obtained from the available surveyed data and drawings of the proposed development.

The view impact analysis is provided in **Confidential Attachment (d)**. On the basis of view impact analysis undertaken, Council is required to consider whether the proposed dwelling will cause significant obstruction to the existing views of Canning River from neighbouring properties.

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 **Confidential Attachment (f)** by the landowner. It is notable that the photomontage provided at **Confidential Attachment (f)**

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is based on a roof pitch of 16°42' which reflected the first modified proposal circulated to neighbours following the first mediation. The further modified proposal arising from the second mediation contains a roof pitch at 14°32'. The view impact of the further modified proposal has been modelled in **Attachment (d)**. Whilst views of the Canning River are possible to the north-east and south-east from the first floor balcony and living area of this dwelling, the main easterly view of the Canning River is likely to be obstructed by the roof of the proposed development.

18A Salter Point Parade – this house has been designed to have its main view corridors of the Canning River toward the north-east which will be obstructed by the roof of the proposed development. The proposed development will not significantly obstruct the easterly view in front of the dwelling. Photos of main viewpoints have been provided at **Attachment (c)**.

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



Google Earth image of properties along Salter Point Parade and River Way in proximity of the Site.

Whilst it is acknowledged that the proposed building will cause obstruction of views of Canning River from neighbouring properties, the extent of obstruction has been reduced through the removal of the two-storey element (comprising the loft and terrace) from the building. The removal of the two-storey element will improve access to views of the Canning River from neighbouring properties.

As demonstrated in the view impact analysis is provided in **Attachment (d)**, the roof pitch at 14°32' allows views of the river to be maintained for adjoining properties to the rear of the site. 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 modified proposal 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

	Deemed-to-comply provision	Proposed
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"> • <i>Vehicle access safety;</i> • <i>Reduced impact of access points on the streetscape;</i> • <i>Legible access;</i> • <i>Pedestrian safety;</i> • <i>Minimal crossovers; and</i> • <i>High quality landscaping features</i> 		

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.

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SAT Reconsideration: Proposed Single House (Single-Storey) on Lot 276 (No. 19) Salter Point Parade, Salter Point

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 ² (50%)	342.5m ² (45.13%)
<p><i>Design Principles:</i> <i>Development incorporates suitable open space for its context to:</i></p> <ul style="list-style-type: none"> • Reflect the existing and/or desired streetscape character or as outlined under the local planning framework; • Provide access to natural sunlight for the dwelling; • Reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework; • Provide an attractive setting for the buildings, landscape, vegetation and streetscape; • Provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and • Provide space for external fixtures and essential facilities; 		

Clause 5.1.4 of R-Codes requires a minimum of 50% open space for all residential development under R20 density coding. The amended proposal has marginally reduced the open space provision to enable the accommodation of the guest bedroom (previously located at loft level) within the ground floor footprint. The modified proposal provides 45.13% open space and is therefore seeking a variation of 4.87%.

The modified proposal incorporating a single storey built form with 14 degree roof pitch has been designed to reflect the existing streetscape and reduce the building bulk on the site consistent with the applicable R20 density code. The proposal includes a centrally located landscaped courtyard and a large outdoor living area to the front (east) of the Site. The proposed design also incorporates an open alfresco and outdoor entertaining area, which provides the opportunity for the owners to use this

area for outdoor pursuits 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 an excessive building bulk and does not detract from the existing streetscape within the focus area;
- Outdoor living areas, including a courtyard, alfresco 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.
<p>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></p>		

The modified proposal includes an outdoor living area with a swimming pool and permeable glass front fence to the front (east) of the property. The proposal also includes a south-facing window from the kitchen and scullery area which provides for surveillance of the entrance walkway to the dwelling. 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) Lot Boundary Setbacks

	Deemed-to-comply provision	Proposed
Boundary walls	Buildings set back from lot boundaries in accordance with Table 1, Table 2a and 2b as follows: Bedrooms 2, 3 and 4 wall on the south elevation – 2.2m. Kitchen and scullery wall on the south elevation – 4.5m.	Bedrooms 2, 3 and 4 wall on the south elevation is set back 1.2m. Kitchen and scullery wall on the south elevation is set back 2.3m.
<p>Design principle: <i>Buildings set back from lot boundaries so as to:</i></p> <ul style="list-style-type: none"> • <i>reduce impacts of building bulk on adjoining properties;</i> • <i>provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> • <i>minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</i> 		

The modified proposal has reduced the setback of the proposed dwelling from the southern boundary. The southern boundary of the Site adjoins the battleaxe leg which provides vehicular access to both the subject site and the dwelling to the rear at 19A Salter Point Parade. In reducing the lot boundary setbacks on the southern side of the Site, the proponent has utilised the space provided by the battleaxe leg (approximately 3.5 metres width) to off-set the building bulk and shadow impacts arising from the development. It is considered therefore that the lot boundary setbacks to the southern boundary are an acceptable response to particular the Site characteristics and therefore satisfy the design principles for the following reasons:

- The proposal will not result in unreasonable building bulk on adjoining properties;
- Due to the location of the walls in question being located on the southern side of the Site and adjacent to a battleaxe leg, the proposal will provide adequate direct sun and ventilation to the proposed dwelling and open spaces on the Site and adjoining properties;
- Will not result in overlooking or resultant loss of privacy on adjoining properties.

(j) Boundary Walls

	Deemed-to-comply provision	Proposed
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 associated with the garage.
<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"> • <i>Makes more effective use of space for enhanced privacy for the occupants or outdoor living areas;</i> • <i>Does not compromise the design principle contained in clause 5.1.3 P3.1 (building bulk, direct sun and ventilation and privacy);</i> • <i>Does not have any adverse impact on the amenity of the adjoining property;</i> • <i>Ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted;</i> • <i>Positively contributes to the prevailing development context and streetscape;</i> <p><i>Amenity factor assessment in P350.02:</i></p> <ul style="list-style-type: none"> • <i>Streetscape character;</i> • <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> • <i>Visual impact of building bulk where the proposed boundary wall is situated alongside an outdoor living area on an adjoining lot; and</i> • <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> 		

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.

(k) Visual Privacy

	Deemed-to-comply provision	Proposed
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	Master bedroom is set back 1.5m from the northern lot boundary in lieu of 4.5m; Guest bedroom is set back 2.9m from the northern lot boundary in lieu of 4.5m; Bedrooms 2-4 are set back 1.2m from the southern lot boundary in lieu of 4.5m. Kitchen is set back 2.3m from southern boundary in lieu of 6.0m.
<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"> • <i>Building layout and location;</i> • <i>Design of major openings;</i> • <i>Landscape screening of outdoor active habitable spaces; and/or</i> • <i>Location of screening devices;</i> 		

Due to the raised finished floor level to 2.3 metres AHD as required by Clause 6.1A(2), a number of major openings to habitable rooms within the proposed dwelling cannot comply with deemed to comply requirements regarding visual privacy.

To the north, the common boundary between the Site and 20 Salter Point Parade contains an existing brick wall constructed approximately 2.3 metres in height above natural ground level.

The finished floor level of the proposed dwelling on the northern side of the Site will be approximately 0.53 metres above natural ground level. Therefore, an existing boundary fence height of approximately 2.3 metres in height above natural ground level will screen views up to 1.77 metres above the finished floor level of the dwelling. The Deemed-to-comply height for privacy screens under Clause 5.4.1 (Visual privacy) of the R-Codes is 1.6 metres. Therefore, it is considered that the existing brick fence along the northern boundary of the Site will provide for an adequate screening function to mitigate against direct overlooking to the neighbouring property to the north.

To the south, the common boundary between the Site and 18 Salter Point Parade Site is separated by a 3.5 metre wide battleaxe driveway. Although the battleaxe driveway does not form part of the Site, it does not constitute an outdoor active habitable space requiring protection for visual privacy. The northern boundary of 18 Salter Point Parade, located beyond the 3.5 metre wide battleaxe driveway, comprises a brick wall constructed approximately 1.7 metres in height above natural ground level.

At its highest point, the proposed finished floor level of the proposed dwelling will be 0.58 metres above natural ground level on the southern side of the Site. Therefore, the existing brick wall on the southern side of the driveway would only screen 1.12 metres above finished floor level of the proposed dwelling from the south facing bedroom windows and habitable room windows once constructed.

Bedrooms 2, 3 and 4 are set back 4.7 metres from the brick wall on the northern boundary of 18 Salter Point Parade and therefore comply with the visual privacy setback provisions of the R-Codes in relation to the neighbouring property.

The kitchen and scullery window is set back 5.8 metres from the brick wall on the northern boundary of 18 Salter Point Parade and therefore represents a minor 0.2 metre variation to the R-Codes Deemed-to-comply provisions. The portion of the dwelling at 18 Salter Point Parade that would be impacted by the visual privacy variation contains a north facing outdoor habitable space covered by a pergola.

It is therefore considered that a condition requiring obscure glazing to the southern kitchen and scullery window would prevent direct overlooking to the outdoor active habitable space on the northern side of 18 Salter Point Parade.

Accordingly, apart from the southern kitchen and scullery window, it is considered that the proposed visual privacy variations satisfy the design principle for the following reason:

- The major openings will not overlook any habitable spaces or outdoor living areas on neighbouring properties.

(l) 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.

(m) 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 the modified 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 modified plans and to submit comments during a 21-day period. It is notable that the modified proposal circulated to neighbours contained a 16°42' roof pitch. The roof pitch considered as part of the further modified plans is 14°32' which is consistent with the ground floor roof pitch of the original proposal previously considered by Council in September 2017.

During the advertising period, a total of seven consultation notices were sent and five submission(s) were received, all objecting to the proposal. A schedule of submissions, applicant's response and City's comment is provided at **Attachment (e)**. A full copy of submissions is provided at **Confidential Attachment (f)**.

(b) Engineering Infrastructure Department

The City's Engineering Infrastructure Department was previously invited to comment on a range of issues relating to stormwater management. A copy of Engineering Advice is provided at **Attachment (g)**.

Accordingly, should Council approve this proposal, the proposed planning conditions and/or advice notes are recommended to give due 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

This determination has some financial implications, should the applicant not be satisfied with Council's determination, then the SAT review process may continue. This will incur additional fees to defend Council's decision at the SAT. The City has spent \$24,550 to date on having representation at the SAT proceedings.

Strategic Implications

This matter relates to Strategic Direction 3 "Environment (Built and Natural)" identified within Council's [Strategic Community Plan 2017-2027](#).

Sustainability Implications

Noting the favourable orientation of the lot, the officers observe that the proposed outdoor living areas 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 modified proposal meets all of the relevant Scheme, R-Codes and/or Council Policy objectives and provisions. With modification to the roof pitch at 14°32', it is considered that this specific modification has no 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 lowered roof pitch, view corridors are maintained. Accordingly, it is considered that the application should be conditionally approved.

Attachments

- 10.3.1 (a):** Attachment (a) - Development Plans for 19 Salter Point Parade
- 10.3.1 (b):** Attachment (b) - Site Photos
- 10.3.1 (c):** Attachment (c) - Photos of significant views from affected properties
- 10.3.1 (d):** Attachment (d) - View analysis produced by the City's consultant landscape architect
- 10.3.1 (e):** Attachment (e) - Schedule of summarised submissions, applicant's response and City's comment
- 10.3.1 (f):** Attachment (f) - A full copy of all submissions (*Confidential*)
- 10.3.1 (g):** Attachment (g) - Engineering Comments

10.3.2 Proposed Two-Storey Single House at Lot 5, No. 82 River Way, Salter Point.

Location: Salter Point
Ward: Manning Ward
Applicant: Avena Homes
File Reference: D-18-5637
DA Lodgement Date: 31 August 2017
Meeting Date: 20 February 2018
Author(s): Valerie Gillum, Statutory Planning Officer Development Services
Reporting Officer(s): Vicki Lummer, Director Development and Community Services
Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy: 3.2 Sustainable Built Form

Summary

To consider an application for development approval for a Two-Storey Single House on Lot 5 (No. 82) River Way, Salter Point. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Site Works	R-Codes Design Principle 5.3.7
Retaining Wall Height	R-Codes Design Principle 5.3.8
Visual Privacy	R-Codes Design Principle 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 development approval for Two-Storey Single House on Lot 5 (No. 82) River Way, Salter Point **be approved** subject to:

- (1) The development shall be in accordance with the approved plans unless otherwise authorised by the City.
- (2) Prior to occupation of the dwelling, all visual privacy screens and obscure glazing, to Major Openings and/or Outdoor Active Habitable Spaces shown on the approved plans, shall prevent overlooking in accordance with the visual privacy requirements of the Residential Design Codes of WA. The structure(s) shall be installed and remain in place permanently, to the satisfaction of the City.
- (3) Prior to occupation of the dwelling 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.
- (4) The existing crossover shall be removed and the verge and kerbing shall be reinstated to the satisfaction of the Director, Infrastructure Services.

- (5) 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.
- (6) 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.
- (7) A separate application will be required for any primary street fencing.
- (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) At least one tree, not less than 3.0 metres in height, shall be planted on the site within the front setback area as indicated on the approved plans, prior to occupation of the dwelling. The tree shall be maintained in good condition thereafter, to the satisfaction of the City.

Advice Notes

- (i) PN01 – Notice of Determination is not a building permit.
- (ii) PN02 – Approval does not have regard to any constraint to development.
- (iii) PN13 – Issues relating to dividing fences.
- (iv) PN21 – Variations from planning approved plans.
- (v) PN22 – Recommendation for dilapidation report.
- (vi) PNX1 – Validity of approval.
- (vii) PNX2 – Where approval lapses.
- (viii) PNX3 – Right of Appeal.
- (ix) Standard crossover advice note.
- (x) Standard advice note regarding a lot within a bushfire prone area.

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

Background

The development site details are as follows:

Zoning	Residential
Density coding	R20
Lot area	603 sq. metres
Building height limit	3.0 metres
Development Potential	One (1) Single House

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

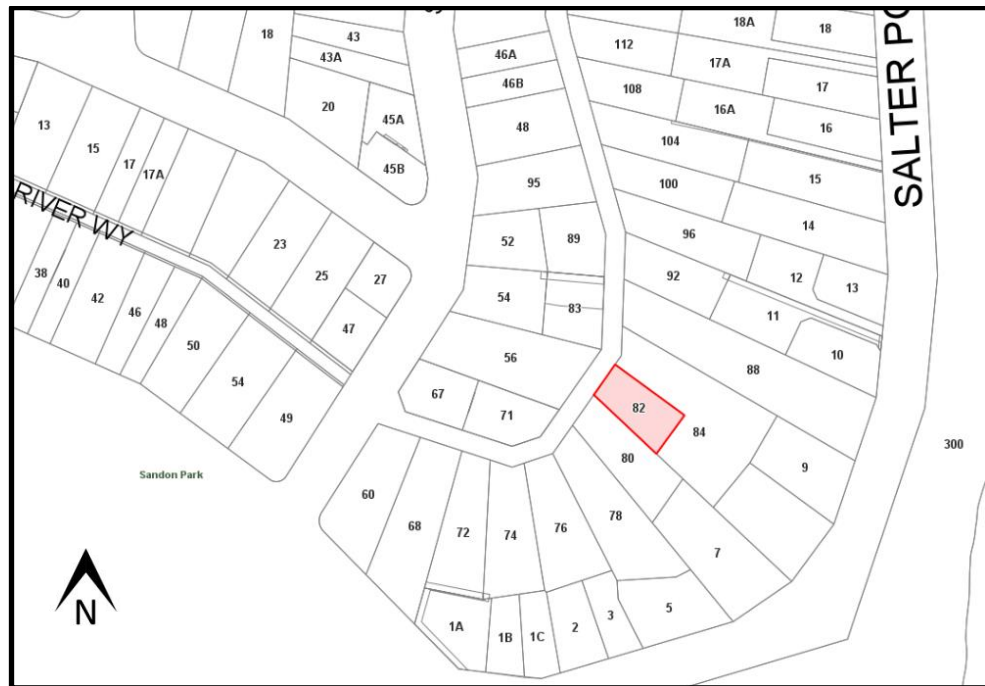


Figure 1: Development Site

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 the 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;

Comment

(a) Background

In August 2017, the City received an application for a Two-Storey Single House at Lot 5 (No. 82) River Way, Salter Point (the **Site**).

Further information was requested from the proponent to demonstrate compliance with the building height limit of 3.0 metres as well as the impact the development would have on views of significance toward the Canning River.

(b) Existing Development on the Subject Site

The Site includes a Two-Storey Single House which is proposed to be demolished.

(c) Description of the Surrounding Locality

The Site has a frontage to River Way to the north-west, located east of Sulman Avenue and to the west of Salter Point Parade, as seen in **Figure 2** below:



Figure 2: Aerial image of the Site.

(d) 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, as depicted in the submitted plans at **Attachment (a)**. The proposal single house includes the following:

- 5 bedrooms;
- 2 en-suites and 2 powder rooms;
- Kitchen, scullery, dining and family rooms;
- Cellar/store under internal stairwell and additional store under external stairwell;
- 2 study/tech nooks;
- Alfresco and pool;
- Balcony; and
- Garage/store with 2 visitor bays directly in front.

The proposal has been amended as a result of the City's planning assessment. The latest development plans dated 18 January 2018 are provided at **Attachment (a)**.

Furthermore, the site photographs show the relationship of the Site with the surrounding built environment at **Attachment (b)**.

(e) R-Codes and Scheme Provisions

The following components of the proposed development require discretionary assessments against the *City of South Perth Town Planning Scheme No. 6* (Scheme; TPS6) the *Residential Design Codes of WA* (R-Codes) and/or Council Policy requirements:

- (i) Site works
- (ii) Retaining wall height
- (iii) Visual privacy

The proposal is considered to meet all other relevant Design Principles or discretionary criteria of the Scheme, the R-Codes and relevant Council policies. The various discretionary assessments are discussed in further detail below. Other items discussed below were considered to meet the provisions, however are discussed due to their potential to affect amenity within the Salter Point Precinct.

(i) Site Works

Element	Deemed-to-comply	Proposed
Filling behind the street setback	0.5m	Up to 0.8m

Design Principles:
 P7.1: Development that considers and responds to the natural features of the site and requires minimal excavation/fill.
 P7.2: Where excavation/fill is necessary, all finished levels respecting the natural ground level at the lot boundary of the site and as viewed from the street.

The proposed level of fill is considered to meet the Design Principles of the R-Codes for the following reasons:

- It is recognised that, due to the gradient in the topography of the site, some fill and excavation is necessary to create a relatively level pad for construction. The bulk of the building has been lowered into the ground and therefore the extent of fill is minimised. As such, the development is considered to respond to the natural features of the site in order to minimise the level of fill required.
- As shown in the south-western elevation of the development below in Figure 3 (area highlighted green), it is effectively the portion of the site which includes a level pad for parking of visitors cars that exceeds 500mm. This raised area sits adjacent the driveway on the adjoining property and will not result in loss to privacy to that adjoining neighbour.

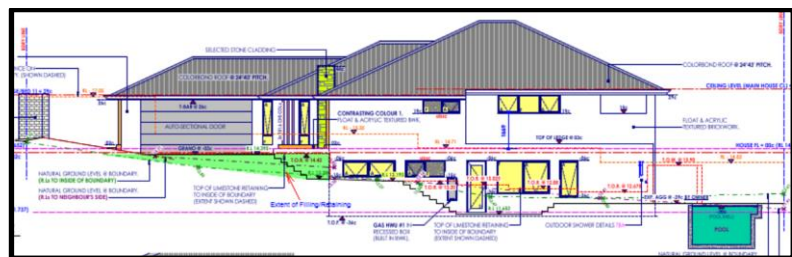


Figure 3: Retaining and Filling Diagram

The maximum finished floor level permitted for the front (north-west) portion of the building is RL 13.84 metres above AHD, when applying equal cut and fill above the ground level at the perimeter of the building. The proposed finished floor level is 14.40 metres therefore the proposed development needs to be considered under clause 6.10.1 (b) of TPS6.

The floor level proposed is considered to be supportable under clause 6.10.1 (b) of TPS6 for the following reasons:

- The proposed development would achieve a visually balanced streetscape taking into consideration the floor levels of adjoining lots.
- The floor level will not unreasonably adversely affect the amenity of the neighbouring properties in relation to visual impact and overshadowing.

The site works have also been assessed against Local Policy P350.17 'Site Works'. The proposal does not meet with the Deemed-to-Comply criteria of this policy as the proposal involves excavation within 1m of a lot boundary that exceeds 0.5m below the natural ground level.

The *Explanatory Guidelines for the Residential Design Codes WA* states the following in respect to excavation and retaining walls:

Excavation below natural level is not usually as visually obtrusive as filling above natural level. Consequently, excavation behind the street setback line is normally acceptable, provided the resulting spaces and rooms conform the BCA standards (Design element 6 – pg. 55, additional emphasis added).

The proposed site works are seen to be consistent with the objectives of this policy as the extent of excavation and retaining up to 1.3m is to allow the lower level of the dwelling to be recessed into the ground thereby responding appropriately to the natural features of the site and permits a two-storey building that fits within the building height limit of 3.0 metres. The proposed works respect the integrity of the adjoining property by placing the walls away from the boundary to ensure minimal impact. It is also noted that the retaining would be setback a considerable distance from the primary street, thus having little influence on the presentation to the streetscape.

(ii) Retaining Walls

Element	Deemed-to-comply	Proposed
Retaining wall height	Up to 0.5m within 1m of a lot boundary	Up to 1.3m in height within nil to 1.0m of a lot boundary
<p><i>Design Principles:</i> <i>P8: Retaining walls that result in land which can be effectively used for the benefit of residents and do not detrimentally affect adjoining properties and are designed, engineered and landscaped having due regard to clauses 5.3.7 and 5.4.1.</i></p>		

The proposed retaining wall heights are considered to meet the Design Principles of the R-Codes for the following reasons:

- The retaining walls are considered to result in land which can be effectively used for the benefit of residents, by levelling the front portion of the site with retaining and fill appropriately for

construction and lowering the rear portion by retaining and excavating to achieve a two-storey building that fits within the building height limit of 3.0 metres.

- Taking into account that the majority of walls do not result in raising the levels of the site, there is not considered to be a detrimental impact on adjoining properties as the design of the retaining is considered to address clauses 5.3.7 (site works) and 5.4.1 (visual privacy) of the R-Codes.

(iii) Visual Privacy Setbacks

Element	Deemed-to-comply	Provided
View East – Upper Balcony	7.5m	5.0m
<p><i>Design Principles:</i> <i>P1.1: Minimal direct overlooking of active habitable spaces and outdoor living areas of adjacent dwellings achieved through:</i></p> <ul style="list-style-type: none"> • <i>Building layout and location;</i> • <i>Design of major openings;</i> • <i>Landscape screening of outdoor active habitable spaces; and/or</i> • <i>Location of screening devices.</i> 		

The *Explanatory Guidelines for the Residential Design Codes WA* states the following in respect to the cone of vision for reduced visual privacy setbacks:

*Evaluation of proposals should take into account only the potential impact of sight lines within the **cone of vision** where separation distances do not meet the deemed-to-comply provisions (Design element 7 – pg. 61, additional emphasis added).*

The separation distance in this case does not meet the 7.5m prescribed setback, therefore any overlooking within the cone of vision area is to be assessed.

In this regard, the proposed balcony is considered to meet the Design Principles of the R-Codes relating to minimal direct overlooking of active habitable spaces for the following reasons:

- It is acknowledged that the balcony would overlook an outdoor area behind the street setback line of the adjoining property to the east as shown in Figure 4, however taking into account the angle of view; it is an angle which only facilitates a narrow viewing corridor and extends to an area of the rear yard that includes extensive areas of garden.

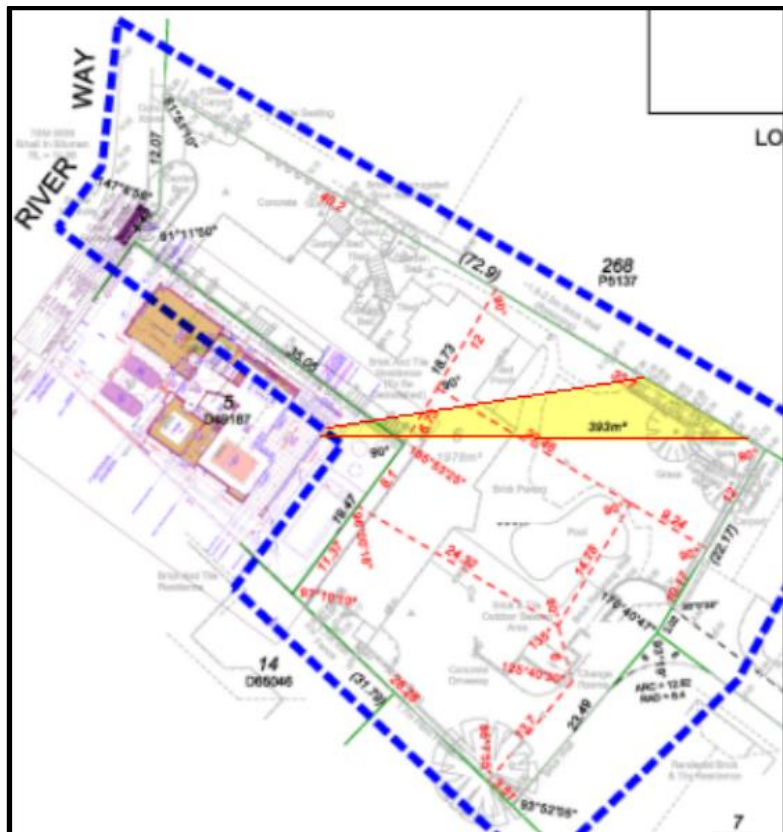


Figure 4: Extent of view corridor from upper balcony.

- Figure 5 below shows the extent of overlooking to the ground storey looking east, which like the outdoor area noted above, is at an oblique angle and windows and doors at this level are to a laundry and toilet.

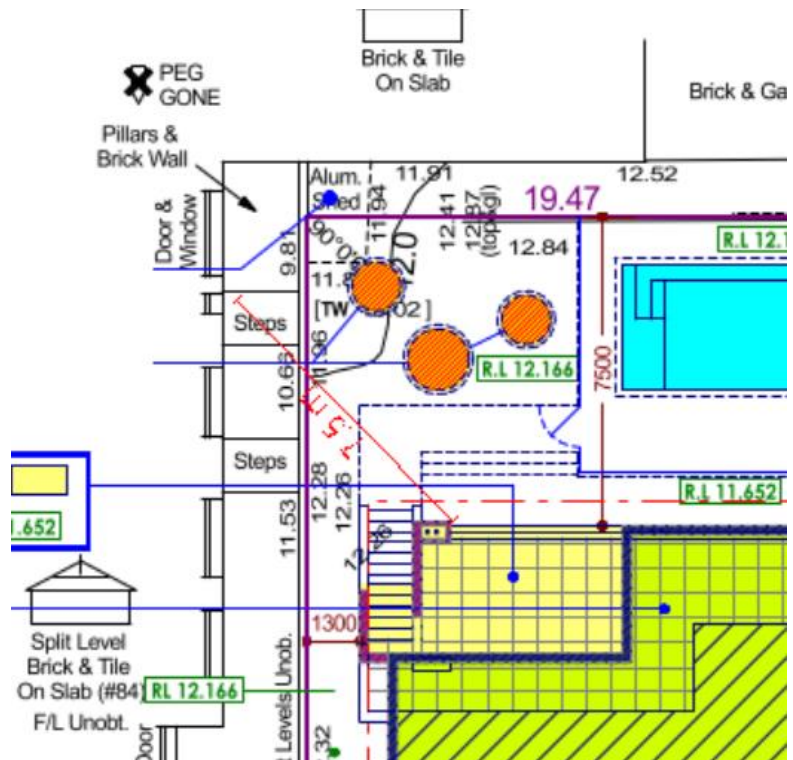


Figure 5: Overlooking from upper balcony to eastern adjoining property to non-habitable rooms at ground level.

(f) Building Height Restrictions in Precinct 13 'Salter Point'

Clause 6.1A(9) of Town Planning Scheme No 6 requires that on land assigned a building height limit of 3.0 metres, that a person shall not erect a building unless the Council is satisfied that views of the Canning River from any buildings on neighbouring land will not be significantly obstructed.

In accordance with Clause 6.1A(9) notices were served upon the owners and occupiers of the lots potentially affected in relation to views of the Canning River, in accordance with Deemed Provisions clause 64.

The proposed development is considered to satisfy the requirements of the Scheme as they relate to views of the Canning River as follows:

- Figure 6 below demonstrates that the subject site and proposed building will be setback considerably further than the existing buildings at No. 80 and 84 River Way, thereby not impacting on views to Canning River for either adjoining property.

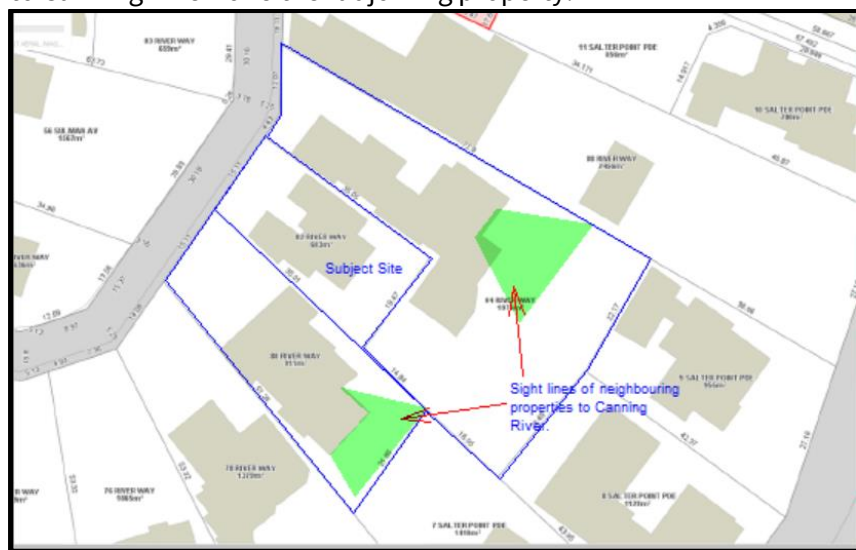


Figure 6: Sight Lines currently enjoyed by adjoining properties.

- With the subject site having a building height limit of 3.0 metres, the dwelling presents as a single storey where viewed from River Way and will therefore not impact on views from properties on the opposite side of River Way. Moreover, Figure 7 below submitted by the applicant, demonstrates that the proposed roof form reduces the roof area compared to the dwelling this proposal is replacing.

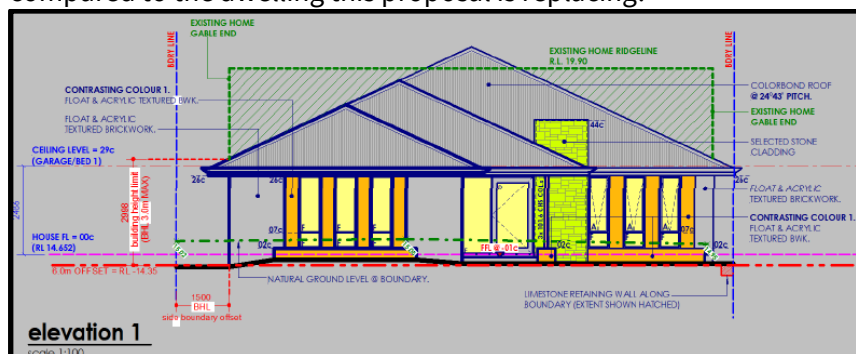


Figure 7: Roof Form Comparisons.

- It is noted that no comments in respect to loss of views were raised by neighbours during the consultation period.

(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:

- (a) Maintain the City's predominantly residential character and amenity;*
- (f) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*

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

(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 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 71, 80, 83 and 84 River Way and No 56 Sulman Avenue, Salter Point were invited to inspect the plans and to submit comments during a minimum 14-day period (refer to **Figure 6** below).

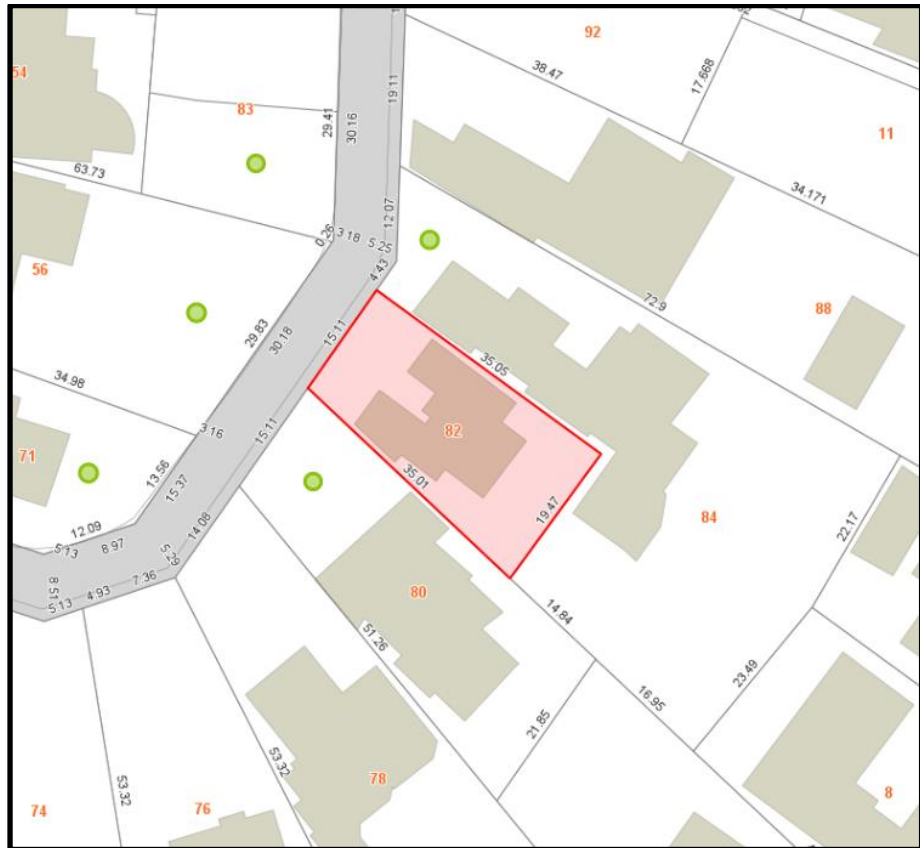


Figure 5: Neighbour Consultation Map

During the advertising period, a total of five (5) consultation notices were sent and one (1) submission was received objecting to the proposal. The comments of the submitter, together with officer responses are summarised below.

Submitters' Comments	Officer's Responses
<p>The following comments relate to visual privacy concerns:</p> <ul style="list-style-type: none"> • Internal staircase windows look directly into our children's bedroom windows. • The reduced visual privacy setback at the rear at 6.0m in lieu of 7.5m will impact on privacy to our pool area. • Inadequate screening to the gated area off the alfresco. 	<p>In regard to the internal staircase, there are no habitable rooms that can look directly out from these windows; therefore the noted windows are not required to be modified. In accordance with the R-Codes the windows are not considered to be major openings as they do not relate to habitable rooms of the building. The comment is NOT UPHELD.</p> <p>In regard to the reduced setback, the plans have been amended so that the upper balcony is setback at 7.5m. A small portion of the cone of vision extends across the boundary shared with No. 84 River Way looking east; however the view is oblique and overlooks an extensive area of garden. This aspect is discussed further in Section (e)(iii) of the report. The comment is UPHELD.</p>

	In regard to the gated area off the alfresco, amended plans were provided to increase the external wall height at the landing so as to screen the opening. The comment is UPHELD .
Location of air conditioning unit compressor too close to bedrooms in terms of noise.	Noise from an air conditioning unit is not a planning consideration. Impacts of noise are governed by the Environmental Protection Act. The comment is NOT UPHELD .
Concerned about the integrity of the existing back retaining wall and request that the wall's integrity is maintained during demolition/construction.	Although not a planning consideration, an advice note will be included to the effect that a dilapidation report be undertaken prior to any works commencing on site. The comment is NOTED .

(b) Engineering Infrastructure Department

The City's Engineering Infrastructure Department was invited to comment on a range of issues relating to drainage and site access arising from the proposal. A full copy of the comments from Engineering can be found at **Attachment (c)**.

Planning conditions and important notes are recommended to deal with issues raised by the Engineering Infrastructure Department.

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 "Environment (Built and Natural)" identified within Council's [Strategic Community Plan 2017-2027](#).

Sustainability Implications

Noting the favourable orientation of the lot, the officers observe that a number of north facing windows 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 is not considered to have a detrimental impact on adjoining residential neighbours and streetscape. In particular, it is considered that the proposal would result in an acceptable impact on views of Canning River for neighbouring properties in accordance with the provisions of the Scheme relating to Salter Point. Accordingly, it is considered that the application should be approved subject to appropriate conditions.

10.3.2 Proposed Two-Storey Single House at Lot 5, No. 82 River Way, Salter Point.

Attachments

- 10.3.2 (a):** Amended Development Plans - No. 82 River Way
- 10.3.2 (b):** Site Visit Photos – 82 River Way
- 10.3.2 (c):** Engineering Comments - 82 River Way

10.3.3 Proposed Two Storey Single House. Lot 242 (No. 5) Unwin Crescent, Salter Point (Proposed Lot 552 (No.17) River Way, Salter Point)

Location: Lot 242, No. 5 Unwin Crescent, Salter Point
 Ward: Manning Ward
 Applicant: Averno Homes
 File Reference: D-18-7352
 DA Lodgement Date: 4 December 2017
 Meeting Date: 20 February 2018
 Author(s): Victoria Madigan, Statutory Planning Officer
 Reporting Officer(s): Vicki Lummer, Director Development and Community Services
 Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods
 Council Strategy: 3.2 Sustainable Built Form

Summary

This report seeks the Council's consideration of an application for development approval for a two storey single house on proposed Lot 552 (No. 17) River Way, Salter Point (Lot 247 (No. 5) Unwin Crescent, Salter Point).

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

Element on which discretion is sought	Source of discretionary power
Street Setbacks - Buildings other than Carports and Garages (Council Policy P306)	Residential Design Codes (Design Principles of Clause 5.1.2)
Triple Garage Width	Council Policy P350.03 clause 2.2 (b)
Lot Boundary Setback (Boundary Walls)	R- Residential Design Codes (Design Principles of Clause 5.1.3)

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 two storey single house on parent Lot 247 (No. 5) Unwin Crescent, Salter Point (proposed Lot 552 (No. 17) River Way, Salter Point) **be approved** subject to the following conditions:

(a) Conditions

- (1) The surface of the boundary wall to the Garage visible from the street, on the western side of the lot, shall be finished in a clean material to the same standard as the rest of the development, to the satisfaction of the City.
- (2) Prior to the issue of a building permit, details of the surface of the boundary wall to Bedroom 4, not visible from the street and on the western side of the lot shall be provided and the surface finish is to match 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, to the satisfaction of the City. Walls built to lot boundaries shall be finished in a clean material to the same standard as the rest of the development prior to the developments occupation.

- (3) Prior to occupation of the dwelling, all obscure glazing, to Major Openings and/or Outdoor Active Habitable Spaces shown on the approved plans, shall prevent overlooking in accordance with the visual privacy requirements of the *Residential Design Codes of WA*. The structure(s) shall be installed and remain in place permanently, to the satisfaction of the City.
- (4) Prior to occupation of the dwelling 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 Specific Advice Note 1)
- (5) All stormwater from the property shall be discharged into soak wells or sumps located on the site unless otherwise approved by the City.
- (6) External clothes drying facilities shall be provided for each dwelling, and shall be screened from view from all streets or any other public place.
- (7) External fixtures, such as air-conditioning infrastructure, shall be integrated into the design of the building so as to not be visually obtrusive when viewed from the street and to protect the visual amenity of residents in neighbouring properties, to the satisfaction of the City.
- (8) At least one tree not less than 3.0 metres in height at the time of planting and of a species approved by the City shall be planted within the street setback area of the site prior to human occupation of the dwelling. The tree(s) shall be maintained in good condition thereafter.
- (9) The development shall be in accordance with the approved plans unless otherwise authorised by the City.

(c) Advice Notes

- (1) PN02,PN03,PNX1,PNX2,PNX3

(d) Specific Advice Notes

- (1) The applicant / owner are advised of the need to comply with the City's Engineering Infrastructure Department requirements. Please find the enclosed memorandum, dated 3 January 2018, to this effect.
- (2) This land is within a bushfire prone area as designated by an Order made by the Fire and Emergency Services Commissioner and may be subject to a Bushfire Management Plan. Additional Planning and Building requirements may apply to development on this land.

Background

The development site details are as follows:

Zoning	Residential
Density coding	R20
Lot area	543 sq. metres
Building height limit	7.0 metres

The location of the development site is shown below:

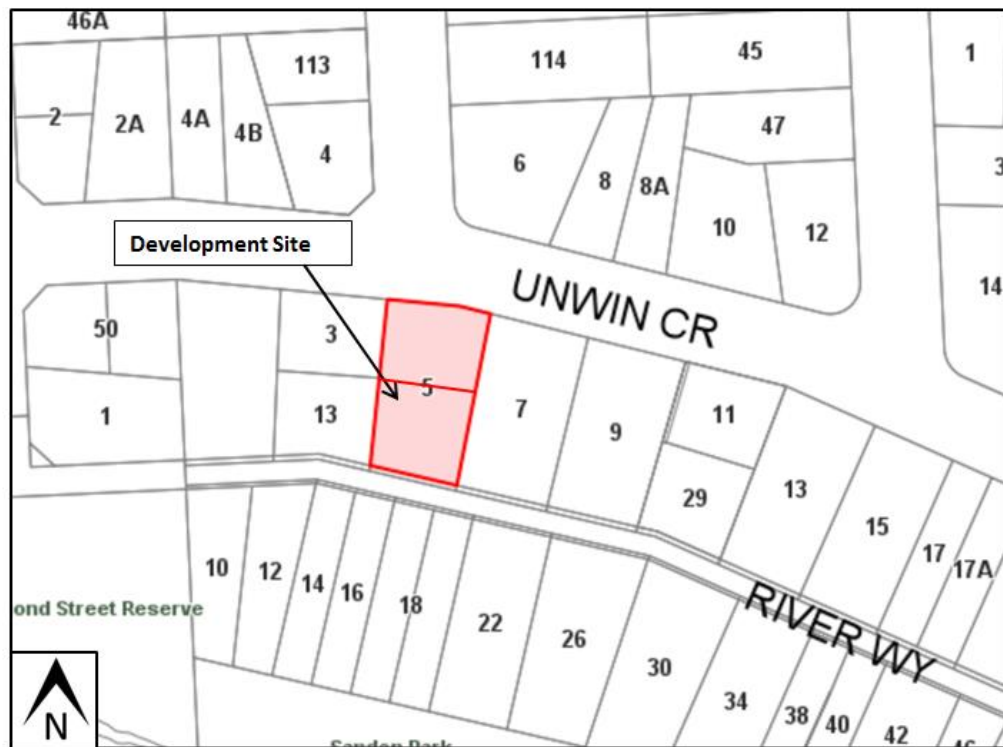


Figure 1 - Location of Development Site

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 propose variations to Policy P306 "Development of Properties Abutting River Way".
- (c) Applications which, in the opinion of the delegated officer, represent a significant departure from the Scheme, the Residential Design Codes or relevant Planning Policies.

Comment

(a) Background

In December 2017 the City received an application for a two storey single house on Lot 552, No. 17 River Way, Salter Point (the **Site**). In September 2016 the parent lot of 17 River Way (formally known as No.5 Unwin Crescent) received a conditional subdivision approval for two green title lots as depicted in **Attachment (d)**, these lots have not yet been created.

(b) Existing Development on the Subject Site

The site currently features a vacant residential block, as depicted in the site photographs at **Attachment (a)**.

(c) Description of the Surrounding Locality

The Site has a frontage to River Way to the South and is located adjacent to single residential dwellings to the east and west and to a vacant block of land to the north, as seen in **Figure 2** below:



Figure 2 – Aerial of Development Site

(d) Description of the Proposal

The proposal involves the erection of a two storey single house featuring a conventional design with a triple garage, pool, alfresco, beds 3-5, lift and laundry on the ground floor and living dining master bed, guest bed and balcony on the upper floor. The proposal complies with the views assessment policy and the Building Height Limit requirement under TPS6.

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

- Garage width (Council Policy P350.03 clause 2.3 (b))
- Street Setback (Council Policy P306 clause 1 (a))
- Lot boundary setbacks (R-Codes clause 5.1.3 and Tables 2a/2b).

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

(e) Street Setback- ground and first floor

As the site abuts River Way, Salter Point, the minimum street setback provisions for this site are specified in Council *Policy P306 Clauses 1 and 2*. This policy replaces the deemed-to-comply standards in the R-Codes that would otherwise apply. As such, the Policy requires the ground and upper floor level of the building to be setback at least 6 metres from the River Way boundary. The site does not qualify for a reduced setback or averaging of the setback, as per *Clause 1(b)*.

The River Way street setback requirements were introduced into Council *Policy P306* in 2014, in response to community concerns about the bulk and scale impacts of some developments recently constructed on properties abutting River Way. Currently, most of the existing developments abutting River Way predate the current planning requirements as depicted in the table below.

	Deemed-to-Comply Provision	Proposed
Street Setback	6 metres	Minimum setback is 4.363 metres Average 7.325 metres
<p><i>Policy Objectives</i></p> <ol style="list-style-type: none"> <i>To protect the streetscape character of River Way by ameliorating the bulk and scale impacts of buildings as viewed from that street.</i> <i>To make adequate provision for visitor parking on development sites with a frontage onto River Way having regard to the extremely narrow width of the road reservation.</i> <i>To facilitate orderly traffic movement and parking by regulating the location of future vehicle crossovers.</i> <i>To ensure that all fencing on or near the River Way street boundary contributes positively to streetscape compatibility.</i> <p><i>R- Codes Design Principles Clause 5.1.2</i></p> <p><i>P2.1 Buildings set back from street boundaries an appropriate distance to ensure they:</i></p> <ul style="list-style-type: none"> <i>• contribute to, and are consistent with, an established streetscape;</i> <i>• provide adequate privacy and open space for dwellings;</i> <i>• accommodate site planning requirements such as parking, landscape and utilities; and</i> <i>• allow safety clearances for easements for essential service corridors.</i> <p><i>P2.2 Buildings mass and form that:</i></p> <ul style="list-style-type: none"> <i>• uses design features to affect the size and scale of the building;</i> <i>• uses appropriate minor projections that do not detract from the character of the streetscape;</i> <i>• minimises the proportion of the façade at ground level taken up by building services, vehicle entries and parking supply, blank walls, servicing infrastructure access and meters and the like; and</i> <i>• positively contributes to the prevailing development context and streetscape.</i> 		

The ground floor level has a minimum setback of 4.62m and the first floor has a minimum setback of 4.363m from River Way boundary and as a result do not comply with the minimum 6.0 setback requirements. The components of the building setback less than the *Policy P306* requirements are highlighted in **Figures 3** and **4** below:

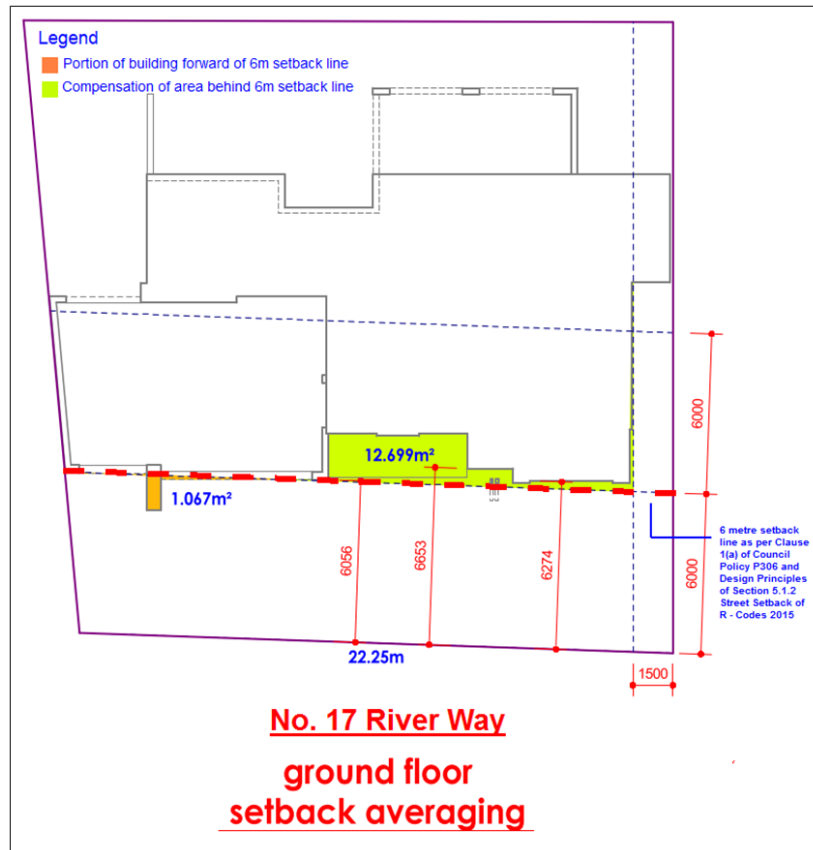


Figure 3- Proposed Ground Floor level street setback

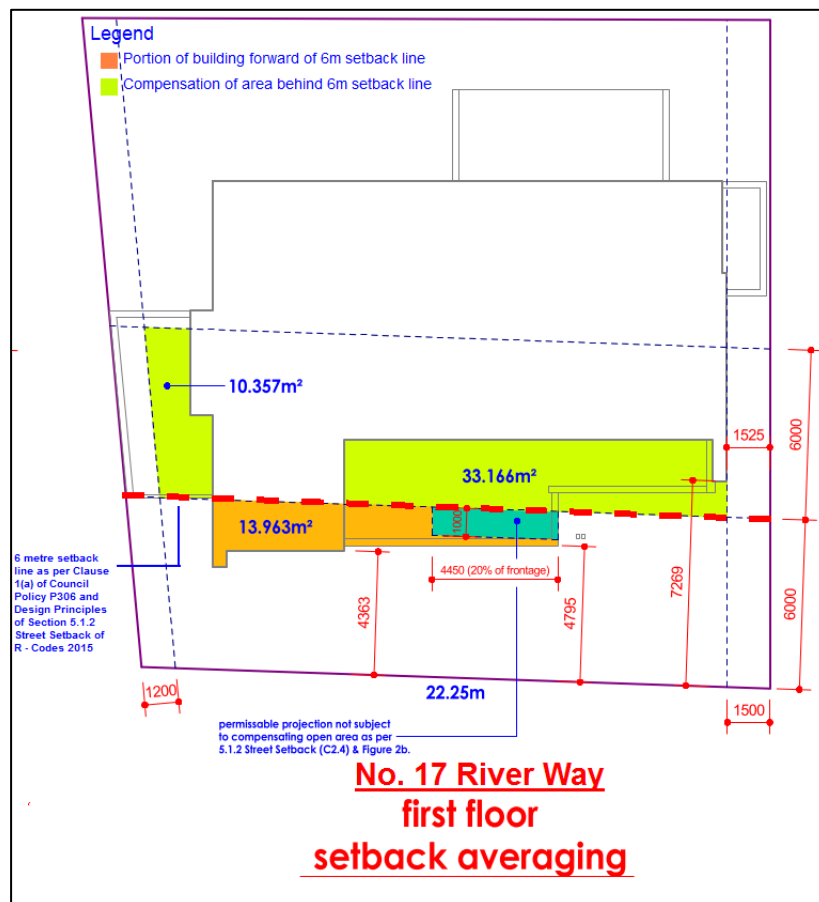


Figure 4- Proposed First Floor level street setback

10.3.3

Proposed Two Storey Single House. Lot 242 (No. 5) Unwin Crescent, Salter Point (Proposed Lot 552 (No.17) River Way, Salter Point)

The Council can approve the proposed setback (or an alternative setback that is less than specified in clause 1) if Council is satisfied that the development demonstrates compliance with the objectives and R – Codes design principles listed in the table above.

The primary matters for Council to consider in whether to approve the reduced street setbacks relate to the streetscape and the proposed building’s mass and form. The proposed setbacks are seen by City officers to not affect privacy for neighbouring properties; these setbacks provide adequate open space, parking, landscaped areas or utilities on the development site; and these setbacks provide adequate clearances from infrastructure in River Way.

The applicant has provided comments responding to the Council Policy requirements and the R-Codes design principles, expressing the reasons why the development as proposed should be approved by Council. The applicant’s justification to support the development is provided in **Attachment (c)**.

The proposed development complies with the R – Codes 6m setback averaging and uses varying setbacks and a minor incursion to break up the bulk of the development site. Additionally, the balcony overhanging the ground floor and the third carport setback marginally greater than the double carport, ameliorates building bulk.

The properties adjacent to the subject site contain solid fences along River Way. The property at 13 River Way fronts River Way and includes a double garage and single carport accommodating three car parking spaces and a skewed driveway. The property at 7 Unwin Crescent backs onto River Way and together with a solid fence has a limited contribution to the streetscape. The reduced front setback of the proposed dwelling will therefore have minimal impact on the streetscape or adjoining properties.

Accordingly, it is considered that the proposed street setback variation satisfies the objectives of Council Policy P306 Residential Design Codes (Design Principles of Clause 5.1.2) for the following reasons:

- The varying street setbacks on different levels breaks up bulk as viewed from River Way, and therefore contribute to the existing River Way Streetscape;
- The proposal provides parking in excess of the required visitor and residential requirements;
- No front fencing is being proposed as part of this application.

(f) Boundary Wall- ground floor, west, Garage

	Deemed-to-Comply Provision	Proposed
Boundary Wall Height	Maximum height – 3.5 metres Average height – 3.0 metres	Maximum height –3.75 metres Average height – 3.71 metres
<i>Design Principles:</i> <i>Buildings set back from lot boundaries so as to:</i> <ul style="list-style-type: none"> •Reduce impacts of building bulk on adjoining properties; •Provide adequate direct sun and ventilation to the building and open spaces on 		

the site and adjoining properties; and
 •Minimise the extent of overlooking and resultant loss of privacy on adjoining properties.

Buildings built up to boundaries (other than the street boundary) where this:
 • makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;
 • does not compromise the design principle contained in clause 5.1.3 P3.1;
 • does not have any adverse impact on the amenity of the adjoining property;
 • ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and
 • positively contributes to the prevailing development context and Streetscape.

The proposed boundary wall to the garage proposes a maximum and average height which exceeds the deemed – to – comply requirements of the R- Codes. The proposal is compliant with the wall length and street setback elements of the deemed to comply requirements. The applicant has also provided relevant justification with respect to the boundary wall as depicted in **Attachment (c)**.

The proposed portions exceeding the deemed to comply requirements are not adjacent to any major openings or outdoor living areas and comply with the R – Codes solar access provisions. It is noted that the boundary wall was consulted to the adjoining land owners and no objections were received.

Accordingly, it is considered that the proposed boundary wall variation satisfies the design principle requirements of the R - Codes for the following reasons:

- Solar access and ventilation complies;
- The proposed wall is not adjacent to any major openings;
- The outlook from the adjoining neighbours front garden is not considered to create adverse impact as a result of the discretionary wall height; and
- The boundary wall only occupies the front setback of a side boundary.

(g) Boundary Wall- ground floor, east, Bed 4

	Deemed-to-comply provision	Proposed
Boundary Wall Height	Average height – 3.0 metres	Average height – 3.27 metres
<p><i>Design Principles:</i> <i>Buildings set back from lot boundaries so as to:</i> •Reduce impacts of building bulk on adjoining properties; •Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and •Minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</p> <p><i>Buildings built up to boundaries (other than the street boundary) where this:</i> • makes more effective use of space for enhanced privacy for the occupant/s or</p>		

outdoor living areas;

- *does not compromise the design principle contained in clause 5.1.3 P3.1;*
- *does not have any adverse impact on the amenity of the adjoining property;*
- *ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and*
- *positively contributes to the prevailing development context and streetscape.*

The proposed boundary wall to Bedroom 4 proposes a maximum and average height which exceeds the deemed – to – comply requirements of the R- Codes. The proposal is compliant with the wall length and street setback elements of the deemed to comply requirements. The applicant has also provided relevant justification with respect to the boundary wall as depicted in **Attachment (c)**.

The proposed portions exceeding the deemed to comply requirements are not adjacent to any major openings and only partial outdoor living area and comply with the R – Codes solar access provisions. It is noted that the boundary wall was consulted to the adjoining land owners and no objections were received.

Accordingly, it is considered that the proposed boundary wall variation satisfies the design principle requirements of the R - Codes for the following reasons:

- Solar access and ventilation complies;
- The proposed wall is not adjacent to any major openings;
- The boundary wall only occupies the rear setback of a side boundary.

(h) Triple Garage Width (Council Policy P350.03 Car Parking, Access, Siting and Design ”)

	Deemed-to-comply provision	Proposed
	Double Garage	Triple Garage
<p><i>Policy Objectives:</i></p> <p><i>1. To provide for parking and associated structures in a manner that contributes positively to the streetscape and is compatible with dwelling design and materials.</i></p> <p><i>2. To have regard for the safety and welfare of pedestrians on public footpaths and other road users when designing vehicle access and parking.</i></p>		

The proposed development includes a triple garage with access of River Way. It is noted in clause 2.2 (b) of Council Policy P350.03:

“Garages with a triple-width opening facing the street would generally have an excessively dominant visual impact on the associated dwelling and would not be compatible with the streetscape. Therefore, such garages will generally not be permitted”.

The applicant has provided relevant justification with reference to the proposed variation, as evident in **Attachment (c)**.

The large portico and the overhanging upper floor and balcony reduce the bulk impact of the triple garage. Additionally, the garage provides for additional car parking space on private property, an objective and requirement for properties abutting River Way.

The immediate streetscape on River Way includes two double garages on narrow lots across from the development site. In addition a number of properties along River way in this location have garages that dominate the street frontage; and numerous dominating garages within the focus area as evident in the site photographs in **Attachment (f)**.

Accordingly, it is considered that the proposed triple garage variation satisfies the design principle requirements of the R - Codes for the following reasons:

- The overhanging upper floor reduces the impact of the triple garage on the streetscape.
- Additional parking provided on private property; and
- The single garage is setback from the line of the double garage thereby reducing bulk impact of the street.

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

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

- (a) Maintain the City's predominantly residential character and amenity;*
- (c) Facilitate a diversity of dwelling styles and densities in appropriate locations on the basis of achieving performance-based objectives which retain the desired streetscape character and, in the older areas of the district, the existing built form character;*
- (d) Establish a community identity and 'sense of community' both at a City and precinct level and to encourage more community consultation in the decision-making process;*
- (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;*
- (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.

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

In considering an application for development approval, the local government is to have due regard to the 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 No 13 River Way and Nos 7a and 7b Unwin Crescent, were invited to inspect the plans and to submit comments during a minimum 14-day period.

During the advertising period, a total of 3 consultation notices were sent and 1 submission was received, in favour of the proposal.

(b) Engineering Infrastructure

Engineering Infrastructure was invited to comment on a range of issues relating to car parking, vehicle movements, and drainage and crossing design arising from the proposal. There are no objections to the proposal as evident in **Attachment (e)**.

Accordingly, planning conditions and important notes are recommended to deal with issues raised by Engineering Infrastructure.

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 "Environment (built and natural)" identified within Council's Strategic Community Plan 2017.

Sustainability Implications

Noting the favourable orientation of the lot, the officers observe that a number of north facing windows 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 Council Policy provisions and requirements, as it will not have a detrimental impact on adjoining residential neighbours and the streetscape. The staggered reduced setback complements the River Way streetscape. Accordingly, it is considered that the application should be conditionally approved.

Attachments

- 10.3.3 (a):** Site Photo's
- 10.3.3 (b):** Development Plans
- 10.3.3 (c):** Applicant Justification
- 10.3.3 (d):** Subdivision Approval

10.3.3 Proposed Two Storey Single House. Lot 242 (No. 5) Unwin Crescent, Salter Point (Proposed Lot 552 (No.17) River Way, Salter Point)

10.3.3 (e): Engineering Referral Comments

10.3.3 (f): River Way Streetscape Photo's

10.3.4 Amendment to an Aspect of the Approved Grouped Dwelling Development on Lot 457, No. 32 Park Street, Como.

Location: Como
 Ward: Como Ward
 Applicant: Roman Zagwocki
 File Reference: D-18-3080
 DA Lodgement Date: 31 October 2017
 Meeting Date: 20 February 2018
 Author(s): Valerie Gillum, Statutory Planning Officer Development Services
 Reporting Officer(s): Vicki Lummer, Director Development and Community Services
 Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods
 Council Strategy: 3.2 Sustainable Built Form

Summary

To consider an application for development approval to amend an aspect of the approved Grouped Dwelling Development on Lot 457, No. 32 Park Street, Como, specifically a double carport located in the front setback at 3.2 metres in lieu of 4.5 metres. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Substantial change to the development approved	'Deemed Provisions' cl. 77(1)(c)
Setback of Car Parking associated with Dual Density Coding Performance Criteria of Schedule 3 of TPS6	TPS clause 4.2(1) and clause 7.8(1)

Officer Recommendation

That:

1. The Council accepts that this application is appropriate for consideration in accordance with Schedule 2 Clause 77 of the Planning and Development (Local Planning Schemes) Regulations 2015;
2. 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 to amend an aspect of the approved Grouped Dwelling Development on Lot 457, No. 32 Park Street, Como be approved subject to:

Additional Condition:

- (22) The development shall be in accordance with the approved plans unless otherwise authorised by the City.

Amended Condition (4):

- (4) If the *Lophostemon confertus* tree which is retained (as indicated in the Arboricultural Inspection Report for UDLA dated 24 November 2014 and the further Arboricultural Assessment prepared by Paperbark Technologies dated 11 January 2018 and noted in Condition (3) above)

does not survive to the end of its natural life expectancy, the tree shall be replaced by another appropriate tree located either:

- (i) on the development site; or
- (ii) on a street verge or a Park and Recreation Reserve, as close to the development site as the City considers practicable;

in a location to be determined by the City, in accordance with the requirements of *Clause 4.2 (3) of Town Planning Scheme No. 6.*

Deleted Condition (8):

~~(8) — The designated visitor parking bay shall be clearly identified on site by means of a sign bearing the words “**Visitors’ Parking Only**” in accordance with the requirements of the *Residential Design Codes of WA.*~~

All other conditions and advice notes remain as per the original determination dated 20 January 2017 (ID. 11.2016.182.1) unless altered by this application.

Background

The development site details are as follows:

Zoning	Residential
Density coding	R20/30
Lot area	1136 sq. metres
Building height limit	7.0 metres
Development potential	Three (3) Grouped Dwellings at R25 Coding
Plot ratio limit	Not Applicable

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

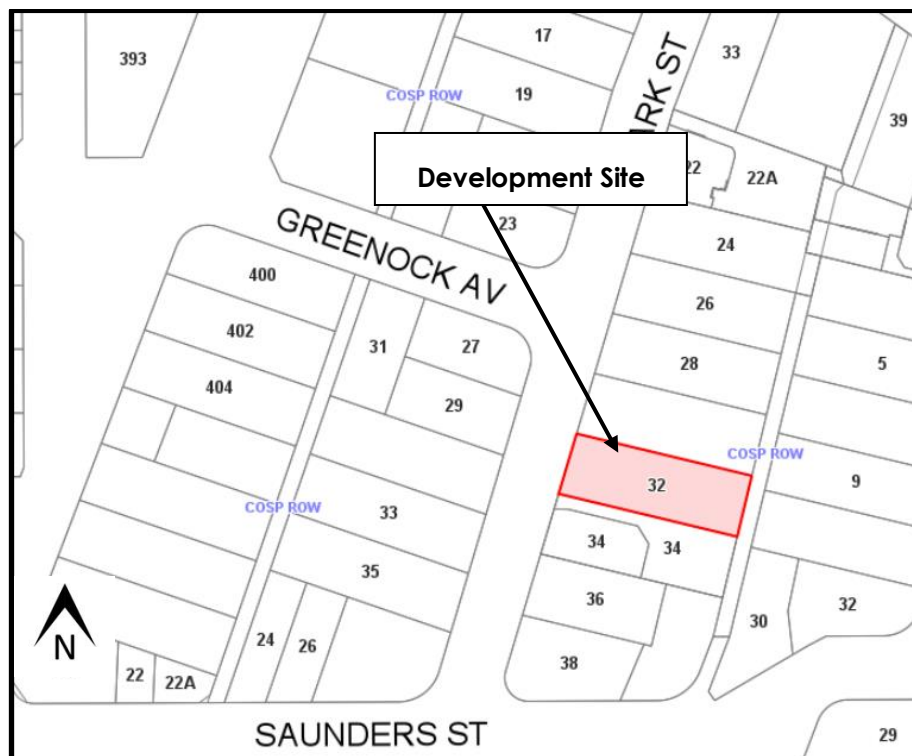


Figure 1: Locality Plan

10.3.4 Amendment to an Aspect of the Approved Grouped Dwelling Development on Lot 457, No. 32 Park Street, Como.

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 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

On 20 January 2017 the City approved a development on the subject site for 2 additional grouped dwellings and conversion of an existing single storey house to a grouped dwelling. This approval was granted under delegated authority based on the development achieving a density coding of R25 permitted under Schedule 3 of Town Planning Scheme No. 6.

On 30 October 2017 the City received an application to amend the approved grouped dwelling development to include a double carport in the front setback area associated with the retained single storey dwelling on Lot 457, No. 32 Park Street, Como (the **Site**).

(b) Existing Development on the Subject Site

The subject site is located at Lot 457 (No. 32) Park Street, Como. The existing development on the Site currently features a land use of Single House with the land behind cleared to make way for an additional 2 two-storey grouped dwellings, as depicted in the site photographs at **Attachment (a)**.

(c) Description of the Surrounding Locality

The Site has a frontage to Park Street to the west, located adjacent to grouped dwellings to the north and south and shares its rear eastern boundary with a public right-of-way which access off Saunders Street to the south, as seen in **Figure 2** below:



Figure 2: Site Plan

(d) Description of the Proposal

The proposal involves an amendment to the existing approval to include a two-bay carport parallel to the street in the front setback area of the site associated with the retained dwelling as well as the removal of a visitor car park and revised landscaping. The submitted plans also include other minor amendments as they relate to the rear two grouped dwellings which would otherwise have been considered a minor variation to the existing approval. The previously approved layout can be seen below in **Figure 3**.

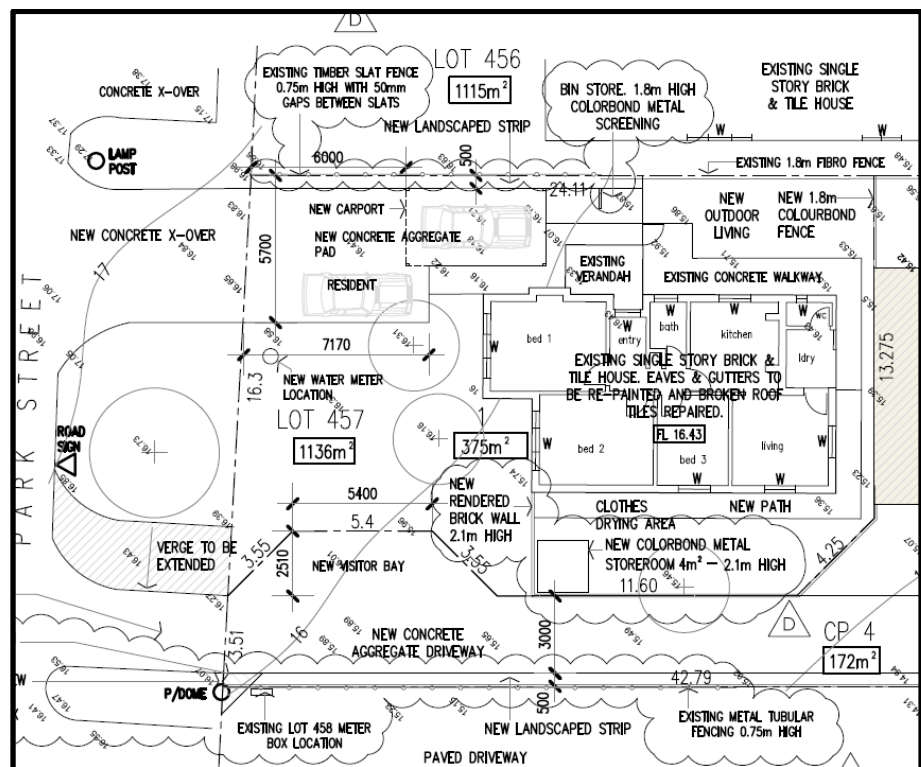


Figure 3: Previously approved layout of existing house.

The proposal was amended as a result of the City's planning assessment. The latest development plans dated 3 January 2018 are provided at **Attachment (b)**.

(e) Substantial Change to the Development Approved

An application can be made under Schedule 2 cl. 77(1)(c) of the *Planning and Development (Local Planning Schemes) Regulations 2015* "to amend an aspect of the development approved which, if amended, would not substantially change the development approved".

Accordingly, the local government needs to determine whether or not the proposed changes in this application constitute a substantial change to the approval granted on 20 January 2017.

The amendments that are the subject of this application do not pose conflict with any Scheme or policy provisions that are applicable to this site or to the rest of the approved development.

The proposed amendments are considered minor and capable of determination by Council as an amended application.

(e) Scheme Provisions

The following components of the proposed amendment require discretionary assessment against the *City of South Perth Town Planning Scheme No. 6* (Scheme; TPS6):

(i) Dual Density Codings: Performance Criteria for Determination of Applicable Coding relating to Precinct 9 – Como for sites with a Dual Density Coding of R20/30, specifically:

(vii) Car parking is provided in excess of the number of bays required by the R-Codes, not in tandem and at least 4.5 metres from any street boundary of the lot, and these bays are for the sole use of occupiers.

The proposal is considered to meet all other relevant Design Principles or discretionary criteria of the Scheme, the R-Codes and relevant Council policies. The discretionary assessment is discussed in further detail below.

(i) Street Setback for Car Parking

Design Quality Criteria	Provided
Double Carport setback at least 4.5 metres from street boundary	3.220m
<p><i>Related Performance Criterion of Schedule 3 of TPS6:</i> <i>Car parking is provided in excess of the number of bays required by the R-Codes, not in tandem and at least 4.5 metres from any street boundary of the lot, and these bays are for the sole use of occupiers.</i></p> <p><i>Related Objective of Schedule 3 of TPS6:</i> <i>To reduce reliance upon streets for occupiers' parking in order to minimise congestion, safety hazards and visual intrusion of vehicles on the streetscape, while facilitating ease of accessing parking bays.</i></p>	

The proposed setback of the double carport is considered to meet the Objective of Schedule 3 of TPS6 as follows:

- The proposed setback will reduce the number of access points off Park Street by removing the crossover and driveway on the north side, thereby ensuring vehicle and pedestrian safety is maintained whilst facilitating vehicles entering the street in a forward gear from two of the approved dwellings.
- The double carport incorporates design, materials and colours that match the retained dwelling, thereby contributing to the streetscape.

Having regard to the above factors, the street setback is considered to be supportable and addresses the objective of Schedule 3 of Town Planning Scheme No. 6 (TPS6). Moreover, the discretion to permit a variation to the setback is considered consistent with Clause 7.8 of TPS6 as the proposed setback would not have any adverse effect upon the likely future development of the precinct as the setback is consistent with the existing streetscape, specifically that there are similar structures elsewhere in the street setback at the same distance to the street.

(f) Dual Density Performance Criteria: Tree Retention

As a consequence of proposing the double carport in the front setback area, the City needed to consider the previously satisfied performance criteria in relation to retention of at least one appropriate tree as the carport is proposed in close proximity to the tree that was identified for retention in the original application. At the City's request, an arborist report was submitted with the amended application and that report provided recommendations to ensure the tree's survival. As a result, Condition (4) has been amended to include reference to the submitted arborist report.

(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):

- (a) Maintain the City's predominantly residential character and amenity;*
- (f) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*

The proposed development is considered satisfactory in relation to all of these matters, subject to additional and amended/deleted 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 the matters listed in clause 67 of the

10.3.4 Amendment to an Aspect of the Approved Grouped Dwelling Development on Lot 457, No. 32 Park Street, Como.

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 ‘Community Engagement in Planning Proposals’. Under the standard consultation method, individual property owners, occupiers and/or strata bodies at Nos 30 and 34 Park Street were invited to inspect the plans and to submit comments during a minimum 14-day period.

During the advertising period, a total of three (3) ‘information only’ notices were sent and no submissions were received.

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 “Environment (Built and Natural)” identified within Council’s [Strategic Community Plan 2017-2027](#).

Sustainability Implications

Noting the favourable orientation of the lot, the officers observe that the proposed carport being located on the western side of the existing house will ensure that the existing north facing windows will maintain 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 is not considered to have a detrimental impact on adjoining residential neighbours and streetscape. In particular, it is considered that the proposal would result in an acceptable impact by reducing the number of vehicle access points thereby ensuring vehicle and pedestrian safety is maintained and a lesser visual intrusion of vehicles on the streetscape. Accordingly, it is considered that the application should be approved subject to appropriate conditions.

Attachments

- 10.3.4 (a):** Site Photographs
10.3.4 (b): Development Plans

10.3.5 Proposed Portico and Ensuite Additions to Single House on Lot 54, No. 7 Lamb Street, South Perth

Location: Lot 54, No. 7 Lamb Street, South Perth
 Ward: Mill Point Ward
 Applicant: Optimum Pty Ltd
 File Reference: D-18-2736
 DA Lodgement Date: 2 November 2017
 Meeting Date: 20 February 2018
 Author(s): Victoria Madigan, Statutory Planning Officer
 Reporting Officer(s): Vicki Lummer, Director Development and Community Services
 Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods
 Council Strategy: 3.2 Sustainable Built Form

Summary

To consider an application for planning approval for a Portico and Ensuite Addition to Single House on Lot 54, No. 7 Lamb Street, South Perth. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Building Height - Special Provisions for Pre-Scheme Developments	TPS6 clause 6.2A(2)(a)

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 Portico Addition to Single House on Lot 54, No. 7 Lamb Street, South Perth **be approved** subject to the following conditions.

(a) Conditions

- (1) The development shall be in accordance with the approved plans unless otherwise authorised by the City.
- (2) All stormwater from the property shall be discharged into soak wells or sumps located on the site unless otherwise approved by the City.
- (3) The external materials and colour finish of the proposed additions shall match with those of the existing building as detailed on the approved plans.

(b) Advice Notes

- (1) PN02,PN03,PNX1,PNX2,PNX3

Background

The development site details are as follows:

Zoning	Residential
Density coding	R15/40
Lot area	575 sq. metres
Building height limit	7.0 metres

The location of the development site is shown below:

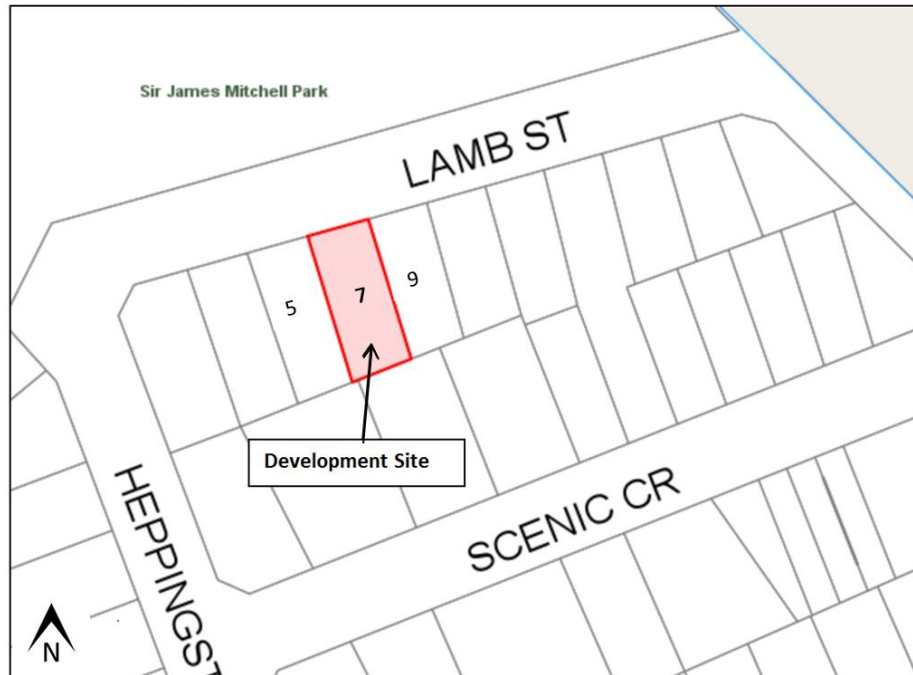


Figure 1 – Location of Development Site

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 involving the exercise of discretion under Clauses 6.2A or 6.11 of the Scheme.*

Comment

(a) Background

In November 2017, the City received an application for Portico and Ensuite Additions to a Single House on Lot 54, No. 7 Lamb Street, South Perth (the Site). Additions and Alterations to the existing single house were approved under Delegated Authority in November 2017, as depicted in **Attachment (a)**. The existing single house was originally constructed in 1992 prior to the City's Town Planning Scheme No. 6 being gazetted in 2003.

(c) Existing Development on the Subject Site

The subject site is located at Lot 54, No. 7 Lamb Street, South Perth. The existing development on the Site is a three storey single house with a mezzanine, as depicted in the site photographs at **Attachment (b)**.

(c) Description of the Surrounding Locality

The Site has a frontage to Lamb Street to the north, located adjacent to residential dwellings to the east, south and west, as seen in **Figure 2** below:



Figure 2 - Aerial of Surrounding Locality

(d) Description of the Proposal

The proposal involves the alteration of the existing entry to a Portico addition and an Ensuite addition to the first floor, as depicted in the submitted plans at **Attachment (c)**. The existing single house has a building height of 10.91 metres; however the current building height limit is 7 metres, therefore, permitting the proposed portico addition to be assessed under Clause 6.2A of the City's Town Planning Scheme No. 6 (TPS6) as a pre scheme development.

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

- Building height limit – (TPS6 clause 6.1A).
- Special Provisions for Pre- Scheme Developments (TPS6 clause 6.2A).

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

(e) Building Height

The existing building on the subject site has a wall height of 10.1 metres, while the current height limit application to the subject site is 7.0 metres. Therefore, the existing building does not comply with TPS6 building height limits. The house is a 'pre scheme' development under clause 6.1A and was constructed prior to the City's TPS6. The existing house exceeds the current schemes building height provisions. Council can exercise discretion for over height developments should Council wish to support to proposal.

Considering the existing previously approved development having a wall height of 10.1 metres the provisions of clause 6.2A of TPS6 apply. The proposed 10.1 metres wall height complies with clause 6.2A(2) of the

Scheme, with no increase in height from the existing building as depicted in the table below:

	TPS6 Provision	Proposed
Building Height	7.0 metres	10.1 metres
<p><i>The local government may approve additions or alterations to a pre-Scheme development, provided that:</i></p> <p><i>(a) any proposed external walls do not extend higher than the highest point of any external wall of the pre-Scheme development;</i></p>		

The external walls of the additions do not extend to a greater height than the highest wall of the existing building. The portico ameliorates the bulk of the existing building.

This improvement is considered to contribute positively to the surrounding streetscape and will improve the amenity of the area. It is therefore recommended that Council exercise discretion and approves the proposed portico addition.

(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:

- (a) Maintain the City's predominantly residential character and amenity;*
- (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;*
- (ii) the preservation of the amenity of the locality;*

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

(g) 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 'Area 1' consultation method, individual property owners, occupiers and/or strata bodies as depicted in the **Figure (3)** below. These properties were invited to inspect the plans and to submit comments during a minimum 14-day period (however the consultation

10.3.5 Proposed Portico and Ensuite Additions to Single House on Lot 54, No. 7 Lamb Street, South Perth

continued until this report was finalised). During the advertising period, a total of 19 consultation notices were sent and no submission(s) were received.

The proposed Ensuite addition was added to the application at a later stage (compliant with the required lot boundary setbacks of section 5.1.3 of the R-Codes) and Neighbour Notification for this addition has been undertaken to the extent and in the manner required by Council Policy P301 'Consultation for Planning Proposals'. These properties were invited to inspect the plans during a minimum 14-day period. During the notification period, a total of 8 notification notices were sent and no submissions were received.

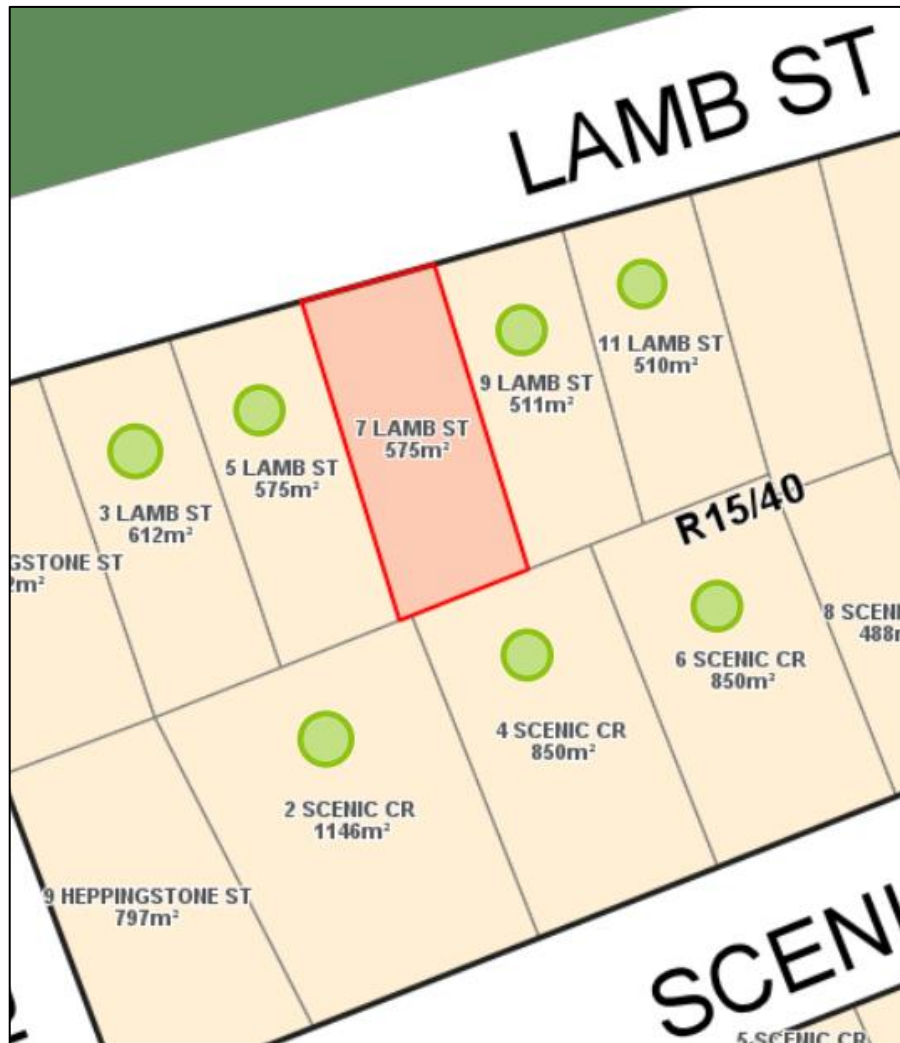


Figure 3 – Area 1 Consultation Matrix

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 “Environment (built and natural)” identified within Council’s Strategic Community Plan 2017-2027 which is expressed in the following terms: *Sustainable Built Form - Promote and facilitate contemporary sustainable buildings and land use.*

Sustainability Implications

The proposed additions have minimal sustainability implications compared to the approved development.

Conclusion

The retention and improvement of existing house stock is encouraged. It is considered that the proposal meets all of the relevant Scheme, R-Codes and/or Council Policy objectives and provisions, as it will not have a detrimental impact on adjoining residential neighbours and streetscape. The additions are complementary to the design and style of the existing dwelling. Accordingly, it is considered the application should be conditionally approved.

Attachments

- 10.3.5 (a):** Previous Planning Approval - No. 7 Lamb Street, South Perth
- 10.3.5 (b):** Site Photo's - No. 7 Lamb Street, South Perth
- 10.3.5 (c):** Development Plans - No. 7 Lamb Street, South Perth
- 10.3.5 (d):** Applicant Justification Letter - No. 7 Lamb Street, South Perth

10.3.6 Proposed Child Day Care Centre Opening Hours Amendment. Lot 900, No. 221 Labouchere Road, Como

Location: Lot 900, No. 221 Labouchere Road, Como
 Ward: Como Ward
 Applicant: Jellybeans Childcare Centre
 File Reference: D-18-772
 DA Lodgement Date: 1 December 2017
 Meeting Date: 20 February 2018
 Author(s): Ciara Barkey, Ms
 Reporting Officer(s): Vicki Lummer, Director Development and Community Services
 Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods
 Council Strategy: 3.2 Sustainable Built Form

Summary

To consider an application for development approval to amend a condition of planning approval relating to opening hours at a Child Day Care Centre at Lot 900, No. 221 Labouchere Road, Como. The Child Day Care Centre was approved by Council on 27 March 2012. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Opening Hours	'Deemed Provisions' cl. 77(1)(c)

Officer Recommendation

That:

- the Council accepts that this application is appropriate for consideration in accordance with Schedule 2 Clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*;
- 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 the Proposed Amendment to Opening Hours of Development Approval for a Child Day Care Centre on Lot 900 (No. 221) Labouchere Road, Como be **refused** for the following reasons:

(a) Reasons

- The proposal is not considered to comply with the policy objectives of Council Policy P307 as the extension to the opening hours of the Child Day Care Centre will have a negative impact on the amenity of the adjoining residents.
- The proposal is considered to have an unacceptable noise penetration upon the surrounding predominantly residential area, thus compromising the amenity of the locality. The proposal is therefore not considered to comply with the Deemed Provisions clause 67.

(c) Standards Advice Notes

(14) 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:

Zoning	Residential
Density coding	R20/30
Lot area	1479 sq. metres

The location of the development site is shown below:

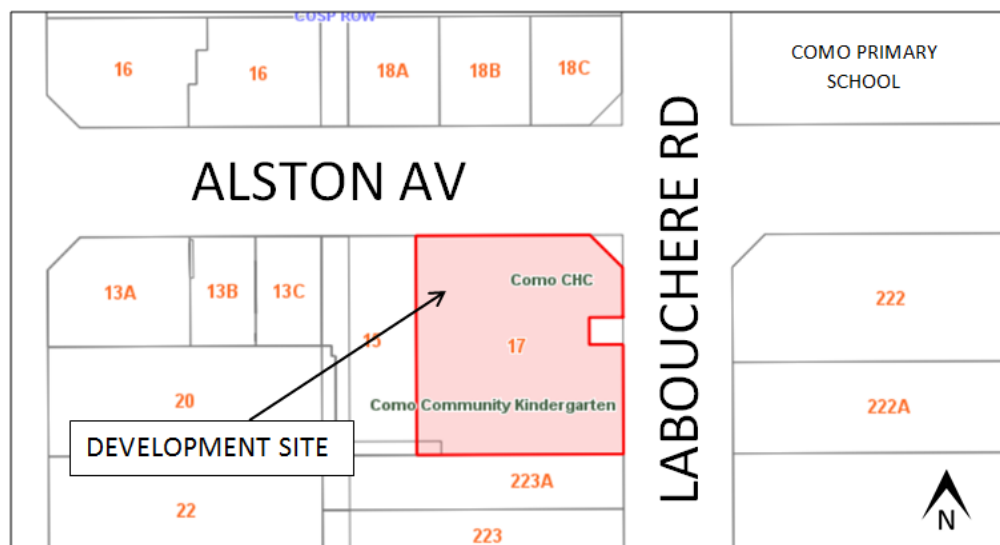


Figure 1 – Location of Development Site

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. Specified uses

(a) Child Day Care Centres;

4. Applications previously considered by Council

Matters previously considered by Council, where drawings supporting a current application have been significantly modified from those previously considered by the Council at an earlier stage of the development process, including at an earlier rezoning stage, or as a previous application for planning approval.

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 December 2017, the City received an application to amend Condition 3 (Operating Hours) of a Development Application for a Child Day Care Centre previously approved by Council on Lot 900 (No. 221) Labouchere Road, Como (the **Site**) in accordance with Schedule 2 Clause 77 of the *Planning and Development (Local Planning Schemes) regulations 2015*.

On 10 October 2011, the City received an application for a “Child Day Care Centre” on Lot 900 (No. 221) Labouchere Road, Como. Council on 27 March 2012 determined to approve the application with relevant conditions as detailed in **Attachment (a)**.

(b) Existing Development on the Subject Site

The subject site is located at Lot 900 (No. 221) Labouchere Road, Como (the **Site**). The existing development on the Site currently features land use of Child Day Care Centre, as depicted in the site photographs at **Attachment (b)**.

(c) Description of the Surrounding Locality

The subject site has a frontage to Labouchere Road to the east, and Alston Avenue to the North. The subject site is located within the Residential zone, and is surrounded by residential area to the north, east, south and west, and Public Purposes (Como Primary School) to the north-east.



Figure 2 – Surrounding Locality

(d) Description of the Proposal

The proposal involves an amendment to Condition 3 (operation hours) of the development approval dated 27 March 2012, to propose earlier opening hours to accommodate the needs of families utilising the existing Child Day Care Centre.

The proposed operating hours are as follows:

Monday to Friday (excluding public holidays): 6.30am to 6pm

The approved trading hours are as follows:

Monday to Friday (excluding public holidays): 7am to 6pm

The applicant's letter, **Attachment (c)**, describes the proposal in more detail.

The proposed amendment of opening hours is considered minor and capable of determination by Council as an amendment application under the provisions of Schedule 2 clause 77 of the *Planning and Development (Local Planning Scheme) Regulations 2015*.

(e) Opening Hours

TPS6 does not specify permitted opening hours for non-residential uses. However, as the site is surrounded by residential development, a planning condition to regulate the permitted opening hours was considered necessary to address potential amenity impacts, such as noise, from early morning and late evening commercial operations. It is noted that a Child Day Care Centre is a 'DC' (Discretionary with Consultation) land use within the residential zone.

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

Existing Planning Condition 3:

The hours of operation of the Child Day Care Centre are limited to Monday to Friday – 7:00am to 6:00pm. [27 March 2012]

Applicant's Proposed Amendment to Planning Condition 3:

The hours of operation of the Child Day Care Centre are limited to Monday to Friday – 6:30am to 6:00pm.

The primary source of potential noise impacts are anticipated to be from vehicles arriving and leaving the site, entry and exiting of parents and children and the utilisation of the play areas. To mitigate some of the anticipated impacts, the applicant has indicated that the outside areas would not be utilised during the proposed extension hours (6:30am to 7:00am), however it is noted that it would be impossible to eliminate all operational noise of the Child Day Care Centre. Although the extension to opening hours increases by 30 minutes in the morning, the opening time before 7:00am is not considered appropriate in a residential area and will have an impact on neighbours at this time. This will largely stem from noise associated with child drop off including car doors opening and closing and potentially unhappy children. Business opening times at 7.00am in a residential environment is in accordance with the permitted day time levels under the Environmental Protection (Noise) Regulations 1997 and is largely accepted by the community. Any departure from this needs careful consideration and must be reviewed in light of the possible amenity impacts

on the surrounding environment as well as concerns raised from residents in close proximity.

The amended planning condition addressing permissible operation hours on the site is recommended to be refused.

(f) Substantial Change to the Development Approval

An application can be made under Schedule 2 cl. 77(1)(c) of the Planning and Development (Local Planning Schemes) Regulations 2015 “to amend an aspect of the development approved which, if amended, would not substantially change the development approved”.

Accordingly, the local government needs to determine whether or not the proposed changes in this application constitute a substantial change to the approval granted on 27 March 2012.

The amendments that are the subject of this application pose conflicts with Scheme and policy provisions that are applicable to this site and to the rest of the approved development.

The proposed amendments are considered minor and capable of determination by Council as an amendment application.

(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:

- (a) Maintain the City's predominantly residential character and amenity;*
- (e) Ensure community aspirations and concerns are addressed through Scheme controls;*
- (f) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character scale of existing residential development;*
- (g) Protect residential areas from the encroachment of inappropriate uses;*
- (h) Utilise and build on existing community facilities and services and make more efficient and effective use of new services and facilities;*

The proposed development is not considered satisfactory in relation to these matters.

(f) 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 not considered satisfactory in relation to all of these matters as 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'. Under the 'Area 2' consultation method, individual property owners, occupiers and/or strata bodies were invited to inspect the plans as evident in Figure (3) below, and to submit comments during a minimum 14 day period (however the consultation continued until this report was finalised). In addition, signs were placed on the Site inviting comment from any other interested person.



Figure 3 - Neighbour Consultation Letters

During the advertising period, a total of 68 consultation notices were sent and 5 submissions were received - 1 in favour and 4 against the proposal. The submitter in favour of the proposal resides within 100m of the development site, 1 submitter against the proposal resides directly abutting the development site, 1 opposite, 1 within 100m and one over 1.5km from the development site. The comments from the submitter(s), together with officer responses are summarised below. The full submissions are contained within **Attachment (d)**.

Submitters' Comments	Officer's Responses
<p><i>Noise in a residential area prior to 7am.</i></p>	<p>The Environmental Health Coordinator responded to the submitters comments with the following:</p> <p><i>The City does not support the proposed extension of operation time prior to 7:00am as this could create a potential noise problem for the residents and noncompliance with the relevant Provision of the Environmental Protection (Noise) Regulations 1997.</i></p> <p>The comment is UPHELD.</p>

<i>On-street parking in front of home & driveway</i>	The proposed amendment does not involve any changes to parking requirements. This comment is NOT UPHELD .
<i>Trading hours contravening present legislation regarding trading hours within residential zone.</i>	Scheme has no provision for operating hours. This comment is NOT UPHELD .

(b) Internal Administration

Comments were invited from the Environmental Health Services section of the City's Administration.

The Environmental Health section provided comments with respect to noise. It is the opinion of the Environmental Health department that the *Environmental Protection (Noise) Regulations 1997* are unlikely to be complied with at this premise. The full response from the Environmental Health department is at **Attachment (e)**. It is not considered that this use is appropriate to be operating prior to 7am as it is located in a residential zone.

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 could have financial implications should the applicant be aggrieved by Council's determination, in the event an appeal to the State Administrative Tribunal is lodged.

Strategic Implications

This matter relates to Strategic Direction 3 "Environment (Built and Natural)" identified within Council's [Strategic Community Plan 2017-2027](#).

Sustainability Implications

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

Conclusion

It is considered that the proposal does not meet all of the relevant Scheme, R-Codes and/or Council Policy objectives and provisions due to the extended hours of noise penetration having a detrimental impact on adjoining residential neighbours and surrounding community. Accordingly, it is considered that the application should be refused and the opening hours remain in accordance with the existing March 2012 approval.

Attachments

- 10.3.6 (a):** Original Approval 11.2011.451.1
- 10.3.6 (b):** Site Photographs
- 10.3.6 (c):** Applicants Cover Letter
- 10.3.6 (d):** Neighbour Submissions
- 10.3.6 (e):** Environmental Health Comments

10.3.7 Proposed Partial Change of Use from 'Supermarket' (an 81.5 square metre portion of an approved 872 square metre supermarket) to 'Liquor Store (Small)' on Lot 800, No. 21 Mends Street, South Perth.

Location: South Perth
 Ward: Mill Point Ward
 Applicant: Silverleaf Investments Pty Ltd
 File Reference: D-17-105960
 DA Lodgement Date: 23 October 2017
 Meeting Date: 20 February 2018
 Author(s): Valerie Gillum, Statutory Planning Officer Development Services
 Reporting Officer(s): Vicki Lummer, Director Development and Community Services
 Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods
 Council Strategy: 3.2 Sustainable Built Form

Summary

To consider an application for a partial change of use from ‘Supermarket’ (an 81.5 square metre portion of an approved 872 square metre supermarket) to ‘Liquor Store (Small)’ on Lot 800, No. 21 Mends Street, South Perth. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Use not listed as a preferred use in the Mends Street Sub-Precinct	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 to permit a partial change of use from ‘Supermarket’ (an 81.5 square metre portion of an approved 872 square metre supermarket) to ‘Liquor Store (Small)’ on Lot 800, No. 21 Mends Street, South Perth **be approved** subject to:

Conditions:

1. The development shall be in accordance with the approved plans unless otherwise approved by the City.
2. The operations of the Liquor Store (Small) shall occur in accordance with the South Perth Boutique Liquor Management Plan dated November 2017 and the Public Interest Assessment Report prepared by Hospitality Total Services. Any modification to these documents will require the submission of an amended planning application.
3. The South Perth Boutique Liquor Management Plan dated November 2017 shall be implemented and adhered to at all times, to the satisfaction of the City.
4. The hours of opening for the Liquor Store (Small) use hereby approved shall be limited to the following:

10.3.7

Proposed Partial Change of Use from 'Supermarket' (an 81.5 square metre portion of an approved 872 square metre supermarket) to 'Liquor Store (Small)' on Lot 800, No. 21 Mends Street, South Perth.

- i) Monday and Saturday: 8:00am – 10:00pm; and
- ii) Sunday: 10:00am – 10:00pm.

5. 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) PN07
- (iv) PN08
- (v) PNX1, PNX2 and PNX3.

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

Background

The development site details are as follows:

Zoning	Special Control Area 1 – South Perth Station Precinct (Mends Sub-Precinct)
Lot area	81.5 sq. metres (tenancy only)
Building height limit	Subject to special height controls of SCA1
Development potential	N/A – partial change of use application only
Plot ratio limit	N/A – partial change of use application only

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



Figure 1: Location Plan

Proposed Partial Change of Use from 'Supermarket' (an 81.5 square metre portion of an approved 872 square metre supermarket) to 'Liquor Store (Small)' on Lot 800, No. 21 Mends Street, 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. Specified uses

Uses not listed in Table A of Schedule 9A, Special Control Area 1, South Perth Station Precinct.

Comment

(a) Background

The Development Assessment Panel has previously determined the development of a 7 storey commercial development comprising of retail shops, cafes and a supermarket on the ground level, basement and first floor parking and five levels of serviced apartments on 6 July 2016 which is currently under construction. Two further amendments were determined by the Development Assessment Panel on 10 January and 1 December 2017.

Prior to the 7 storey approval, the existing commercial uses on the site contained a 'Liquor Barons' liquor store which had direct access off Mends Street. The applicant is seeking this approval so that the existing liquor store license can be removed from its previous location (No. 23 Mends Street) on the subject site to a new store within the new development at Shop 7 the locations of which can be seen in **Figure 2** below.

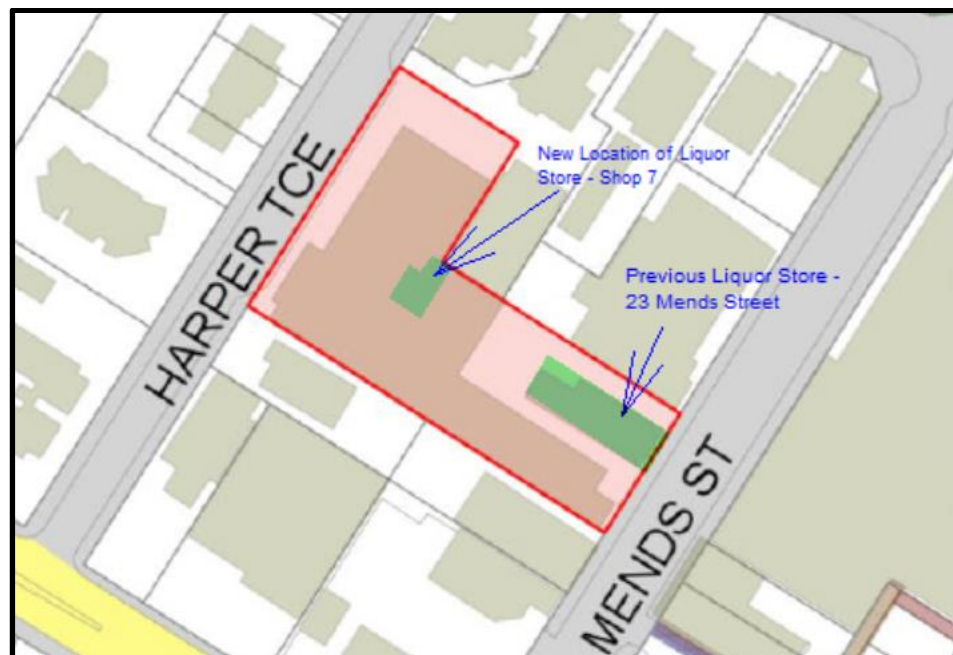


Figure 2: Map depicting previous and new location of liquor store

In October 2017, the City received an application to modify an existing approval (originally approved by the Metro Central JDAP) to include a partial Change of Use from 'Supermarket' (an 81.5 square metre portion) to 'Liquor Store (Small)' on Lot 800, No. 21 Mends Street, South Perth. This application can be lodged with the local government as identified in Clause 17A of the *Planning and Development (Development Assessment Panel) Regulations 2009*, which states, "An owner of land in respect of which a development

Proposed Partial Change of Use from 'Supermarket' (an 81.5 square metre portion of an approved 872 square metre supermarket) to 'Liquor Store (Small)' on Lot 800, No. 21 Mends Street, South Perth.

approval has been granted by a DAP pursuant to a DAP application may apply, under the relevant planning instrument, for the responsible authority under that instrument to amend or cancel the development approval”.

(b) Existing Development on the Subject Site

The approved commercial development up to 7 storeys in height is currently under construction on the subject site, which when completed will include retail shops, cafes and a supermarket at the ground level with parking on the basement and first level and 5 storeys of serviced apartments above.

(c) Description of the Surrounding Locality

The Site has a frontage to Mends Street to the south-east and Harper Terrace to the north-west and is surrounded by existing commercial buildings in Mends Street and a mixture of commercial and residential buildings in Harper Terrace, as seen in **Figure 3** below:



Figure 3: Aerial Plan

(d) Description of the Proposal

The proposal involves a partial change of use of an 81.5 square metre area of an approved ground floor supermarket to Liquor Store (Small) on Lot 800 (No. 21) Mends Street, 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 which is proposed to align with the opening hours of the adjacent supermarket:

- i) Monday to Saturday: 8:00am - 10:00pm; and
- ii) Sunday: 10:00am – 10:00pm.

The Applicant’s Management Plan and Public Interest Assessment Report at **Attachment (b)** describe the proposal in more detail.

Proposed Partial Change of Use from 'Supermarket' (an 81.5 square metre portion of an approved 872 square metre supermarket) to 'Liquor Store (Small)' on Lot 800, No. 21 Mends Street, South Perth.

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 Liquor Store (Small) contained in Schedule 1 of the Scheme 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 supermarket 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 Mends Sub-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 Liquor Store (Small) land use is considered to appropriately satisfy this provision as the use is considered to be comparable to a ‘Shop’ use in terms of its interaction with the street via the public arcade and provides a non-residential use at the ground floor level in a similar manner to the shops already approved in this development.

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

10.3.7 Proposed Partial Change of Use from 'Supermarket' (an 81.5 square metre portion of an approved 872 square metre supermarket) to 'Liquor Store (Small)' on Lot 800, No. 21 Mends Street, South Perth.

For the Mends Sub-Precinct, 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 Liquor Store (Small) land use is not increasing the floor area of the overall development, the built form outcome is effectively unchanged. Moreover, the proposed use is deemed to provide a comparable street interaction impact as a 'Shop' use would do.

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 small shop tenancies have been approved in the same development of which the majority front onto the public arcade, with the Liquor Store (Small) land use providing for increased diversity of retail uses within the Sub-Precinct.

(f) Local Policy P317 'Licensed Premises'

Local Policy P317 'Licensed Premises' was originally adopted by Council on 25 August 2015 (and later amended and that amendment adopted by Council on 6 February 2018) to provide applicants with a comprehensive list of the information required to accompany an application for development approval for licensed premises as well as providing clear guidance for assessing officers and the determining body to ensure consistent decision making.

Apart from the subject Site there are 10 locations within a 250m radius that have current Liquor Licenses granted by the Department of Racing Gaming and Liquor. These include restaurants, sporting clubs, special facilities and a hotel. The location and type of these licences can be seen in **Figure 4** below. The surrounding residential properties are predominantly multiple dwellings in apartment buildings with some grouped dwellings and single houses. The surrounding non-residential is a mix of office, restaurants, cafés, consulting rooms and shops.

Proposed Partial Change of Use from 'Supermarket' (an 81.5 square metre portion of an approved 872 square metre supermarket) to 'Liquor Store (Small)' on Lot 800, No. 21 Mends Street, South Perth.

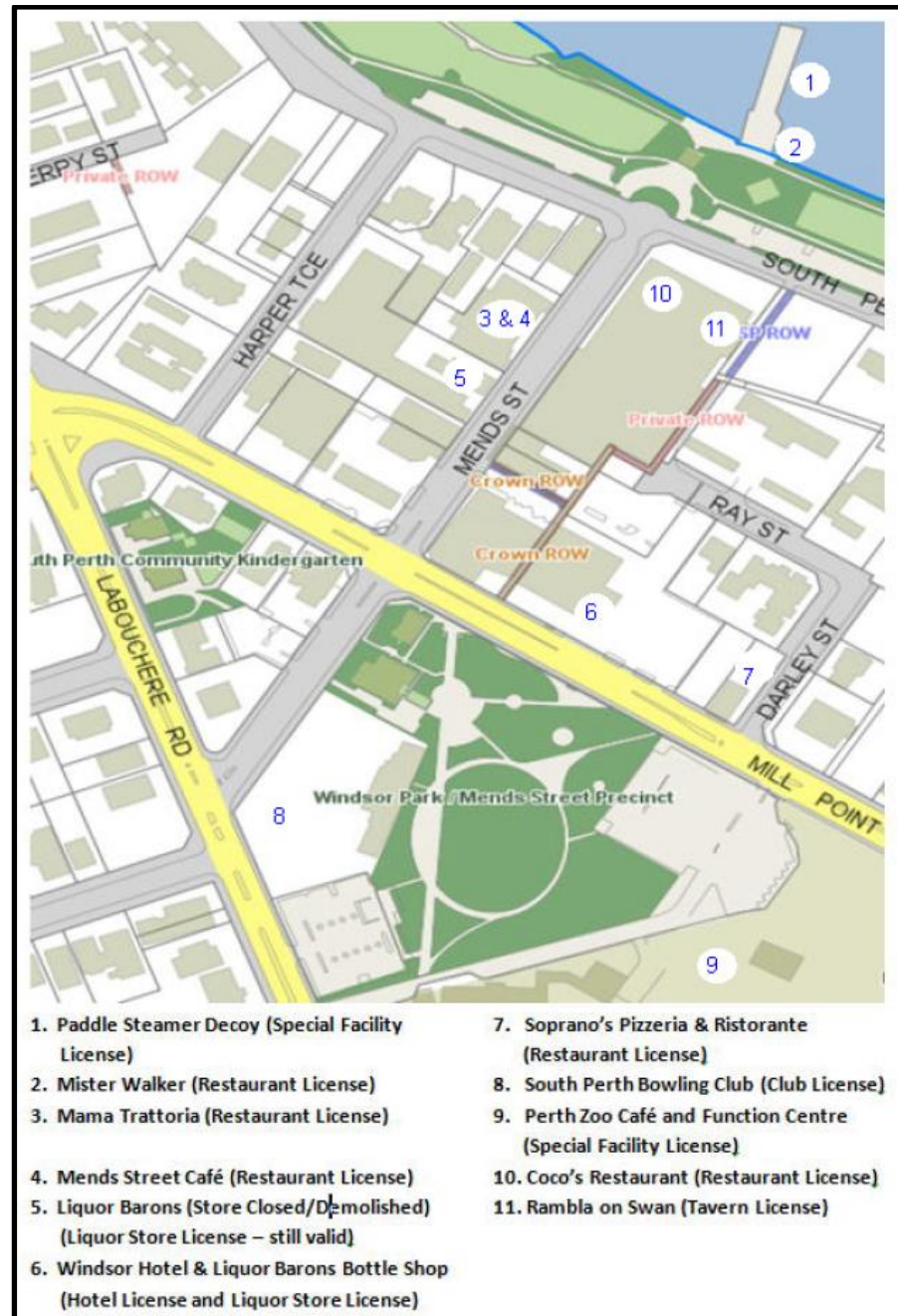


Figure 4: Location and type of existing liquor licenses in the locality.

The proposal is considered to address the objectives of this policy as the liquor store will replace a bottle shop that was previously located on the subject site but being of a much smaller scale and is therefore considered appropriate for the location taking into account the mix of existing and approved retail uses in the Mends Street area. The submitted Management Plan and Public Interest Assessment Report incorporates a code of conduct for the operator of the business to ensure minimal impact to the locality in terms of rubbish disposal and collection, deliveries, security, complaint management and reporting procedures and patron control as required by the policy. A condition is recommended that the use operates in accordance with the submitted South Perth Boutique Liquor Management Plan and Public Interest Assessment Report, which are contained in **Attachment (b) and (c)**.

(g) 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 due to the liquor store being located within the supermarket tenancy area. Access to parking is freely available from the Arcade to the basement carpark as well as the first floor.

(h) 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.

(i) 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.

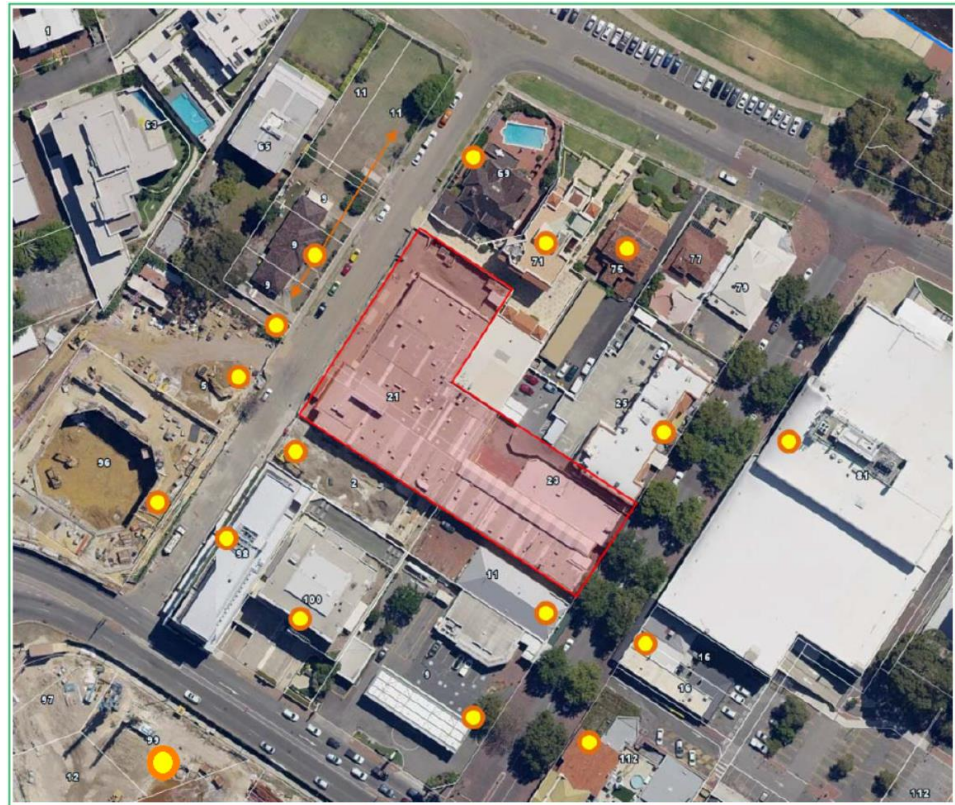
Consultation

(a) Neighbour Consultation

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 'Community Engagement in Planning Proposals'. Under the 'Area 2' consultation method, individual property owners, occupiers and/or strata bodies were invited to inspect the plans and to submit comments during a minimum 21-day period and the distribution of those notices is shown below:

10.3.7

Proposed Partial Change of Use from 'Supermarket' (an 81.5 square metre portion of an approved 872 square metre supermarket) to 'Liquor Store (Small)' on Lot 800, No. 21 Mends Street, South Perth.



In addition, signs were placed on Site, 1 at the frontage of Mends Street and 1 at the frontage of Harper Terrace, inviting comment from any other interested person.

During the advertising period, a total of 97 consultation notices were sent and 4 submissions and 1 late submission were received objecting to the proposed development. The comments from the submitter(s), together with officer responses are summarised below.

Submitters' Comments	Officer's Responses
<i>Concern that the whole of the supermarket was being replaced by a Liquor Store.</i>	The liquor store is to be accommodated within the approved supermarket with a lettable floor area of approximately 80m ² , leaving in excess of 800m ² of shop area available to the supermarket. The proposal does not replace the whole of the supermarket. The comment is NOT UPHELD.
<i>A supermarket is required in the area and an additional liquor outlet is not required.</i>	The approved supermarket remains. Over supply of liquor shops is not a planning consideration. The comment is NOT UPHELD.
<i>Late Submission – It is requested that the City refuse this application on the basis that the priority for</i>	This submission was received after the nominated closing date. The City's Policy P301 'Community Engagement in Planning Proposals' identifies that the Council is not obliged to consider submissions received after the nominated closing date and

Proposed Partial Change of Use from 'Supermarket' (an 81.5 square metre portion of an approved 872 square metre supermarket) to 'Liquor Store (Small)' on Lot 800, No. 21 Mends Street, South Perth.

<p><i>services at this facility should be for supermarket items rather than liquor items based on a rationale that the Mends Street area already has only limited supermarket services and the area is already well serviced with providers of liquor items.</i></p>	<p>that consideration of late submissions cannot be guaranteed.</p> <p>Notwithstanding the above, over supply of providers of liquor items is not a planning consideration. As noted above, over 800m² of supermarket will be available within this development to service the Mends Street area.</p> <p>The comments are NOT UPHELD.</p>
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(b) Internal Administration

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

The Environmental Health Section provided comments with respect to food premises and noise management. Accordingly, advice notes are included to address the requirements of the Environmental Health Section.

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 recommendation has no financial implications for the City.

Strategic Implications

This matter relates to Strategic Direction 3 "Environment (Built and Natural)" identified within Council's [Strategic Community Plan 2017-2027](#).

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 nearby residential properties and the streetscape subject to compliance of recommended conditions. In addition, it is considered the proposed Liquor Store (Small) use will provide a diversity of retail options to the local area, as well as being complementary to existing uses in the immediate vicinity of the site. Provided that the conditions are applied as recommended, it is considered that the application should be conditionally approved.

Attachments

- 10.3.7 (a):** Development Plans - Liquor Store (Small) - No. 21 Mends Street
- 10.3.7 (b):** South Perth Boutique Liquor Management Plan - No. 21 Mends Street
- 10.3.7 (c):** Public Interest Assessment Report for South Perth Boutique Liquor - No. 21 Mends Street

10.3.8 Final Adoption of Scheme Amendment No. 56 - Creation of Special Control Area 2 - Civic Site

Location:	City of South Perth
Ward:	Mill Point Ward
Applicant:	TPG and Place Match
File Ref:	D-18-809
Meeting Date:	20 February 2018
Author(s):	Aaron Augustson, Senior Strategic Planning Officer Elyse Maketic, Manager Strategic Planning
Reporting Officer(s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy:	3.2 Sustainable Built Form

Summary

At its Special Council Meeting of 22 August 2017, the Council resolved to initiate proposed Amendment No. 56 to Town Planning Scheme No.6 (the Scheme). The purpose of the amendment was to facilitate the development of an iconic landmark building on the triangular street block bound by Labouchere Road, Mill Point Road and Mends Street (Civic Triangle Site) by:

- Removing the site from Special Control Area 1; and
- Creating a new Special Control Area for this site and associated development provisions via a new Schedule.

In accordance with Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* (the Regulations), the proposed amendment was advertised for public comment for a period of 77 days. At the conclusion of the consultation period, being 16 January 2018, the City had received 32 submissions, 2 of which supported the amendment (or qualified support) and 26 of which opposed the amendment. Four other submissions raised neither support nor objection to the amendment.

Following review of the submissions received and further review of the proposed amendment, modifications to the amendment are proposed. These modifications are considered to address the key comments raised during the consultation period relating to heritage protection, traffic and access, and podium height, whilst maintaining the original intent of the amendment (to facilitate the development of an iconic landmark building). It is recommended the Council adopt the proposed amendment subject to these modifications.

Officer Recommendation

That Council:

1. Note the submissions received as detailed in the Schedule of Submissions at **Attachment (a)**;
2. Resolve pursuant to Section 75 of the *Planning and Development Act 2005* and Regulation 41(3) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, to support scheme amendment No. 56 to the City of South Perth Town Planning Scheme No. 6, with modifications, as detailed in **Attachment (b)**;

3. Authorise the Mayor and Chief Executive Officer to execute the relevant document and affix the common seal of the City of South Perth on the documentation; and
4. Request that the Minister for Planning grant final consent to proposed Scheme Amendment No. 56 to the City of South Perth Town Planning Scheme No. 6.

Background

The proposed complex amendment relating to the land bound by Mill Point Road, Labouchere Road and Mends Street (Civic Site), was considered and initiated by Council at its Ordinary Meeting of 22 August 2017 (refer Item 10.3.2). Detailed background pertaining to the development history of the subject site including the City's role in ownership and previous history of planning decisions relating to the site are contained in the 'Background' section of the aforementioned item.

The amendment request was submitted by consultants acting on behalf of the landowner in order to address development issues for the subject site which had arisen as a result of the gazettal of Amendment No. 46. The site is a unique triangular shape with three street frontages and a prominent location within the precinct. These features, coupled with the rigidity of the provisions of Schedule 9A, make it difficult for decision makers to exercise an appropriate level of discretion to allow the site to achieve the architectural, design and built form outcomes that would result in the development of a landmark building on this site in line with the Council's vision. Further detail on the implications of Schedule 9A on this site are outlined in the 'Background' section of Item 10.3.2 of the August 2017 Ordinary Council Meeting Minutes.

The purpose of the proposed amendment is to facilitate the development of a landmark, iconic building on this site in line with Council's vision by:

- Excising the site from Special Control Area 1; and
- Creating a new Special Control Area and associated development provisions for the Civic Triangle site via a new Schedule. These provisions are intended to facilitate the development of an iconic, landmark building.

The different components of the proposed amendment can be summarised as follows:

1. Creating a new Special Control Area 2 – Civic Site;
2. Rezoning the subject lots from Special Control Area 1 to Special Control Area 2;
3. Inserting a New Schedule 13 – Special Control Area 2 – Civic Site containing the development provisions relating to the site. The Schedule has been set up in a similar format to Schedule 9A and includes development provisions relating to; built form typology, setbacks, building height, land uses, car and bicycle parking, weather protection, vehicle crossovers, outdoor living areas, heritage, designing out crime, design quality, vehicle management, sustainability, electric car charging, landscaped areas, and public and occupier benefits;
4. Amending various clauses within the Scheme to make reference to Special Control Area 2 and Schedule 13;
5. Amending Provision 2 of Schedule 9A to exclude the subject site from Special Control Area 1; and
6. Updating the Scheme Maps accordingly.

Subsequent to the Councils initial resolution to initiate the amendment and proceed to public consultation, the proposed amendment was referred to the Environmental Protection Authority (EPA) for assessment, the Western Australian Planning Commission (WAPC) for examination and consent to advertise.

On 9 October 2017 the EPA advised that no environmental assessment was required and consultation could proceed.

On 17 October 2017 the WAPC gave consent to advertise the proposed amendment subject to modifications. These modifications were incorporated into the amendment prior to public advertising and are discussed in further detail in the 'Comment' section of this report. The proposed amendment was subsequently advertised for a period of 77 days between 31 October 2017 and 16 January 2018.

Comment

Following receipt of advice from the WAPC, review of the submissions received during advertising and further internal review, a number of modifications are proposed to be made to the proposed amendment. These modifications are considered to address some of the key comments raised in the submissions and refine the provisions of the amendment, whilst maintaining the original intent of the amendment (to facilitate the development of an iconic landmark building).

WAPC Modifications

The proposed amendment was forwarded to the WAPC for examination and consent to advertise as Council resolved that the amendment was complex pursuant to Regulation 35(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (The Regulations).

Prior to commencing advertising the WAPC required the City to make minor modifications to the amendment. These modifications required the inclusion of additional provisions in Element 9: Design Quality of the proposed Schedule 13. The additional provisions relate to the following:

- The requirement for a comprehensive new development to exhibit exemplary architectural design as defined by any policy or guideline of the Commission relating to architectural design quality;
- The requirement for appropriate levels of sunlight penetration to key pedestrian and public spaces; and
- The requirement for the decision maker to be satisfied that the Design Review Panel has had due regard to all relevant development requirements in the Schedule in arriving at an opinion that the proposed development exhibits exemplary architectural design.

The additional provisions are the same as those contained in Design Consideration 1 – Design Quality of Table B of Schedule 9A. The purpose of these modifications is to be consistent with the Design Quality performance criteria contained in Table B of Schedule 9A, and to ensure that high quality architectural design and built form outcomes are achieved.

The above modifications were incorporated in the amendment prior to public advertising.

Key Issues resulting from consultation

During the public consultation period the City received 32 submissions on the proposed amendment, including some from government agencies. Further statistical information regarding the outcomes of the consultation is detailed in the 'Consultation' section of this report. The key matters raised during consultation are outlined in the below and officer comments are provided in response to these key issues. A detailed officer response to each submission, including matters that are not discussed below, is contained in the Schedule of Submissions contained at **Attachment (a)** of this report.

Matter	Officer summary of key issue	Officer Comment
Building height and scale	<p>High rise development in the area is not supported.</p> <p>The building height of the towers are not consistent with the character of the area and will allow for an excessive amount of apartments and car bays that will overwhelm the area.</p> <p>The height should be restricted to 30 storeys.</p>	<p>The maximum prescribed building height is 96m which equates to approximately 30 to 32 storeys, depending on floor to ceiling heights for each level. There is also discretion to go above this height. The current planning framework for this site contained in Schedule 9A of TPS6 allows for high rise development on this site by virtue of the fact that it is located in the Special Design Area, where discretion above the prescribed height and plot ratio is permitted.</p> <p>As an Activity Centre and due to its proximity to the Perth CBD the State Government expects this area to accommodate additional population, employment and activity, through more intense development.</p> <p>The scale of development that would be facilitated by this amendment is considered appropriate for this site given its prominent location within the Precinct.</p>
	<p>This site should contain the tallest building in the precinct. The objective to increase employment self-sufficiency and provide more housing can be achieved without high-rise development.</p>	<p>At 96m any future development would be one of the tallest approved developments within the precinct. There is also discretion to go above this height. The scale of development facilitated by the amendment, coupled with the design quality requirements, is considered appropriate to ensure the development of an iconic landmark site.</p> <p>It should be noted that there are current development applications that propose greater building height than the prescribed heights in the amendment. This is out with the City's control given the discretion afforded to sites within the Special Design Area by Schedule 9A.</p>

Design Quality	Any development of this site should be high quality design.	The proposed amendment incorporates the design quality performance criteria contained in Table B of Schedule 9A. Under the proposed provisions any comprehensive new development on this site will be required to meet these provisions regardless of whether discretion is being sought. Therefore the provisions of the proposed amendment will ensure that a high quality building is developed on this site.
Heritage conservation	<p>The proposal will overwhelm the heritage places on the site. Setbacks to the heritage places should be enforced.</p> <p>Development should maintain a visual relationship between the two heritage places. A disconnect between the buildings is caused by the land of podium setback, scale, bulk and height. Buildings should be removed from this area and landscaping provided.</p>	<p>The proposal was referred to the State Heritage Office and Heritage Council. The Heritage Council supported the amendment subject to</p> <ul style="list-style-type: none"> • Consideration should be given to an average setback of 6.0 metres as well as a minimum setback of 4.5 metres. • Awnings projecting into the setbacks around the heritage buildings should be light-weight, cantilevered and not visually impacting the setting. • A visual connection between the heritage buildings should be maintained. <p>Appropriate modifications to the amendment incorporating these modifications have been made.</p>
Landscaping	The 40% landscaping criteria is supported, but should include more in-ground landscaping and trees, rather than planter boxes and hardscaping on roof terraces.	The importance of in ground planting for sustainability is acknowledged. Modifications to the amendment are proposed to ensure that in ground planting at ground level occurs.
Podium size	The height of the podium will detract from the area. The increase in podium height from 13.5m to 15.0m is not supported.	The site is surrounded by three streets at the intersection of three prominent local distributor roads. Given the isolated nature of the site, its prominent location and the distance between the subject site and the nearest adjacent property the podium height is considered appropriate .

	<p>The continuous podium will result in a building which overwhelms the public realm and is inconsistent with the recommendations of the Place + Design report. This report recommends greater setbacks and in-ground landscaping.</p>	<p>The Place + Design Report led by Roberts Day identified that not all new development is suitable for podium style development within certain areas of the Precinct, primarily within the Scott-Richardson sub precinct. The Mends sub-precinct and in particular this site is considered to be appropriate for podium style development due to the high levels of pedestrian activity, the desire to create an appropriate human scale with the tower setback and the need to address multiple street frontages on all sides. The existence of an appropriately scaled podium structure is considered important in providing a human-scaled, urban form of development to the adjoining streets and relief from the taller towers beyond.</p>
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<p>Parking and access</p>	<p>The scale of the proposal results in an unacceptable traffic impact and difficulties with ingress and egress from the site. Introducing approximately 600 bays into the local area will result in more traffic.</p> <p>Vehicle access points should be carefully considered to ensure there is no queuing on the local road network.</p> <p>A Traffic Impact Assessment should be required that is peer reviewed.</p>	<p>The proposal was referred internally and to Main Roads given its location adjacent to significant road infrastructure, namely the on-ramp to the Kwinana Freeway at Mill Point Road. Main Roads provided the following feedback The site is adjacent to important elements of the State controlled road network.</p> <ul style="list-style-type: none"> • Future development will need to ensure there is no adverse impact on the functioning of this network, • Element 5.1 should be amended to prohibit crossover access to Mill Point Road, as well as Mends Street, • The proposed bicycle parking rate is considered low, while the vehicle parking rate for the 'Tourist Development' is considered high. A rate of 1 bay per 10 suites/keys is recommended. <p>Modifications to the amendment are proposed to incorporate the above recommendations have been</p> <p>It is acknowledged that densification will have an impact on traffic, however the amendment does include provisions to ensure that any development on the site appropriately considers and responds to traffic impacts. Element 10 of the proposed amendment states that any development on this site shall not have adverse impacts on traffic flow and safety in the immediate locality and requires the submission of a traffic impact assessment in order to determine this. In the instance the amendment is gazetted, any development proposal will need to demonstrate an acceptable level of impact on the local traffic network. Traffic will therefore be a key consideration in the determination of any development application on this site.</p> <p>The modifications recommended by Main Roads will strengthen this element.</p>
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Weather protection	Canopies and awnings should not detract from the heritage places and should provide proper shade to footpaths and public areas.	This comment is supported and consistent with advice from the State Heritage Office. Appropriate modifications to the amendment have been made to strengthen the proposed requirements to ensure awnings to adjacent to the heritage buildings are light weight and cantilevered.
Public benefit	Development should make sincere efforts to provide community benefit. If public benefits are to be provided they need to be located where the public can access them.	Element 14 of Schedule 13 provides the criteria for the assessment of community benefits. Any development on this site must meet these requirements.
Land use and employment	The minimum non-residential plot ratio criteria should be reinstated.	Increasing 'employment self-sufficiency' is one of the many objectives for the Special Control Area, along with increased residential population. This self-sufficiency is not contained to one development but rather is applicable to the precinct as a whole. The preferred uses for the ground floor are all non-residential with non-residential also being preferred uses for other floors above the ground floor. The Land use controls are considered appropriate to create an iconic mixed use development for the site, and to contribute to achieving the objectives of the precinct.
	There is support for a full-line supermarket on this site.	The amendment does not restrict the ability to provide a supermarket on the subject site. The City recognises that the area north of Canning Highway is under-serviced by supermarket space.

Proposed Modifications

In response to these key matters raised, and following further internal review of the amendment, and discussion with the applicant, a number of elements of the amendment are proposed to be modified as follows:

Podium Height – Element 1.8

It is proposed to amend provision 1.8 to state that the maximum podium height is 15.5 metres and add the additional words '*Additional podium height to a maximum of 19.0 metres, excluding feature elements, parapets and balustrades, is permitted where setback a minimum of 6.0 metres from the facade of the podium below.*'

The site falls approximately 2.0 metres from the boundary with Mends Street and the street corner of Labouchere Road and Mill Point Road. The purpose of this modification is to allow for a continuous podium to occur across the site, owing to the sloping topography of the site. This will allow for a podium approximately 13.5 metres on Mends Street and up to the maximum 15.5 metre height at the corner of

Labouchere Road and Mill Point Road. The additional 0.5 metres will have a negligible impact at street level given the overall height of the podium.

The allowance for additional podium height is intended to facilitate one additional podium level, above the height of the lower podium, but setback from the street so as to not be highly visible from the surrounding pedestrian environment. **Attachment (c)** provides indicative perspectives of the additional level and how this is located between the two towers, but away from the edge of the building. This ensures visibility of this additional element is minimised.

Given the likely limited visibility of additional podium storey, the applicants proposed modification is supported in principle. It should also be noted that the proposed 6.0 metre setback exceeds the 4.0 metre setback prescribed for the towers (which in some cases, will be from the street boundary). The setbacks and the location of the towers will ensure that the impact of this additional height is minimal when viewed from the street.

Heritage Conservation - Elements 1.3 and 7.2

Element 1.3 is proposed to be modified to add criteria for a 6.0 metre average setback and clarify that awnings may project up to 2.0 metres into the minimum setback area. This modification relates to advice received from the Heritage Council. Setbacks to the existing heritage places should average 6.0 metres and awnings should not project more than 2.0 metres into the minimum 4.5 metre setback area. Awnings adjoining the heritage places would therefore be a minimum of 2.5 metres from the heritage places. When coupled with the additional modification to ensure awnings adjacent to the heritage properties are lightweight and cantilevered, this will ensure that awnings do not adversely impact the heritage buildings.

In addition a new provision (2) is proposed to be added to read “*Development on the site shall ensure a visual connection between the heritage places/buildings on the site is maintained*”. This modification also relates to advice from the Heritage Council that development should maintain a visual connection between the two heritage places, but not necessarily in the form of a building setback. It should be noted that the heritage Council did not specify that this should be in the form of a building setback. This provision will allow flexibility in the building design as a connection could be in the form of a glazed pedestrian arcade or lobby.

Traffic and Access - Elements 5.1 and 10.1

Element 5.1 is proposed to be modified to add ‘*Mill Point Road*’ to the existing Development Requirement. This modification relates to Main Roads advice that access via Mill Point Road is not supported.

Element 10.1 is proposed to be modified to add the words ‘*and the adjacent state controlled road network*’ to the end of the existing Development Requirement. This modification has been made based on the advice of MRWA, which has indicated that future development may impact on the state controlled road network, if not properly assessed at development application stage.

Weather Protection and Awnings - Element 4.1

This element is proposed to be reworded as follows; “*Weather protection shall be provided for the to shade and protect the pedestrian environment through the provision of a colonnade, all weather visually permeable temporary enclosure or awning to the perimeter of the new buildings of at least 2 metres width. Only light weight cantilevered awnings may and may project into the 4.5 metre setback from any heritage place*”

This modification ensures weather protection structures provide shade to the pedestrian environment, not just wind or rain protection. It will also allow for flexible all-weather enclosures, such as café blinds, sun-screens and the like to be provided within the setback areas. This will improve amenity for occupiers and users of the building and ensure visual connectivity between the public realm and building is maintained at all times. The final part of the modification relates to the Heritage Council’s advice that no columns (or similar) should project into the setbacks to the heritage places.

Parking Rates – Element 3.1

It is proposed to amend part (b)(ii) of this element to require 1 bay per 10 suites, instead of 1 bay per 5 suites for tourist development. This modification is based on MRWA advice relating to best-practice parking rates for tourist developments. This reduced rate is considered similar to other inner city tourist developments with high levels of accessibility to tourist sites. In the case of the Civic Site, the proximity to Perth Zoo and high-frequency public transport reduces the need for parking for tourists.

In addition, a further Development Requirement as follows: ‘*3.1(c) A minimum of 0.5 motorcycle/scooter bays for every 10 car bays required by Development Requirement 3.1(a) and (b).*’

This provision provides motorcycle/scooter parking rates consistent with that outlined in *State Planning Policy 4.2 – Activity Centres for Perth and Peel*; which specifies a motorcycle/scooter rate of 5-10% of vehicle parking bays. To properly implement this modification, the words ‘motorcycle/scooter’ have been added to Elements 3.2, 3.4 and 3.5 to ensure bays are appropriately screened and subject to the same variation and calculation standards as car and bicycle bays.

Landscaping – Element 13.1

It is proposed to reword this element as follows ‘*Landscaping of not less than 40% of the site area shall be provided as part of comprehensive new development. Landscaping shall include in-ground landscaping at ground level, planting on walls, landscaping on the roof of the podium and rooftop terraces or gardens. The required landscaped area may include hard landscaping and does not have to comprise of only vegetated area*’.

This modification ensures that part of the 40% landscaping shall include in ground planting at ground level.

Minor Administrative Modifications

Elements 2.1, 10.2 and 1.11 are proposed to be modified to correct grammar, improve consistency of wording and delete references to repeated words.

A full list of the proposed modifications is contained at **Attachment (d)**, Schedule of Modifications.

Consultation

The proposed amendment was advertised for a period of 77 days, concluding on 16 January 2018, in accordance with the Regulations (which require a minimum 60 day period) and Local Planning Policy 301 'Community Engagement in Planning Proposals' which requires extended consultation over Christmas and New Year periods. This consultation involved:

- Two notices in the Southern Gazette, appearing on 31 October 2017 and 19 December 2017;
- Notice and copies of the amendment documents being published on the 'Your Say South Perth' throughout the consultation period;
- Hard copy notices and copies of the proposed amendment being available at the City's Civic Centre and libraries throughout the consultation period;
- Approximately 1,500 direct mail notices being sent to property owners and occupiers in and around the subject site.

At the conclusion of the consultation period a total of 32 submissions were received. A detailed breakdown is provided below:

- 2 submissions supported the amendment (including qualified support);
- 26 submissions objected to the amendment; and,
- 4 submissions were unqualified, indicating neither support nor objection to the amendment.

A detailed summary of the submissions received is provided at **Attachment (a)**. Following detailed review of the submissions the City is recommending to:

- Uphold 3 submissions;
- Partially uphold 18 submissions and address comments through modifications;
- Not uphold 9 of the submissions; and
- Note 2 submissions.

As detailed in the preceding section of this report, a number of modifications to the amendment are proposed in order to address some of the key matters raised during consultation.

Policy and Legislative Implications

The Council has undertaken community consultation as required by the Regulations, TPS6 and Council Policy P301, and must now consider whether to recommend to the Minister for Planning to finally approve Amendment No. 56, with or without modifications, or not approve it. The recommendation is to support the amendment **with modification**. Should the Minister approve Amendment No. 56, the City will arrange for Notice of the Minister's approval to be published in the *Government Gazette* and in the *Southern Gazette* newspaper. The Amendment provisions will then become operative.

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

Stage of Amendment No. 56 Process	Estimated time
Council decision to initiate Amendment and Council adoption of draft Amendment Report and Scheme Text for advertising purposes	22 August 2017
Referral of draft Amendment documents to EPA for environmental assessment, and to WAPC for information	28 August 2017
Receipt of EPA comments advising that no environmental assessment or conditions are required	12 October 2017
Community advertising period of 77 days	31 October 2017 to 16 January 2018
Council consideration of Report on Submissions	27 February 2018
Referral to WAPC and Minister for consideration of the below information and final approval: <ul style="list-style-type: none"> - All of the submissions - Report on Submissions and Schedule of Submissions - Council's recommendation on proposed Amendment 	Within two weeks of the February 2018 Council meeting
Minister's final determination of Amendment	Not yet known
City's publication of Notice of the Minister's final determination of Amendment No. 45 in Government Gazette and Southern Gazette newspaper following receipt from WAPC of advice of Minister's final determination	Not yet known

Financial Implications

There will be costs associated with the gazettal of the amendment should the Minister approve it. However these costs will be recouped from the applicant.

Strategic Implications

This report is aligned to the City's [Strategic Community Plan 2017-2027](#).

Attachments

- 10.3.8 (a):** Schedule of submissions
- 10.3.8 (b):** Modified schedule 13
- 10.3.8 (c):** Applicants additional podium height perspectives
- 10.3.8 (d):** Schedule of modifications

10.4 STRATEGIC DIRECTION 4: LEADERSHIP

10.4.1 Monthly Financial Statements - January 2018

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-18-5904
Meeting Date:	20 February 2018
Author(s):	Elizabeth Smith, Acting Manager Finance
Reporting Officer(s):	Colin Cameron, Director Corporate Services
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

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 note the financial statements and report for the month ended 31 January 2018 in accordance with regulation 34 (1) of the Local Government (*Financial Management*) Regulations 1996.

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.

The attachment Financial Management Reports provides similar information to that provided in previous years, 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 previous report 'Reconciliation on Budget Movements' reports.

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.

10.4.1 Monthly Financial Statements - January 2018

Actual Income from Operating Activities for the year to date is \$50.33m in comparison to budget of \$50.65m. Expenditure from Operating Activities for the year to date is \$33.42m in comparison to budget of \$34.75m. Variations in the month of December are minor with Operating Activities tracking closely to budget.

In terms of the Capital Summary, actual Capital Revenue for the year to date is \$0.82m in comparison to the budget of \$0.71m. Actual Capital Expenditure for the year to date is \$9.45m in comparison to the budget of \$13.99m.

Cash and Investments balance was \$70.30m, traditionally a higher 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 67.61% of its investments in institutions that do not provide fossil fuel lending. The Summary of Cash Investments, Attachment 10.6.1 (h), has been improved to illustrate the percentage invested in each of the Non-Fossil Fuel institutions as well as adding the Short Term Credit Rating provided by Standard & Poors (S&P) for each of the Banks.

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 2017-2027](#).

Attachments

- 10.4.1 (a):** Statement of Financial Position - January 2018
- 10.4.1 (b):** Statement of Change in Equity - January 2018
- 10.4.1 (c):** Statement of Financial Activity - January 2018
- 10.4.1 (d):** Operating Revenue & Expenditure - January 2018
- 10.4.1 (e):** Capital Summary - January 2018
- 10.4.1 (f):** Significant Variance Analysis By Business Unit Operating Revenue Expenditure - January 2018
- 10.4.1 (g):** Statement of All Council Funds - January 2018
- 10.4.1 (h):** Summary of Cash Investments - January 2018
- 10.4.1 (i):** Statement of Major Debtor Categories - January 2018

10.4.2 Listing of Payments - January 2018

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-18-5900
Meeting Date:	20 February 2018
Author(s):	Elizabeth Smith, Acting Manager Finance
Reporting Officer(s):	Colin Cameron, Director Corporate Services
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

Summary

A list of accounts paid under delegated authority (Delegation DC602) between 1 January 2018 and 31 January 2018 is presented to Council for information. During the reporting period, the City made the following payments:

EFT Payments to Creditors	(585)	\$4,652,845.07
Cheque Payment to Creditors	(24)	\$46,671.15
Total Monthly Payments to Creditors	(609)	\$4,699,516.22
Cheque Payments to Non-Creditors	(110)	\$86,948.40
Total Payments	(719)	\$4,786,464.62

Officer Recommendation

That the Listing of Payments for the month of January 2018 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.

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 2017-2027](#).

Attachments

10.4.2 (a): Listing of Payments - January 2018

10.4.3 Budget Review for the Period ended 31 December 2017

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	City of South Perth
File Ref:	D-18-7689
Meeting Date:	20 February 2018
Author(s):	Elizabeth Smith, Acting Manager Finance
Reporting Officer(s):	Colin Cameron, Director Corporate Services
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

Summary

A comprehensive review of the 2017/2018 Adopted Budget for the period to 31 December 2017 has been undertaken. Comment on the identified variances and suggested funding options are included. In a similar theme to the last few years, the WA economy has impacted negatively on revenue and therefore adjustments have been required to improve the overall position of the City.

Last year the Monthly Financial Reports were refreshed to include a Statement of Financial Activity, a report peculiar to Local Government. This report provides a good snapshot of the financial performance and position as it covers revenue, expenditure, capital and reserve movements. A Budgeted Statement of Financial Activity is included for the first time, which illustrates the high level shifts of the Review. It is recommended this report be reviewed before considering the detail within the schedules, thereby illustrating the main challenge to deliver an improved position. In addition, a summary of the estimated Financial Ratios has also been included for the first time, illustrating the need to focus on improving the Operating Surplus Ratio over time.

The Budget Review details two primary groups of adjustments, either those that increase or those that decrease the estimated Budget Closing Position, illustrated by an arrow. The underlying theme of the review was to deliver an improved budget outcome. Wherever possible, areas seeking additional funds have been encouraged to generate funding or savings in their own areas.

Officer Recommendation

That following the detailed review of financial performance for the period ending 31 December 2017, the budget estimates for Revenue and Expenditure for the 2017/2018 financial year (adopted by Council on 10 July 2017), be endorsed by the Council, as amended per **Attachments (a)** and **(b)** to this Agenda:

- **Attachment (a):** Amendments identified from normal operations in the Mid-Year Budget Review
- **Attachment (b):** Items funded by transfers to or from Reserves

ABSOLUTE MAJORITY REQUIRED

Background

Under the Local Government Act 1995 and the Local Government (Financial Management) Regulations, Council is required to review the Adopted Budget and assess actual values against budgeted values for the period at least once a year, ending no later than 31 December in that financial year. The results of the Mid-Year Budget Review are forwarded to the Department of Local Government after they are endorsed by Council.

Comments in the Budget Review are made on variances that have either crystallised or are quantifiable as future items - but not on items that reflect timing difference.

Traditionally, the Budget Review has been presented with the following attachments:

- Amendments resulting from normal operations in the quarter under review
(Attachment (a))

These are items which will directly affect the Municipal Surplus. The City's Financial Services team critically examine recorded revenue and expenditure accounts to identify potential review items. The potential impact of these items on the budget closing position is carefully balanced against available cash resources to ensure that the City's financial stability and sustainability is maintained.

The effect on the Closing Position (increase / decrease) and an explanation for the change is provided for each item.

- Items funded by transfers to / from existing Cash Reserves shown as
Attachment (b)

These items reflect transfers back to the Municipal Fund of monies previously quarantined in Cash-Backed Reserves or planned transfers to Reserves. Where monies have previously been provided for projects scheduled in the current year, but further investigations suggest that it would be prudent to defer such projects until they can be responsibly incorporated within larger integrated precinct projects identified within the Long Term Financial Plan (LTFP) or until contractors / resources become available, they may be returned to a Reserve for use in a future year.

Last year the Monthly Financial Reports were refreshed to include a Statement of Financial Activity, a report peculiar to Local Government. This report provides a good snapshot of the financial performance and position as it covers revenue, expenditure, capital and reserve movements. A Budgeted Statement of Financial Activity is included for the first time, which illustrates the high level shifts of the Review. It is recommended this report be reviewed before considering the detail within the schedules, thereby illustrating the main challenge to deliver an improved position. In addition, a summary of the estimated Financial Ratios has also been included for the first time, illustrating the need to focus on improving the Operating Surplus Ratio over time.

- Amendments resulting from operations and Cash Reserve adjustments are included in an adjusted Mid-Year Budget Review Statement of Financial Activity at **Attachment (c)**. Amended Ratios based on these adjustments are included at **Attachment (d)**.

Where quantifiable savings have arisen from completed projects, funds may be redirected towards other proposals which did not receive funding during the budget development process due to the limited cash resources available. This section also includes amendments to “Non-Cash” items such as Depreciation or the Carrying Costs (book value) of Assets Disposed of. These items have no direct impact on either the projected Closing Position or the City’s cash resources.

The projected Budget Opening Position for 2017/2018 (and extension, the Closing Position) was necessarily adjusted to reflect the actual figure achieved at year end rather than the ‘estimated’ figure that was used in formulating the budget. This matter is discussed further in the Financial Implications section of this report.

Consultation

No external consultation has occurred.

Policy and Legislative Implications

Local Government Act and Regulations.

Financial Implications

There are number of budget movements within individual areas of the City’s budget, with the overall estimated Budget Closing Position improved in net terms by \$548,485 to a Closing Position of \$1,393,135. This is an improvement to the initial estimated Closing Position at budget adoption date of \$844,650. Whilst this projected revised closing position contributes to an improved position, the estimated Budget Closing Position will be closely monitored during the remainder of the year.

Significant budget adjustments during the half year were with respect to;

- Legal fees, net increase of \$500k.
- Depreciation alignment across all Cost Centres to actual resulted in a net increase of \$100k.
- Staff and associated costs increases, \$370k.
- Fringe Benefits Tax increase, \$90k.
- Cleaning Cost review and rationalisation, saving \$200k.
- Parks and maintenance costs, savings \$300k.
- Capital Projects, reduced costs and deferrals, savings \$700k.
- Collier Park Golf Course, Green Fees reduction of \$150k.
- Net Infringement and Parking Fee income increase of \$50k.

Detailed adjustments are contained in **Attachment (a)**.

Sustainability Implications

The aim of the Budget Review was to improve the financial sustainability of the City. As has been discussed over the past year, the WA economic conditions have led to a reduction of expected revenue over the past few years, leading to a deterioration of the Operating Surplus Ratio. An improved WA economy, as well as prudent financial management will see this ratio improve over time, and ultimately improve the Financial Health Indicator (FHI) score.

Strategic Implications

This report is aligned to the Council’s [Strategic Community Plan 2017-2027](#).

10.4.3 Budget Review for the Period ended 31 December 2017

Attachments

- 10.4.3 (a):** Amendments identified from normal operations in the Quarterly Budget Review
- 10.4.3 (b):** Items funded by transfers to or from Reserves
- 10.4.3 (c):** Budgeted Statement of Financial Activity
- 10.4.3 (d):** Financial Ratios

10.4.4 Third Party Appeal Rights in Planning - WALGA Proposed Model

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	Not Applicable
File Ref:	D-18-7923
Meeting Date:	20 February 2018
Author(s):	Vicki Lummer, Director Development and Community Services
Reporting Officer(s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

Summary

This report seeks Council's support for WALGA's suggested preferred model for Third Party Appeal Rights in Planning in Western Australia.

Officer Recommendation

That Council support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels.

Background

In the first half of 2017, the Western Australia Local Government Association (WALGA) released a discussion paper titled "Third Party Appeal Rights in Planning". Feedback on the views of Local Governments on this matter was sought by 14 July 2017. At the June 2017 Ordinary Council meeting, Council resolved the following (Item 10.6.5):

That Council advise the Western Australia Local Government Association of the following comments in response to the "Third Party Appeal Rights in Planning" discussion paper:

The City of South Perth and Council is in favour of some form of Third Party Appeal Rights in Planning, subject to:

- 1. Third Party Appeal Rights being invoked only through a well-developed and considered process that limits the impact on resources and uncertainty;*
- 2. Appeals only being applicable where discretion is exercised under the R-Codes, Local Planning Policies, and Local Planning Schemes;*
- 3. That Development Assessment Panels also be subject to any third-party appeals process adopted under the WA planning framework; and*
- 4. The scope of Third Party Appeal Rights being limited to avoid vexatious and time wasting appeals and focus on high impact, major developments, as already outlined in the State Administrative Tribunal Act 2004:*

's.47 - Unjustified proceedings

This section applies if the Tribunal believes that a proceeding –

- (a) is frivolous, vexatious, misconceived or lacking in substance;*
- (b) is being used for an improper purpose; or*
- (c) is otherwise an abuse of process.'* (p32)

5. *It should be noted that Western Australia is the only state in Australia with no Third Party Appeal Rights in Planning and WALGA is urged to lobby this matter with the State Government as a matter of priority.*

Council's reasons for the above resolution were minuted as follows :

The Amended Recommendation strengthens the officer's recommendation and clearly responds to the questions posed by WALGA to the City of South Perth:

- *'Would you be in favour of the introduction of some form of Third Party Appeal Rights in Western Australia? Why or Why not?*
- *Do you feel your Council is likely to support some form of Third Party Appeal Rights?*
- *Any other comments relating to Third Party Appeal Rights'*

As outlined in the report there has been 'significant changes to the planning framework that have taken place in recent years:

- *Introduction of Development Assessment Panels (DAPs)*
- *Changes to section 76 of the Planning and Development Act 2005 to give greater powers to the Minister for Planning*
- *The establishment of the Metropolitan Redevelopment Authority*
- *Changes to structure planning processes*
- *Introduction of deemed provisions for all local planning schemes in the "Planning and Development (Local Scheme) Regulation 2015'.*

In this new context Third Party Appeal Rights may have been beneficial to Council over the last few years, with decisions being made by the JDAP which have not been consistent with the Council's Responsible Authority Reports (RAR), views or resolutions. In particular the application of discretion by JDAP has been widely viewed as inconsistent. The only current recourse is a judicial review, usually in the Supreme Court, which will only consider matters of procedural correctness and the legality of the decision and not the planning merit of the proposal: a process which has significant costs.

In other States where Third Party Appeals have been in operation for a number of years, where costs in comparison to a Judicial Review are significantly reduced and outcomes are often resolved through mediation. For example:

- *Costs to lodge an appeal in Victoria are \$325 & in Tasmania \$350*
- *The number of Third Party Appeals lodged account for between 4% and 19% (VCAT Data)*
- *South Australia approx. 78% of Appeals lodged were withdrawn or resolved without going to full hearing*

If other States are managing to handle Third Party Appeals, it is an indictment on Western Australia if the present process continues. What does seem to be a significant inequity in the present WA system is that while an Applicant, being a second party, is permitted to Appeal to the SAT against the decision to refuse an Application by a Local Government or a Development Assessment Panel, an adjoining owner or any other third party (such as the Local Government in the case of JDAP's) cannot.

This is not simply an issue of costs. Before DAPs were introduced there were fewer grounds for extending Third Party Appeal Rights to the general community, other than to adjoining property owners. However, this is no longer the case for developments with a value of more than \$2 million, that can now opt-in to be assessed under the new DAP regime. The DAP is now the approving body, whose refusal can be appealed to the SAT by the Applicant, but the City or other affected Party cannot Appeal against an Approval. It needs to be borne in mind that the DAP membership is composed of three governmental appointees who are not accountable to the community. Their role is more to represent the Development Policy of the State Government.

Comment

In December 2017 WALGA advised the City that the above feedback, along with other feedback received has been considered by WALGA State Council at its 8 September 2017 meeting where it was resolved that further consultation be undertaken on the matter, including workshops, to determine a preferred model. See **Attachment (a)** for the WALGA letter and report on consultation.

Two workshops were held on 1 November 2017 and a webinar held on 9 November 2017 to review the options which had been collated from the previous feedback and to determine a preferred model. The workshops had 40 attendees (35 officers, of which the report author was one and 5 elected members), representing 25 local governments.

Based on the outcomes of the workshops, WALGA is requesting that member Councils consider the preferred model as the introduction of Third Party Appeal Rights for Decisions made by Development Assessment Panels. Upon receipt of the resolutions the matter will be referred back to WALGA State Council.

The WALGA report noted the following “pros and cons” of the model:

For	Against
Local Government would be able to appeal a DAP decision and defend the merits of their policies and enforceability of their conditions.	Will still require increased staff and resources.
Addresses community concerns that decisions are being made 'removed' from the local community, leading to improved community confidence in the system.	Possibility that the minister could remove Elected Members from DAPs if Local Government can appeal anyway. Possible conflict of interest for Elected Member panellists.
More transparent process with more accountable DAP members, in both decision making and condition setting.	Elected Members may be pressured to initiate an appeal, rather than the community initiating an appeal.
Could allow for appeal on conditions that may have been removed from a RAR.	Reduces certainty in the decision making process.
A good first stage approach for the introduction of Third Party Appeal Rights - could be expanded later.	Possibility for more than one person to want to appeal - how to manage multiple appeals/appellants, and determine degree of impact?
Limits appeal rights to larger, more complex applications and would filter out 'smaller' impact applications which could potentially overburden system.	Only applies to DAP determinations, does not include applications for \$2-\$10 million that are determined by Council. If applicant does not opt in to DAPs then they avoid Third Party Appeal Rights.
May rarely be used in rural areas, is almost the status quo.	Could undermine the reason for DAPs being set up originally.
Likely that more applications will be decided by Council.	Adds another layer to an already complex system.

10.4.4 Third Party Appeal Rights in Planning - WALGA Proposed Model

The resolution and reasons given by Council in June 2017, quoted above, support the ability to have a Third Party Appeal for Development Assessment Panel applications. Whilst Council's previous resolution also included recommending wider Third Party Appeal rights, WALGA is now seeking support from member Councils for a position agreed by the majority of workshop participants, so that it can lobby for change with the united support of the industry.

Consultation

There is no consultation required for this decision.

Policy and Legislative Implications

The purpose of this resolution is so that WALGA can lobby on behalf of Local Government for changes to the relevant legislation to allow Third Party Appeals for planning in WA.

Financial Implications

There are no financial implications for this decision, as it is only providing support for a WALGA position.

However, should Third Party Appeal Rights be approved in WA, there are likely to be significant additional staff and monetary resources required.

- Additional staff resources would be required to prepare for and attend third party appeals in SAT.
- Additional monetary resources would be required to engage legal counsel.
- Whilst third party appeal rights would give the community the ability to appeal decisions made by DAPs, the likely outcome would be that Council itself would be lobbied by community or interest groups to lodge the appeals on their behalf, with the City bearing the costs of such significant legal challenges.

Strategic Implications

This report is aligned to the strategic direction of Leadership within Council's [Strategic Community Plan 2017-2027](#).

Attachments

10.4.4 (a): WALGA letter and report on consultation

10.4.5 Review of the Local Government Act 1995 - Submission

Location:	
Ward:	Not Applicable
Applicant:	City of South Perth
File Ref:	D-18-7973
Meeting Date:	20 February 2018
Author(s):	Phil McQue, Manager Governance and Marketing
Reporting Officer(s):	Geoff Glass, Chief Executive Officer
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

Summary

This report considers the Council's submission to the review of the Local Government Act 1995.

Officer Recommendation

That the Council endorse the submission shown at **Attachment (a)** to the review of the Local Government Act 1995.

Background

The Department of Local Government, Sport and Cultural Industries in late 2017 announced a staged review of the Local Government Act 1995 (Act). Local governments are created by the Act, which sets out the functions, responsibilities and powers of local government. Since 1995, there has been considerable change in community standards and expectations, accountability and governance, and technological advances, with some aspects of the Act now considered outdated.

Comment

Phase one of the review seeks to modernise the Act, focusing on the following four key areas:

- Electronic availability of information
- Meeting public expectations for accountability, including gift disclosures
- Meeting community expectations of standards, ethics and performance
- Building capacity

The Council has prepared a draft submission shown at **Attachment (a)**, based primarily on WALGA State Council's response to the phase one review of the Act.

Consultation

A Councillor workshop on the review of the Act was held 5 February 2018, with a draft submission considered.

Policy and Legislative Implications

A number of the City's suggested amendments to the Act would increase transparency and accountability, whilst also increasing our efficiencies and effectiveness.

Financial Implications

There are minimal financial implications associated with this legislative review.

10.4.5 Review of the Local Government Act 1995 - Submission

Strategic Implications

This report is aligned to the Council's [Strategic Community Plan 2017-2027](#).

Attachments

10.4.5 (a): Local Government Act 1995 Review - City of South Perth
Submission

10.4.6 Tender 1/2018 "Provision of a Catering Service for a Range of Meetings and Functions held at the City of South Perth"

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Reference:	D-18-12186
Meeting Date:	20 February 2018
Author(s):	Natalia Francis, Governance Project Officer
Reporting Officer(s):	Phil McQue, Manager Governance and Marketing
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

Summary

This report considers Tender 1/2018 submissions received from the advertising of Tender 1/2018 *"Provision of Catering Services for a range of Meetings, Events and Functions held at the City of South Perth"*.

This report outlines the assessment process used during evaluation of the tenders and recommends acceptance of the tender that provides the best value for money and highest level of service to the City.

Officer Recommendation

That:

- (a) the Council approves the tender submitted by Ultimo Catering & Events Pty Ltd for the *"Provision of a Catering service for a Range of Meetings and Functions held at the City of South Perth"* in accordance with Tender Number 1/2018 for the period of supply over a two (2) year period, expiring April 2020, and with the option of renewal for a further two (2) years at the City's discretion.
- (b) the resolved tender price be included in the Minutes of this meeting.

Background

A Request for Tender (RFT) 1/2018 for the *'Provision of a Catering Service for a Range of Meetings and Functions held at the City of South Perth'* was advertised in The West Australian on Saturday 6 January 2018 and closed at 5:00 pm on Tuesday 23 January 2018.

Tenders were invited as a *Schedule of Rates Contract*.

The contract is for a period of two (2) years expiring May 2020 and with the option of renewal for a further two (2) years at the City's discretion. The City may forthwith terminate the contract by written notice to the contractor in the event it fails in any manner to carry out the contract to the City's satisfaction.

Comment

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

TABLE A - Tender Submissions

Tender Submissions
Acclaimed Catering Pty Ltd
Heyder & Shears Exclusive Caterers Pty Ltd
Temptations Catering Pty Ltd
Ultimo Catering & Events Pty Ltd

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

TABLE B - Qualitative Criteria

Qualitative Criteria	Weighting %
Scope of Service	50%
Works record and experience	50%
Total	100%

Based on the assessment of all submissions received for Tender 1/2018 "Provision of a Catering service for a Range of Meetings and Functions held at the City of South Perth", it is recommended that the tender submission from Ultimo Catering & Events be approved by Council.

More detailed information about the 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.

The following Council Policies also apply:

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

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

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

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

10.4.6 Tender 1/2018 "Provision of a Catering Service for a Range of Meetings and Functions held at the City of South Perth"

- *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.

Strategic Implications

The report is consistent with Council's [Strategic Community Plan 2017-2027](#).

Attachments

10.4.6 (a): Evaluation Panel Recommendation Report (*Confidential*)

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

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 Councillor Allowances
- 15.1.2 Civic Heart / Finbar
- 15.1.3 Rivers Regional Council Tender 2013/1 – Receipt and Processing of Waste for Resource Recovery

15.1.1 Councillor Allowances

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:	Not Applicable
File Ref:	D-18-11588
Meeting Date:	20 February 2018
Author(s):	Andre Brandis, Manager Finance
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 Civic Heart / Finbar

*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: City of South Perth
Ward: Mill Point Ward
Applicant: Council
File Ref: D-18-12257
Meeting Date: 20 February 2018
Author(s): Vicki Lummer, Director Development and Community Services
Reporting Officer(s): Vicki Lummer, Director Development and Community Services
Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy: 3.2 Sustainable Built Form

15.1.3 Rivers Regional Council Tender 2013/1 – Receipt and Processing of Waste for Resource Recovery

*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: City of South Perth
Ward: All
Applicant: Council
File Ref: D-18-11949
Meeting Date: 20 February 2018
Author(s): Les Croxford, Manager Engineering Infrastructure
Reporting Officer(s): Mark Taylor, Director Infrastructure Services
Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy: 3.3 Enhanced Environment & Open Spaces