



Form 1 – Responsible Authority Report (Regulation 12)

Property Location:	Lots 81 & 82, No. 31 Labouchere Road & Lot 12, No. 24 Lyall Street, South Perth
Development Description:	Proposed Mixed Development (44 Storeys plus Basement)
DAP Name:	Metro Central JDAP
Applicant:	Element Advisory Pty Ltd
Owner:	CES Sirona Lyall (WA) Pty Ltd
Value of Development:	\$65 million
LG Reference:	11.2018.157.1
Responsible Authority:	City of South Perth
Authorising Officer:	Cameron Howell, Senior Statutory Planning Officer Stevan Rodic, Manager Development Services Vicki Lummer, Director Development and Community Services
DAP File No:	DAP/18/01409
Report Due Date:	23 November 2018
Application Received Date:	1 May 2018
Application Process Days:	90 Days
Attachment(s):	<ul style="list-style-type: none"> 1: Development Plans (latest revision) 2: Applicant's Reports: <ul style="list-style-type: none"> 2.01: Development Application Report (Element, 1 May 2018) 2.02: DA Report Appendix B Development Plans (Element, 1 May 2018) 2.03: Architectural Statement and Design Report (Bates Smart, 1 May 2018) 2.04: Policy P318 Checklist 2.05: Existing Site Survey (pre-demolition) 2.06: Design Review Panel Presentation (5 June 2018) 2.07: Revised Plans (26 June 2018) 2.08: Neighbour Presentation (12 July 2018) 2.09: Heritage Impact Statement (Griffiths Architects, 30 July 2018) 2.10: Overshadowing Comments (Element, 27 August 2018) 2.11: Shadow Impact Analysis for Lot 300 (Veris, 10 August 2018) 2.12: Perth Zoo PV Model Report (Floth, 31 July 2018) 2.13: Shadow Impact Analysis Perth Zoo (Veris, 9 August 2018) 2.14: Design Review Panel Presentation (4 September 2018)

	<ul style="list-style-type: none"> 2.15: Revised Plans Cover Letter (Element, 16 October 2018) 2.16: Revised Plans (15/24 October 2018) 2.17: Heritage Impact Statement (Griffiths Architects, 11 October 2018) 2.18: Landscaping Plans (Place Laboratory, 11 October 2018) 2.19: Public Art Concept (Ian Strange Studio, 13 September 2018) 2.20: Public Benefits Management Plan (received 15 October 2018) 2.21: Transport Impact Assessment (Transcore, 18 October 2018) 2.22: Waste Management Plan (Encycle, 18 October 2018) 2.23: SPP5.4 Acoustic Assessment Memorandum (Wood & Grieve, 14 November 2018) 2.24: Existing Site Survey (pre-demolition, received 16 November 2018) 2.25: Clear Glazing Plan (15 November 2018) 2.26: Proposed ACP and Perth Zoo Overshadowing Comments (Element, 20 November 2018) 2.27: Revised Plans (21 November 2018) 2.28: Transport Impact Assessment (Transcore, 21 November 2018) 3: Public Consultation Submissions (May-June 2018): <ul style="list-style-type: none"> 3.01: Public Submissions Summary 3.02: Public Submissions 3.03: 3D Building Model Images 3.04: 3D Building Model Overshadowing 4: City of South Perth Design Review Panel Comments 5: City of South Perth Design/Engineering Comments: <ul style="list-style-type: none"> 5.01: Cardno Peer Review (30 May 2018) 5.02: Cardno Micro Simulation Modelling (1 June 2018) 5.03: Engineering Comments (20 June 2018) 5.04: Access Review (31 October 2018) 6: City of South Perth Environmental Health Comments (7 June & 30 October 2018) 7: Department of Biodiversity, Conservation and Attractions Comments (29 June 2018)
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	8: Department of Planning, Lands and Heritage - State Heritage Comments (7 June 2018) 9: Perth Airport Comments (23 July 2018) 10: Perth Zoo Comments (15 June & 12 November 2018)
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Officer Recommendation:

That the Metro Central JDAP resolves to:

1. **Refuse** DAP Application reference DAP/18/01409 and accompanying plans Bates Smart Project No. S12168 (CEL Sirona Lyall Street Residences) DA01.001 Site Plan Rev. 3 (21.11.18), DA03.B02 Basement Rev. 3 (21.11.18), DA03.B01 Basement Rev. 3 (21.11.18), DA03.000 Level 00 Plan Rev. 3 (21.11.18), DA03.00M Level 00M Plan Rev. 2 (15.10.18), DA03.001 Level 01 Plan Rev. 2 (15.10.18), DA03.001M Level 01M Plan Rev. 2 (15.10.18), DA03.002 Level 02 Plan Rev. 2 (15.10.18), DA03.003 Level 03 Plan Rev. 3 (21.11.18), DA03.004 Level 04 Plan Rev. 3 (21.11.18), DA03.005 Level 05 Plan Rev. 3 (21.11.18), DA03.011 Typical Residential Rev. 3 (21.11.18), DA03.017 Typical Sky Home 1 (West) Plan Rev. 2 (15.10.18), DA03.020 Typical Sky Home 2 (East) Plan Rev. 2 (15.10.18), DA03.040 Level 39 & 40 Residential Plan Rev. 0 (15.10.18), DA03.041 Level 41 Plan - Penthouse Rev. 2 (15.10.18), DA03.042 Level 42 Plan - Penthouse Upper Rev. 2 (15.10.18), DA03.043 Level 43 - Plant Rev. 2 (15.10.18), DA03.044 Level 44 - Roof Level Plan Rev. 2 (15.10.18), DA07.001 East Elevation Rev. 3 (21.11.18), DA07.002 North Elevation Rev. 3 (21.11.18), DA07.003 South Elevation Rev. 3 (21.11.18), DA07.004 West Elevation Rev. 3 (21.11.18), DA07.101 Material Sample Board 1 Rev. 3 (21.11.18), DA07.102 Material Sample Board 2 Rev. 3 (21.11.18), DA08.001 Section AA Rev. 3 (21.11.18), DA08.002 Section BB Rev. 3 (21.11.18), DA08.003 Section CC Rev. 3 (21.11.18), DA.004 Section DD Rev. 3 (21.11.18), DA12.001 Typical Residential Plan Rev. 3 (21.11.18), DA12.002 Typical Sky Home 1 and 2 Rev. 2 (15.10.18), DA12.003 Level 39 & 40 Plan Rev. 2 (15.10.18), DA12.004 Penthouse Plan Rev. 2 (15.10.18), DA22.002 Area - GFA Rev. 0 (15.10.18), DA22.003 Area - Plot Ratio / NLA / NSA / Landscaping Rev. 1 (21.11.18), DA22.004 Area - Residential Area - Calculation Methodology Rev. 0 (21.11.18), DA22.005 Area - Non Residential Plot Ratio Area - Calculation Methodology Rev. 0 (21.11.18), in accordance with Schedule 2 Clause 68 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the provisions of the *City of South Perth Town Planning Scheme No. 6*, for the following reasons as follows:

Reasons

1. The proposed development does not demonstrate compatibility with its setting in accordance with Schedule 2 clause 67(m) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as:
 - a. The height of the tower is approximately 5 times greater than the 25 metre building height limit prescribed by *City of South Perth Town Planning Scheme No. 6* Schedule 9A Table A and Plan 3 and approximately double the height of the tallest existing buildings in the South Perth Station Precinct.

- b. Notwithstanding that the proposal is eligible for a variation to the 25 metre building height limit to be granted using the discretionary power in *City of South Perth Town Planning Scheme No. 6* Schedule 9A, the adopted local planning framework provides no guidance as to ultimately how tall buildings should be and there is no endorsed plan for the area to guide what the future growth should look like. In the absence of this guidance, it is not possible to say with any certainty the substantial level of discretion to building height being sought is appropriate for this locality and that the development will be compatible with the desired future setting of the precinct.

Advice Notes

1. If an applicant or owner is aggrieved by this determination there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

Details: outline of development application

Zoning	MRS:	Urban
	TPS:	Special Control Area 1 – South Perth Station Precinct
Use Class:		Café/Restaurant - Preferred Community Meeting Room # - Use Not Listed Consulting Rooms - Discretionary Educational Establishment - Discretionary Mixed Development - Preferred Multiple Dwelling - Preferred Office - Preferred Public Gallery/Display Space # - Use Not Listed
Notes:		
# Use Not Listed in TPS6 Table 1/Schedule 1 and Schedule 9A.		
Strategy Policy:		Not Applicable
Development Scheme:		City of South Perth Town Planning Scheme No. 6
Lot Size:		2039m ² (Lots 81, 82 & 24 combined)
Existing Land Use:		Temporary Sales Office

The applicant's proposal is the construction of a Mixed Development building, comprising a 3-storey (plus two mezzanine parking levels) podium, a 44 storey tower (43 floors + plant level) and two basement levels, consisting of:

- 120 Multiple Dwellings (22x 1 bedroom dwellings, 70x 2 bedroom dwellings, 16x 3 bedroom dwellings and 12x 4 bedroom dwellings);
- commercial tenancies, including café/restaurant, consulting room, educational establishment and office tenancies; and
- 215 car parking bays.

The proposal is a comprehensive new development on a site that is located within Special Control Area 1 of the *City of South Perth Town Planning Scheme No. 6* (TPS6). The site is also located within the TPS6 Schedule 9A Scott-Richardson Sub-Precinct and the TPS6 Schedule 9A Special Design Area.

The plans of the proposal are contained in **Attachment 1**.

Background:

The City received a development application for a proposed Mixed Development (43 storeys plus basements) in May 2018. The City received revised plans and additional information in June 2018 in response to the Design Review Panel comments. Further revised plans were received in October 2018 in response to all other referrals and the City's planning assessment.

The site has a frontage to Lyall Street to the north and Labouchere Road to the east. The site is located adjacent to a two-storey office and caretakers dwelling building to the west (No. 22 Lyall Street), a dental surgery within a heritage listed house and associated car park to the south/east (No. 35 Labouchere Road) and a three/four-storey residential complex to the south (Nos. 21-29 Hardy Street/Nos.37-39 Labouchere Road). The site is immediately surrounded by a number of low scale residential, commercial and recreational developments and public car parking.

Legislation and Policy:

Legislation

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015, specifically Schedule 2 'Deemed Provisions for Local Planning Schemes' [Regulations / Deemed Provisions]

City of South Perth Town Planning Scheme No. 6, specifically Schedule 9A [TPS6]
City of South Perth Heritage List (2018)

State Government Policies

State Planning Policy 2.10 'Swan-Canning River System' (2006)

State Planning Policy 3.1 'Residential Design Codes' (2018) [R-Codes]

State Planning Policy 5.4 'Road and Rail Transport Noise and Freight Considerations in Land Use Planning' (2009 & Draft September 2017)

Draft Volume Two of State Planning Policy 7.3 Residential Design Codes – Apartment Design (October 2016)

Local Policies

Council Policy P301 'Community Engagement in Planning Proposals'

Council Policy P316 'Developer Contribution for Public Art and Public Art Spaces'

Council Policy P318 'South Perth Station Precinct Application Requirements'

Council Policy P350.01 'Environmentally Sustainable Building Design'

Council Policy P350.03 'Car Parking Access, Siting, and Design'

Council Policy P350.05 'Trees on Development Sites and Street Verges'

Council Policy P350.09 'Significant Views'

South Perth Station Precinct Plan (WAPC, January 2011)

Consultation:

Public Consultation

Public consultation has been undertaken for the May 2018 proposal to the extent and in the manner required by Council Policy P301 'Community Engagement in Planning Proposals'. The subsequent amendments to the proposal were not considered to be

substantive enough to invalidate the submissions received and necessitate further consultation. Under the “Area 3” consultation method outlined in the aforementioned policy, individual property owners and occupiers were invited to inspect the plans and to submit comments during a minimum 21-day period. Public consultation signage was also installed on site. A total of 815 consultation notices were sent, with 67 submissions received, 4 generally not objecting the proposal, 62 submissions generally objecting to the proposal and 1 submission neither supporting nor objecting to the proposal. Further details of the submissions are contained in **Attachment 3**.

Key Issues Raised	Officer’s comments
Building Height Including bulk and scale visual impacts.	Noted The City is satisfied that the proposal is eligible for a building height variation to be granted and meets the relevant performance criteria of TPS6 Schedule 9A Table B.
Overshadowing	Noted The City is satisfied that the proposal satisfies the overshadowing performance criteria in TPS6 Schedule 9A Table B. The City has considered the provisions relating to overshadowing and solar access in the draft Design WA apartment design document as part of the assessment. The extent of overshadowing of neighbouring properties is considered to be generally consistent with the objectives of the apartment design document.
Traffic	Noted The City is satisfied that the proposal satisfies the traffic management performance criteria in TPS6 Schedule 9A Table B and the general traffic consideration in the Deemed Provisions.
Impact to Perth Zoo	Noted The proposal will impact upon the zoo. Perth Zoo have raised concern in respect of visual impact and overshadowing impacts to the zoo grounds, exhibits and the solar array and resultant impacts to their visitors, gardens, animals and sustainability.

Consultation with other Agencies or Consultants

The City has obtained the comments from the following agencies:

- City of South Perth Design Review Panel, in relation to design quality (refer to **Attachment 4**).
- City of South Perth Design/Engineering officers and the City’s traffic peer review and modelling consultant (refer to **Attachment 5**).
- City of South Perth Environmental Health officers (refer to **Attachment 6**).

- City of South Perth Streetscape officers - \$24,180.20 fee applies for the removal of 2 street trees (includes tree amenity value).
- Department of Biodiversity, Conservation and Attractions, in relation to the Swan Canning Development Control Area (refer to **Attachment 7**).
- Department of Planning, Lands and Heritage, in relation to state heritage places near the development site (refer to **Attachment 8**).
- Perth Airport, in relation the protection of airspace (refer to **Attachment 9**).
- Perth Zoo, due to the potential impacts to the neighbouring zoo grounds (refer to **Attachment 10**).

Planning Assessment:

Local Planning Scheme: TPS6

Item	Requirement	Proposal	Compliance
<u>Clause 6.3(8)</u> Minimum Car Parking Dimensions	As per the Australian Standards AS2890.1		Compliant
Residential:	User Class 1A: 2.4m x 5.4m car bay dimensions. 5.8m accessway width. Spaces for small cars: 2.3m x 5.0m car bay dimensions.	Standard bays: Min. 2.4m x 5.4m car bay dimensions. Small car bays: Min. 2.3m x 5.0m car bay dimensions. All bays: 5.8m accessway width.	Compliant
Non-Residential Employee:	User Class 1A: 2.4m x 5.4m car bay dimensions. 5.8m accessway width. Spaces for small cars: 2.3m x 5.0m car bay dimensions.	Standard bays: Min. 2.4m x 5.4m car bay dimensions. Small car bays: Min. 2.3m x 5.0m car bay dimensions. All bays: 5.8m accessway width.	Compliant
Non-Residential Visitor:	User Class 3: 2.6m x 5.4m car bay dimensions. 5.8m accessway width.	2.6m x 5.4m car bay dimensions + 5.8m accessway width.	Compliant
<u>Clause 6.8</u> Sewerage and Drainage	Sewerage and stormwater disposal provided.	Not stated.	Compliant* *Planning conditions required to comply.
<u>Clause 6.9</u> Minimum Floor and Ground Levels	Min. 1.70-2.30m AHD.	Parking & non-habitable rooms: Min. -3.65m AHD Ground levels: Min. 3m AHD. Habitable floor level: Min. 3.65m AHD.	Not compliant Cl. 6.9(3) compliance required to approve. <i>Refer to Officer Comments section.</i>
<u>Clause 6.10</u>	Finished levels to	Floor and ground	Not compliant

Maximum Floor and Ground Levels	achieve 'equal cut and fill' and maximum driveway gradients.	levels generally achieve 'equal cut and fill' requirements. Max. 1:7.5 ramp gradient proposed.	Cl. 6.10 discretionary provisions compliance required to approve. <i>Refer to Officer Comments section.</i>
Schedule 9A South Perth Station Precinct	<i>Refer to the Schedule 9A tables.</i>	<i>Refer to the Schedule 9A tables.</i>	<i>Refer to the Schedule 9A tables.</i>

TPS6 Schedule 9A

The proposal is a comprehensive new development within Special Control Area 1 – South Perth Station Precinct. Accordingly, the proposal shall comply with the development requirements in the first column of Table A of TPS6 Schedule 9A. No variation from those requirements is permissible unless the provisions of a particular development requirement provide the local government (DAP) with a discretionary power to approve a variation from that requirement.

The Guidance Statements in the second column of Table A explain the rationale for the development requirements in the first column; and guide the local government (DAP) in the exercise of discretion, where applicable, when considering applications for development approval for comprehensive new development.

In cases where the local government (DAP) has discretionary power to approve a proposed variation from a particular development requirement in Table A, approval shall not be granted unless the proposed comprehensive new development satisfies the related Guidance statements.

As the site is within the Special Design Area and approval is sought for variations from Development Requirement 5.1 (Building Height), approval shall not be granted unless the proposed comprehensive new development satisfies the related Guidance Statements in Table A, and also complies with all Performance Criteria in Table B.

Item & Requirement	Proposal	Compliance
Elements 1 & 2: Land Uses Development Requirements DR1.2 & DR2.2 list the Preferred and Discretionary land uses for this site. 1.5 Any use not listed in Development Requirements 1.1, 1.2, 1.3 and 1.4 is not permitted unless the use satisfies Element 1 Guidance Statements (a) and (b) and the related Guidance Statements for the relevant sub-precincts. Element 1 Guidance Statements (a) It is intended that the South Perth Station Precinct is to consolidate its role as an employment destination. (b) In the Mends and Scott-Richardson Sub-Precincts, non-residential uses should predominantly comprise offices, shops		Guidance Statement compliance required to approve.
	Café/Restaurant -	Preferred
	Community Meeting Room -	Use Not Listed
	Consulting Rooms -	Discretionary
	Educational Establishment -	Discretionary
	Mixed Development -	Preferred
	Multiple Dwelling -	Preferred
	Office -	Preferred
	Public Gallery / Display Space -	Use Not Listed

<p>and other commercial land uses, Educational Establishments and tourist-oriented development. Inclusion of child care facilities and community art or exhibition galleries within some developments would be beneficial for both residents and employees.</p> <p>(d) For the Scott-Richardson Sub-Precinct the traditional Office and small scale shops and other commercial uses are encouraged on the ground and lower floors with residential on the upper floors.</p> <p>Guidance Statements (c), (e) and (f) are not applicable to this site.</p> <p>Development Requirements</p> <p>2.5 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).</p> <p>Element 2 Guidance Statements</p> <p>(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.</p> <p>(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 of Table A.)</p>		the Guidance Statements. Compliant
	Café/Restaurant (Ground Floor) -	Preferred
	Community Meeting Room (Ground Floor) -	Use Not Listed
	Public Gallery / Display Space (Ground Floor) -	Use Not Listed
	No residential dwellings are proposed on the ground floor level.	Compliant
		DR2.2 & DR2.5: The proposed land uses on the ground floor level are consistent with the Guidance Statements. Compliant
<p>Element 3: Plot Ratio and Land Use Proportions</p> <p>Development Requirements</p> <p>DR3.1-3.5 specify the plot ratio requirements for this proposal, summarised as follows:</p>		
<p>Residential Component: No minimum or maximum (DR3.4). DR3.3 is not applicable to this proposal.</p>	6.37 (12989.1m ²)	Compliant
<p>Non-Residential Component: Minimum 1.0 (2039m²) and no maximum (DR3.2 & 3.5).</p>	1.02 (2072.4m ²) The method of measurement is identified in the	Compliant <i>Refer to the Officer Comments section</i>

	applicant's plans.	<i>for further details.</i>
Total: No maximum (DR3.1).	7.37 (15061.5m ²)	Compliant
DR3.6-3.7 refers to the R-Codes provisions. <i>Refer to the R-Codes Assessment.</i>		Compliant
Guidance Statements (a) <i>To meet potential occupiers' diverse needs, all comprehensive new developments that include a residential component should provide a diversity of dwelling sizes and number of bedrooms, including Single Bedroom Dwellings.</i> (b) <i>For residential dwellings, storerooms, rubbish collection and clothes drying areas should be provided.</i>		DR6.2: It is noted that the R-Codes requirements 6.4.3 and 6.4.5 closely align with the two Element 3 Guidance Statements. The proposed diversity of dwellings is seen to be sufficient to be consistent with Element 3 Guidance Statement (a). The proposed provision of residential utilities and facilities is considered to be consistent with Element 3 Guidance Statement (b). Compliant
Element 4: Podium Height Development Requirements DR4.1 is not applicable to this site (DR4.2 prevails). 4.2 Minimum 7.0m and maximum 10.5m – <i>For properties that contain or abut a heritage place, the podium height shall be a minimum of 7 metres and a maximum of 10.5 metres unless otherwise approved by the local government after giving due consideration to Element 13 of Table A of this Schedule.</i> 4.3 <i>On a corner site, in order to accommodate an architectural design feature, the local government may permit a variation from the maximum podium height prescribed in Development Requirement 4.1 where the podium satisfies Element 4 Guidance Statements (a) and (b).</i> Guidance Statements (a) <i>The scale of the podium is an important contributory factor to the character and perceived integrity of the street.</i> (b) <i>Corner podium with architectural design</i>	Western podium component: 12.77m - 13.47m above ground level. Eastern podium component: 13.30m - 14.00m above ground level. The top of the podium is identified as being the Level 3 finished floor level - RL16.85m (western component) and RL17.65m (eastern component).	Compliant: - Minimum height Not compliant: - Maximum height The exercise of discretion is required to approve. <i>Refer to the Officer Comments section.</i>

<i>features is encouraged.</i>		
Elements 5-6 & Cl. 6.1A: Building Height & Special Design Area		
Development Requirements		
5.1 Maximum 25m (RL29.30m) building height, measured to highest finished floor level.	<ul style="list-style-type: none"> • 137.55m if the TPS6 cl. 6.1A(10) highest floor level measurement was applicable i.e. 112.55m variation. • 144.45-145.37m maximum building height. <p><i>Highest Floor Level: RL141.85m.</i></p> <p><i>Highest Point: RL148.75m.</i></p>	<p>Not compliant</p> <p>Guidance Statement and Table B compliance required to approve.</p> <p><i>Refer to Table B assessment and Guidance Statement compliance comments.</i></p>
6.1 <i>In the case of a comprehensive new development in the Special Design Area with a plot ratio of more than 3.0, the local government may, subject to all of the provisions of Element 6, approve a variation from the Building Height Limits shown on Plan 3, provided that the development site has an area of not less than 1,700 sq. metres and a frontage of not less than 25 metres, unless otherwise approved by the local government.</i>	Within the Special Design Area, 7.37 total plot ratio, 2039m ² site area, 21.12m Labouchere Road frontage & 68.39m Lyall Street frontage.	Compliant
6.2 <i>For sites within the Special Design Area comprising lots depicted on Plan 2 'Special Design Area', the requirements of Element 3 'Plot Ratio and Land Use Proportions' and Element 5 'Building Height' may be waived where it can be demonstrated to the satisfaction of the local government or other responsible authority that the development :</i> (a) <i>is consistent with the Guidance Statements applicable to those Elements; and</i> (b) <i>satisfies all of the Performance Criteria in Table B of this Schedule.</i>	Within the Special Design Area.	<p>Guidance Statement and Table B compliance required to approve.</p> <p><i>Refer to Table B assessment and Guidance Statement compliance comments.</i></p>
6.3 <i>Where a variation from a Building Height Limit shown on Plan 3 is sought under Development Requirement 6.1 and 6.2, the applicant shall submit as part of the application for development approval, a report demonstrating how the development satisfies all of the Performance Criteria in Table B.</i>	The required applicant report is contained in Attachment 2.	Compliant
Guidance Statements		DR6.2: The proposal

<p>5(a) <i>In general, the building height limits shown on Plan 3 'Building Heights', coupled with unlimited total plot ratio, will facilitate achievement of the desired character of the South Perth Station Precinct as an urban place with a dynamic and vibrant inner-city atmosphere.</i></p> <p>5(b) <i>Within the Special Design Area comprising sites fronting the more prominent streets, it is appropriate to allow higher buildings provided the Performance Criteria in Table B are met.</i></p> <p>6(a) Not Applicable (relates to approval of variations for undersized lots).</p> <p>6(b) <i>The lots comprising the Special Design Area have been included in this area because they front onto streets which have a high degree of visibility, either by virtue of their open aspect or proximity to high volumes of vehicle or pedestrian traffic. These streets offer the potential for higher buildings with a stronger visual presence than buildings in other streets. In return for this greater development potential, buildings need to demonstrate exceptional design quality, and meet a range of other Performance Criteria.</i></p> <p>6(c) <i>Table B contains a range of performance criteria aimed at promoting energy-efficient developments of exceptional, sensitive and sophisticated design quality and offering additional occupier and community benefits, among other design considerations. Subject to satisfying all of the Performance Criteria, on sites of sufficient area and frontage in the Special Design Area building height variations may be allowed to the limits specified in the development requirements.</i></p>		<p>is considered to be consistent with Element 5 Guidance Statements (a) and (b). Compliant</p>
<p>Element 7: Relationship to the Street Development Requirements</p> <p>7.1 <i>The street setbacks apply to both residential and non-residential components of buildings.</i></p>		
<p>7.2 <i>... all comprehensive new development shall incorporate a podium with a nil street setback. ...</i></p> <p>DR7.3, 7.4 & 7.5 are not applicable to this site.</p> <p>7.6 Scott-Richardson Sub-Precinct</p> <p>7.6.1 <i>The following requirements apply</i></p>		

<p>unless otherwise approved where the proposed comprehensive new development satisfies the applicable Guidance Statements:</p>		
<p>(a)(i) Where the local government is satisfied that a podium with a zero street setback would not adversely affect the amenity of an adjoining property or there is a prospect of imminent redevelopment of the adjoining site, a zero setback is required for not less than 50% of the frontage of the development site unless the development satisfies Element 7 Guidance Statement (a). A zero setback is not permitted for more than 60% of the frontage of the development site; and</p> <p>(ii) where there is no prospect of imminent redevelopment of an adjoining site due to the contemporary nature of the existing building and its high monetary value in relation to the current land value, and the local government is of the opinion that a podium with a street setback of less than 4.0 metres would adversely affect the amenity of the adjoining property, the local government shall specify:</p> <p>(A) Not Applicable to this site</p> <p>(B) for a lot where a zero street setback applies –</p> <p>(I) the maximum percentage of the lot frontage that may have a [zero street setback];</p> <p>(II) the positioning of the portion of the building with a [zero street setback]; and</p> <p>(III) the required greater setback for the balance of the building. A minimum setback of two-thirds of the setback of the adjoining building to a maximum of 4.0 metres shall be required.</p>	<p>Labouchere Road podium setbacks:</p> <ul style="list-style-type: none"> • 4.0m. • 3.5m (façade frame projections). <p>Lyll Street podium setbacks:</p> <ul style="list-style-type: none"> • 0.3m (western component, 41.4m wall length). • 0.2m verge encroachment (western component façade frame projections). • Min. 4.0m (eastern component, 27m wall length). • Min. 3.5m (eastern component façade frame projections). 	<p>Not compliant</p> <p>Guidance Statement compliance required to approve.</p> <p><i>Refer to the Officer Comments section for further details and discussion.</i></p>
<p>(b) Ground floor street façades shall comprise at least one pedestrian entrance and a minimum of 60% clear glass with a maximum sill height of 450mm above the adjacent footpath level. No obscure screening is permitted higher than 1.2 metres above the adjacent footpath level, unless the development satisfies Element 7 Guidance Statements (c), (d), (e) and (f).</p>	<p>Pedestrian entrances are provided to both streets.</p> <p>Labouchere Road clear glazing: 73%.</p> <p>Lyll Street clear glazing: 61%.</p> <p>The elevation plans show the windows having no sill and no obscure glazing.</p>	<p>Compliant</p>

<p>(c) <i>Portions of ground floor street façades with no openings shall not exceed 5 metres in length, unless the development satisfies Element 7 Guidance Statements (c), (d), (e) and (f).</i></p>	<p>No solid walls greater than 5m in width, though more than 5m separation between openings (doors). It is not evident from the information provided on the development plans whether the glazing on the ground floor can be classified as openings and hence whether the façade has portions without openings that exceed 5m in length.</p>	<p>Not compliant Guidance Statement compliance required to approve.</p>
<p>7.6.2 <i>For the portion of the building above the podium, the setback from the street to the main external wall of a building shall be a minimum of 4.0 metres.</i></p>	<p>Minimum 4m.</p>	<p>Compliant</p>
<p>7.6.3 <i>The local government may grant approval for cantilevered balconies or decorative elements to be set back a minimum of 3.0 metres from the street boundary of the development site, provided that:</i> <i>(a) strong visual differentiation is maintained between the podium and the portion of the building above it;</i> <i>(b) the perceived scale of the building does not dominate public space;</i> <i>(c) the projecting elements have sufficient design merit and visual interest; and</i> <i>(d) solar access to the public footpath is not adversely affected.</i></p>	<p>Minimum 3.5m for the façade frame.</p>	<p>Compliant The City considers that the development demonstrates compliance with the listed considerations.</p>
<p>7.6.4 <i>The design of the building is to demonstrate that the podium and the portion of the building above it are visually compatible in terms of construction materials and design features.</i></p>	<p>Refer to the development plans, contained in Attachment 1.</p>	<p>Compliant The materials and interactions between podium and tower components are considered appropriate and compatible as well delivering an appropriate level of differentiation between building elements.</p>
<p>Guidance Statements 7(a) <i>... to achieve a high degree of continuity of the street edge, a portion of the width</i></p>		<p>DR7.6.1(a)(i) (Lyll St podium setback): The provision of a greater</p>

<p><i>of the street façade of the podium should normally abut the street boundary, with the levels above the podium being set back in accordance with Element 8 ‘Side and Rear Setbacks’. However, the local government may approve a lesser portion of the street frontage having a zero street setback if design techniques are employed which visually maintain the continuity of the street edge.</i></p> <p>Guidance Statement (b) is not applicable to this site.</p> <p><i>7(c) Ground floor commercial tenancies adjacent to any street should maximize active street frontages and provide a public entrance directly accessible from the street.</i></p> <p><i>7(d) The extent of blank or solid wall at ground level adjacent to the street should be minimised.</i></p> <p><i>7(e) Deep and poorly illuminated recesses are to be avoided at ground level adjacent to pedestrian paths.</i></p> <p><i>7(f) Where cafés or restaurants are proposed, alfresco dining is encouraged.</i></p>		<p>proportion of the street frontage with a nil setback is consistent with Guidance Statement (a). The Lyall Street façade is seen to satisfy the Guidance Statements (c), (d), (e) and (f).</p> <p>Compliant*</p> <p>*The development plans will need to be modified to contain the façade frame within the lot boundary. This modification could be addressed using a planning condition in the event of an approval.</p> <p>DR7.6.1(c): The ground floor facades are seen to satisfy the Guidance Statements (c), (d), (e) and (f).</p> <p>Compliant</p>
<p>Element 8: Side and Rear Setbacks</p> <p>Development Requirements</p> <p><i>8.1 (a) Where the local government is satisfied that a podium with a zero setback from a side or rear boundary would not adversely affect the amenity of an adjoining property or there is a prospect of imminent redevelopment of the adjoining site, a zero setback from the side or rear boundary is required unless the development satisfies Element 8 Guidance Statement (a); and</i></p>	<p>0m podium setbacks:</p> <ul style="list-style-type: none"> • East. • South (western portion, up to 1.96m-2.75m (RL5.70m) in height). • West. <p>Greater podium setbacks:</p> <ul style="list-style-type: none"> • 1.5m, South (eastern portion), 18.3m wall length. • 1.95m, South (eastern portion), 16.8m wall length at ground level. • 3.0m, South (western portion), above ground level. 	<p>Compliant:</p> <ul style="list-style-type: none"> - East. - West. <p>Not compliant:</p> <ul style="list-style-type: none"> - South (eastern portion). <p>Guidance Statement compliance required to approve.</p> <p><i>Refer to the Officer Comments section for further details.</i></p>

	<ul style="list-style-type: none"> • 3.5m, South (eastern portion), façade frame projections. • 4.0m, South (eastern portion). 	
<p>(b) where there is no prospect of imminent redevelopment of an adjoining site due to the contemporary nature of the existing building and its high monetary value in relation to the current land value, and the local government is of the opinion that a setback of less than 3.0 metres from a side or rear boundary would adversely affect the amenity of the adjoining property in any manner including, but not limited to, obstruction of light and solar penetration or prevention of adequate ventilation between buildings, the Council shall specify:</p> <p>(i) the portion of the building that is required to have a greater setback from the side or rear boundary; and</p> <p>(ii) the required greater setback for that portion of the building, which shall be:</p> <p>(A) a minimum of 2.0 metres, when the podium height is not more than 9.0 metres; and</p> <p>(B) a minimum of 3.0 metres, when the podium height is greater than 9.0 metres.</p> <p>No balcony shall protrude into the required minimum setback area.</p>	As above.	<p>Compliant:</p> <ul style="list-style-type: none"> - South (western portion). <p>Refer to the Officer Comments section for further details.</p>
8.2 ... for both residential and non-residential components of a building, podium walls may have a zero setback from the rear boundary.	As above.	Compliant
<p>8.3 ... for the portion of a building above the podium ... the setbacks from side and rear boundaries shall be:</p> <p>(a) For non-residential components: 3 metres minimum.</p> <p>(b) For residential components: Not less than the setbacks prescribed in Table 5 of the R-Codes which shall apply to both side and rear boundaries.(4.0m)</p>	<p>4.0m above podium setbacks:</p> <ul style="list-style-type: none"> • East. • South (eastern portion). • South (western portion). • West. <p>South (eastern portion), frame: 3.5m.</p>	<p>Compliant:</p> <ul style="list-style-type: none"> - East. - South (western portion) - South (eastern portion), external walls. - West. <p>Not compliant:</p> <ul style="list-style-type: none"> - South (eastern portion), frame. <p>Refer to the Officer Comments section for further details.</p>

<p>8.4 In the case of comprehensive new development on a site comprising or adjoining a heritage place, the minimum setbacks from the side and rear boundaries shall be as determined by the local government. The local government may require greater setbacks than those specified in Development Requirement 8.2, having regard to the preservation of the visual significance and integrity of the heritage place.</p>	<p>The development site is abutting a heritage place: Residence (fmr), 35 Labouchere Road (Place No. 53, Heritage List Category B).</p> <p>Proposed setbacks as above.</p>	<p>Compliant</p> <p>Refer to the Officer Comments section for further details.</p>
<p>Guidance Statements</p> <p>(a) The podium levels of buildings will normally be required to have zero side setback to ensure a high degree of continuity of the street edge. However, the local government may approve a greater side setback if such setback is:</p> <p>(i) integrated with an open forecourt or alfresco area, or the like, which is visible from the street; or</p> <p>(ii) concealed from view from the street by a portion of the podium which has a zero side setback.</p> <p>(b) The portion of a building above the podium is required to be set back from side and rear boundaries to allow light and solar penetration between buildings.</p> <p>(c) Any building constructed on a site adjoining a heritage place must preserve the visual significance and integrity of the heritage place. To contribute to the achievement of this objective, the new building may need to be set back a greater distance from the side or rear boundaries of the development site.</p>		<p>DR8.1(a): The southern side setback area is multi-function space incorporating landscaped areas, an emergency egress route, access to residential bicycle parking and external access to the community room. The setback area is visible from Labouchere Road.</p> <p>Compliant</p>
<p>Element 9: Parking</p> <p>Development Requirements</p> <p>9.1 Subject to Development Requirement 9.2, the minimum required on-site parking bays shall be as follows:</p>	<p>215 car bays. 115 bicycle bays + 8 on-street bicycle bays. 12 motorcycle bays.</p>	
<p>(a) For residential uses –</p>		<p>Compliant</p>
<p>(i) 0.75 car bays per dwelling for occupiers of Single Bedroom Dwellings; (22 dwellings = 17 bays)</p>	<p>22 car bays.</p>	<p>Compliant</p>
<p>(ii) 1 car bay per dwelling for occupiers of dwellings other than Single Bedroom Dwellings; (98 dwellings = 98 bays)</p>	<p>119 car bays.</p>	<p>Compliant</p>
<p>(iii) 1 additional car bay per 6 dwellings for visitors; (120 dwellings = 20 bays)</p>	<p>20 car bays.</p>	<p>Compliant</p>
<p>(iv) in addition to the required car bays, 1 bicycle bay per 3 dwellings; and 1 bicycle bay per 10 dwellings for visitors,</p>	<p>85 occupier bicycle bays and 14 visitor bays.</p>	<p>Compliant</p>

	<i>designed in accordance with AS2890.3 (as amended). (120 dwellings = 40 + 12 bays)</i>	
(b)	<i>For non-residential Uses –</i>	Not compliant DR9.2 compliance required to approve.
(i)	<i>0.5 car bays per Tourist Accommodation suite; (0 TA suites = 0 bays)</i>	0 car bays Compliant
(ii)	<i>1 car bay per 50 square metres of gross floor area for uses other than Tourist Accommodation; (3534m² GFA* = 71 bays)</i>	54 car bays. The method of measurement is identified in the applicant's plans. * This figure is 90m ² less than the applicant's calculation to include in the shared space calculation an omitted flight of stairs, an omitted plant area and excludes the delivery dock and residential bins. Not compliant
(iii)	<i>10%, or 2, of the total number of required car bays, whichever is the greater, marked for the exclusive use of visitors; (8 bays)</i>	6 of the 54 car bays are marked for visitor use only. Not compliant
(iv)	<i>in addition to the required car bays, for staff use, 1 bicycle bay per 200 square metres of gross floor area designed in accordance with AS2890.3 (as amended); together with 1 secure clothes locker per bay; and 1 male and 1 female shower per 10 bays. (3534m² GFA = 18 bays = 18 lockers + 2 male & 2 female showers)</i>	16 bicycle bays (not allocated to specific uses/purposes). 32 clothes lockers. 3 male showers. 3 female showers. 1 shared shower. Not compliant
9.2	<i>Notwithstanding Development Requirement 9.1 (b), for comprehensive new development consisting only of 2 or more non-residential uses, the local government may approve a lesser number of car or bicycle bays where it is demonstrated that the proposed number of bays is sufficient, having regard to different periods of peak parking demand for proposed non-residential land uses on the development site.</i>	More than 2 non-residential land uses are proposed. Compliant <i>Refer to the Officer Comments section for further details.</i>
9.3	<i>All visitor parking bays shall be:</i> (a) <i>marked and clearly signposted as dedicated for visitor use only;</i> (b) <i>connected to an accessible path of travel</i>	The visitor bays are marked on the development plans. The path of travel to Compliant* *Planning conditions required to comply.

<p><i>for people with disabilities.</i></p>	<p>the building entrances will be accessible for people with disabilities.</p>	
<p>9.4 <i>Subject to Development Requirement 9.5, all visitor parking bays shall be located close to, or visible from, the point of vehicular entry to the development site and outside any security barrier.</i></p>	<p>All of the visitor bays are provided on the basement 01 or 02 parking level, All visitor parking is provided behind a security barrier.</p>	<p>Not compliant DR9.5 compliance required to approve.</p>
<p>9.5 <i>Notwithstanding Development Requirement 9.4, visitor parking bays may be placed:</i></p> <p>(a) <i>elsewhere on the development site if the proposed location of those bays would be more convenient for visitors; and</i></p> <p>(b) <i>inside a security barrier where:</i></p> <p>(i) <i>two of the visitor bays are provided outside the security barrier unless otherwise approved where Guidance Statement (c) is satisfied; and</i></p> <p>(ii) <i>visitors have convenient access to an electronic communication system linked to each occupier of the building.</i></p>	<p>The visitor bays locations are in an acceptable position if adequately signed at the parking entrance. All visitor parking is provided behind a security barrier. An electronic communication system is proposed.</p>	<p>Compliant* *Planning conditions required to comply.</p>
<p>9.6 <i>Other than parking bays for visitors or commercial deliveries, all car bays are to be provided in a basement, or within the building behind residential or non-residential floor space, or outside the building provided that such bays are concealed from view from the street.</i></p>	<p>The car parking is proposed in the basement and within the podium behind floor space. The 2 car bays outside the building on Level 3 are adequately screened from the view of the street. DR9.6 does not require the delivery dock to be concealed.</p>	<p>Compliant</p>
<p>Guidance Statements</p> <p>(a) <i>In an urban area with excellent public transport and a highly walkable environment, there is a strong rationale not to apply the high levels of parking provision associated with suburban environments.</i></p> <p>(b) <i>Having regard to the reduced parking requirements within the South Perth Station Precinct, no parking concessions are allowed except where a proposed</i></p>		

<p><i>comprehensive new development includes more than one non-residential use and those uses have different periods of peak parking demand.</i></p> <p>(c) <i>On-site visitor parking bays need to be provided in a conveniently accessible location without obstructing entry to, or egress from, occupiers' parking bays.</i></p>		
<p>Element 10: Canopies</p> <p>Development Requirements</p> <p>10.1 <i>Where a building abuts the street boundary, a cantilevered canopy shall be provided over the street footpath. The projection depth of the canopy shall be 2.5 metres, subject to a clearance distance of not less than 2.5 metres being provided from the face of the road kerb to the canopy.</i></p> <p>Guidance Statements</p> <p>(a) <i>Where a building abuts the street boundary, a canopy should be provided that extends a sufficient distance over the footpath to provide a reasonable degree of shade and shelter to pedestrians, while maintaining a safe clearance from the road carriageway and infrastructure in the verge.</i></p>	<p>A canopy is required on Lyall Street where the nil street setback podium is proposed.</p> <p>The required canopy is provided:</p> <ul style="list-style-type: none"> • 2.5m kerb clearance • 2.3m resultant projection depth. • The canopy includes 0.3m gaps between panels. 	<p>Compliant</p> <p>The proposed canopy with the gaps between the panels is seen to be consistent with the development requirement and the guidance statement.</p>
<p>Element 11: Vehicle Crossovers</p> <p>Development Requirements</p>	<p>2 Lyall Street crossovers:</p> <ul style="list-style-type: none"> • Car park. • Delivery dock. 	
<p>11.1 <i>Only one vehicle crossover per lot per street is permitted.</i></p>	<p>No crossovers on Labouchere Road and 2 crossovers on Lyall Street. The development site consists of 2 lots abutting Lyall Street (Lot 24 and Lot 81).</p>	<p>Compliant</p>
<p>11.2 <i>Two-way crossovers to a maximum width of 6 metres are permitted for parking areas containing 30 car bays and parking areas predominantly providing for short-term parking.</i></p>	<p>6.0m width.</p>	<p>Compliant</p>
<p>DR11.3 refers to the R-Codes provisions. Refer to the R-Codes Assessment.</p>		
<p>DR11.4 is not applicable to this site.</p>		
<p>Guidance Statements</p> <p>(a) <i>The quality of the pedestrian experience should take precedence over the quality of the driver's experience by minimising the number of vehicle/ pedestrian conflict points, in order to create a safer and</i></p>		

<i>more attractive pedestrian environment. (b) Shared crossovers are strongly encouraged.</i>		
Element 12: Landscaping and Outdoor Living Areas Development Requirements		
<i>12.1 Where landscaping is proposed, a landscaping plan satisfying Guidance Statement (a) shall be submitted as part of the application for development approval.</i>	Landscaping plans have been provided. The provision of landscaping is required by Table B.	Compliant
DR12.2 refers to the R-Codes provisions. <i>Refer to the R-Codes Assessment.</i>		Compliant
<i>12.3 All residential dwellings shall be provided with a balcony or equivalent outdoor living area with a minimum area of 10 sq. metres and a minimum dimension of 2.4 metres, accessed directly from a habitable room.</i>	All dwellings are provided with a compliant balcony.	Compliant
Guidance Statements <i>(a) Where a street setback is provided, landscaping in the setback area should be based on water-sensitive design principles, minimise water consumption and maximise retention and re-use of water and have due consideration to Element 14 'Designing Out Crime'.</i>	Landscaping is proposed within the street setback.	DR12.1: The landscaping plans include water wise plant species and overall are seen to satisfy Guidance Statement (a) and be consistent with Element 14. Compliant
Element 13: Heritage Development Requirements		
<i>13.1 In the case of a comprehensive new development involving additions or alterations to a heritage place, or on a site containing or adjoining a heritage place, the application for development approval shall be accompanied by a heritage impact statement justifying the appropriateness of the built form of the comprehensive new development, including specific reference to the impact of the proposed podium height and overall building height.</i> DR13.2 is not applicable to this site.	The development site is abutting a heritage place: <i>Residence (fmr), 35 Labouchere Road</i> (Place No. 53, Heritage List Category B). The applicant has supplied heritage impact statements prepared by Griffiths Architects, dated 26 April, 30 July and 11 October 2018. These assessments are contained in Attachment 2.	Compliant The applicant has supplied heritage impact statements that provide commentary to justify the appropriateness of the built form of the proposal and this commentary includes specific reference to the impact of the proposed podium height and overall building height.
<i>13.3 The siting and design of any building on a site adjoining a heritage place shall respect the visual significance and integrity and not overwhelm or adversely</i>		Compliant The development is setback from the Labouchere Road

<p><i>affect the heritage place having regard to the design, size, scale, setbacks and proportion of the proposed building, particularly as viewed from the street.</i></p>		<p>boundary to maximise the visibility of the neighbouring heritage place from the public realm. The height of the canopy has been set to maintain sightlines and be consistent with the scale of the neighbouring heritage place. The proposed design utilises contrasting materials to those used at No. 35 Labouchere Road to visually distinguish the neighbouring heritage place.</p>
<p>Guidance Statements</p> <p>(a) <i>The precinct contains a number of places which are recognised for their heritage value. The streetscape character in the near vicinity is influenced by the scale and form of these heritage places.</i></p> <p>(b) <i>Any development on a site containing or adjoining a heritage place should respect the scale of that heritage place, particularly as viewed from the street.</i></p> <p>(c) <i>Any new development on or adjoining a site containing a heritage place should be located so as to ensure that the character of the heritage place is not adversely affected.</i></p> <p>(d) <i>New development should be complementary to and supportive of the heritage places without copying or mimicking them.</i></p>		
<p>Element 14: Designing Out Crime Development Requirements</p>		
<p>14.1 <i>Primary pedestrian access points shall be visible from buildings and the street.</i></p>	<p>The primary pedestrian access points are visible from the street.</p>	<p>Compliant</p>
<p>14.2 <i>Comprehensive new developments shall, when relevant, incorporate illumination in accordance with the following Australian Standards:</i></p> <p>(a) <i>AS 1680 regarding safe movement;</i></p> <p>(b) <i>AS 1158 regarding lighting of roads and public spaces; and</i></p> <p>(c) <i>AS 4282 Control of obtrusive effects of outdoor lighting.</i></p>	<p>Illumination details have not been provided.</p>	<p>Compliant* *Planning conditions required to comply.</p>

14.3 Storage areas shall be sited in a location that will not facilitate access to upper level windows and balconies.	The storage areas are contained within the building.	Compliant
14.4 Public and Private areas shall be differentiated by the use of differing materials.	The public and private areas are differentiated.	Compliant
14.5 Any fence on the perimeter of the public realm shall be: (a) no higher than 0.9 metres; or (b) no higher than 1.5 metres provided that the portion above 0.9 metres comprises open grille panels between piers with the solid portions comprising not more than 20% of its face in aggregate.	The street fencing does not exceed 0.9m.	Compliant
14.6 Security grilles and other security devices that have potential to adversely affect the streetscape are not permitted unless the device satisfies Guidance Statement (a).	No security grilles or devices that affect the streetscape are shown on the development plans.	Compliant* *Planning conditions required to comply.
Guidance Statements (a) Design should, as far as practicable, enhance natural surveillance, natural access control and territorial reinforcement. (b) The design of comprehensive new developments should avoid creation of areas of entrapment in recesses, alleyways or other areas providing no alternative means of escape.		
Element 15: Road and Rail Transport Noise Development Requirements		
15.1 On sites having a frontage to Melville Parade or other streets as determined by the local government, in the case of an application for planning approval for comprehensive new development containing noise sensitive land uses: (a) a noise assessment shall be undertaken and the findings shall be submitted to the local government with the application; (b) if required by the local government, the application shall include a noise management plan; (c) the noise assessment and noise management plan shall be prepared in accordance with Western Australian Planning Commission's State Planning Policy 5.4 'Road and Rail Transport Noise and Freight Consideration in Land Use Planning'; (d) where noise limits referred to in State Planning Policy 5.4 are likely to be exceeded, the solution identified in the	A noise assessment has been undertaken and an updated memorandum has been prepared to reflect relevant changes from the original building design. The assessment identifies transport noise levels will be greater than maximum SPP5.4 requirements. Glazing performance requirements are identified for residential apartment noise compliance. The communal residential amenity	Compliant <i>Refer to the Officer Comments section for further discussion.</i>

<p><i>noise management plan shall be detailed and justified.</i></p> <p>Guidance Statements</p> <p>(a) <i>Comprehensive new development in proximity to the Kwinana Freeway should be designed having regard to noise mitigation measures.</i></p>	<p>area is identified as the noise compliant outdoor living area, as the individual balconies will exceed the minimum noise levels.</p>	
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TPS6 Schedule 9A – Table B: Performance Criteria

Pursuant to Provision 3(1) of TPS6 Schedule 9A all comprehensive new development within SCA1 is required to comply with Design Consideration 1 ‘Design Quality’ of Table B. The application is also located within the Special Design Area and seeking discretion on the development requirements of Element 5 ‘Building Height’ and Element 6 ‘Special Design Area’. The proposal is therefore required to satisfy all of the requirements of Table B. An assessment of Table B is provided below:

Item & Requirement	Proposal	Compliance
<p><u>Design Consideration 1: Design Quality Performance Criteria</u></p>		
<p>(a) <i>In the opinion of the local government or other responsible authority, the architectural design of the proposed building is exemplary, sensitive and sophisticated, contributing to the high quality of the inner urban environment being promoted within the Precinct.</i></p>	<p><i>Refer to the development plans, contained in Attachment 1.</i></p>	<p>Satisfied</p> <p>The City considers that the architectural design of the proposed building is exemplary, sensitive and sophisticated and is contributing to the high quality of the inner urban environment being promoted within the Precinct.</p> <p><i>Refer to part (b) below and the Officer Comments section for further discussion.</i></p>
<p>(b) <i>In arriving at an opinion referred to in (a), the local government or other responsible authority, shall:</i></p>		
<p>(i) <i>have due regard to the advice of its nominated Design Review Panel or any other suitably qualified consultants appointed for the purpose of advising on building design;</i></p>	<p>The proposal has been referred to the City’s Design Review Panel (DRP) for advice. This advice is contained in the Consultation section.</p>	<p>Satisfied</p> <p>In arriving at the recommendation due regard has been given to the DRP’s advice.</p>
<p>(ii) <i>be satisfied that the proposed building -</i> <p>(A) <i>exhibits exemplary levels of architectural design quality, as</i></p> </p>		<p>Satisfied</p> <p><i>Refer to the Officer Comments section</i></p>

<p>defined by any policy or guideline of the Western Australian Planning Commission relating to architectural design quality;</p> <p>(B) delivers a high level of amenity within the public realm by:</p> <p>(I) being of a scale along the street alignment which is conducive to creating a comfortable pedestrian environment;</p> <p>(II) allowing for appropriate levels of sunlight penetration into key pedestrian and public spaces;</p> <p>(III) minimising adverse wind impacts; and</p> <p>(IV) minimising impact on adjoining properties, maximising space between existing and potential future development on adjoining sites and contributing to an attractive skyline and outlook from the public realm within the South Perth Station Precinct and surrounding vantage points; and</p> <p>(C) delivers a high level of amenity within buildings by providing for appropriate natural light access, natural ventilation, privacy and outlook; and</p>		<p>for further discussion.</p>
<p>(iii) be satisfied that the Design Review Panel has had due regard to all relevant Development Requirements and Guidance Statements in Table A that apply to the precinct.</p>	<p>The DRP members have been briefed on the Schedule 9A provisions.</p>	<p>Satisfied In providing their advice the DRP have had due regard to the Scheme provisions.</p>
<p>Design Consideration 2: Overshadowing Performance Criteria Shadow diagrams at noon on 21 June, are to be submitted demonstrating that the shadow cast by the portion of the proposed building above the Building Height Limit, does not cover more than 80 percent of any adjoining lot.</p>	<p>The applicant has supplied overshadowing diagrams, contained in Attachment 2.</p> <p>The overshadowing calculation for the affected southern adjoining property is</p>	<p>Satisfied Shadow diagrams have been supplied demonstrating the shadow cast over the southern neighbouring properties. The portion of the proposed building</p>

	26%.	above the 25m Building Height Limit does not overshadow any of these properties by more than 80% at noon on 21 June.
<p>Design Consideration 3: Vehicle Management Performance Criteria</p> <p><i>A traffic engineer is to conduct a study of the additional traffic resulting from a building height variation above the height limit shown on Plan 3 'Building Heights' in Schedule 9A. The study is to assess the impact on traffic flow and safety, taking into account the cumulative effect of additional floor space above the Building Height Limit in:</i></p> <p><i>(a) the proposed building; and</i></p> <p><i>(b) all other buildings in SCA1 for which a building height variation has been granted, and a building permit has been issued, whether or not construction has been completed.</i></p> <p><i>A report on the findings of the traffic study is to be submitted with the development application verifying, to the satisfaction of the local government, that the cumulative increase in traffic resulting from the increased building height relating to buildings referred to in paragraphs (a) and (b) will not have significant adverse impacts on traffic flow and safety.</i></p>	<p>The applicant has supplied transport assessments prepared by Transcore, dated 30 April and 18 October 2018. These assessments are contained in Attachment 2.</p>	<p>Satisfied</p> <p>The supplied traffic report incorporates the City's traffic modelling, which includes the cumulative effects of building height variations in SCA1 as referenced in the Design Consideration, as well as all other developments within the precinct. The current buildings with a height variation and have had a Building Permit issued are:</p> <ul style="list-style-type: none"> • Aurelia (1 Harper TCE / 96 Mill Point RD); • One Richardson (3 Richardson ST); and • Pinnacles (53 Labouchere RD / 34 Charles ST). <p>The proposed development will not have significant adverse impacts on traffic flow and safety.</p> <p><i>Refer to the Officer Comments section for further discussion.</i></p>
<p>Design Consideration 4: Car Parking Performance Criteria</p> <p><i>The maximum permissible number of on-site parking bays for residential uses is as follows:</i></p>	<p>The specific allocation is not marked on the development plans.</p>	<p>Satisfied*</p> <p>*Planning conditions required to ensure compliance.</p>
<p><i>(a) 1 car bay per dwelling for occupiers of 1 and 2 bedroom dwellings; (92 dwellings = 92 bays)</i></p>	92 bays.	Satisfied
<p><i>(b) 2 car bays per dwelling for occupiers of dwellings containing 3 or more</i></p>	49 bays.	Satisfied

<i>bedrooms. (28 dwellings = 56 bays)</i>		
<p>Design Consideration 5: Sustainability</p> <p>Performance Criteria</p> <p><i>In order to demonstrate excellence in sustainable development, the building is to achieve a 5-star rating under the relevant Green Star rating tool, or equivalent rating tool.</i></p>	<p>A Green Star sustainability report has been submitted. The proposal seeks to achieve a 5 star Green Star building.</p>	<p>Satisfied*</p> <p>*Planning conditions required to satisfy.</p>
<p>Design Consideration 6: Electric Car Charging Station</p> <p>Performance Criteria</p> <p><i>An electric car charging station with capacity to recharge 6 vehicles simultaneously.</i></p>	<p>6 car bays with an electric car station are provided on the basement 02 parking level.</p>	<p>Satisfied</p>
<p>Design Consideration 7: Landscaped Area</p> <p>Performance Criteria</p> <p><i>Landscaped area comprising not less than 40% of the area of the development site. Components of the landscaped area may include ground level landscaping, planting on walls, landscaping on the roof of the podium, rooftop terraces or gardens.(Min. 815.6m²)</i></p>	<p>848.5m² (41.6%) landscaped area. The method of measurement is identified in the applicant's plans.</p>	<p>Satisfied</p> <p>TPS6 does not have a definition for landscaping, though the areas identified are considered to be consistent with the R-Codes definition. The identified hardscape surfaces are considered to be included as landscaping as these spaces are integrated with the green elements.</p>
<p>Design Consideration 8: Benefits for Occupiers and Local and Wider Communities</p> <p>Performance Criteria</p>		
<p>(a) <i>Each dwelling incorporates at least one balcony with a minimum floor area of 15 sq. metres and a minimum dimension of 3.0 metres not including any planter box constructed as part of the balcony, and at least 50% of dwellings having access to at least 2 hours of sunlight on 21 June.</i></p>	<p>All dwellings are provided with a compliant balcony. The method of measurement is identified in the applicant's plans. All dwellings will receive at 2 hours of sunlight on 21 June (all dwellings have north facing access).</p>	<p>Satisfied</p>
<p>(b) <i>A minimum of 10% of the residential units, rounded up to the next whole number of dwellings, are to have an internal floor area of 200 sq. metres or more. (Min. 12 dwellings)</i></p>	<p>24 compliant sized dwellings (all 200m²). The method of measurement is identified in the applicant's plans.</p>	<p>Satisfied</p>
<p>(c) <i>The parking bays allocated to a minimum of 20% of the total number of dwellings, rounded up to the next whole number of</i></p>	<p>24 dwellings are identified to achieve the required Silver</p>	<p>Satisfied*</p> <p>*Planning conditions required to ensure</p>

<p>dwelling, shall be not less than 6.0 metres in length and 3.8 metres in width. In addition, those dwellings are to incorporate the following core elements, designed to the 'Silver Level' of the 'Livable Housing Design Guidelines' produced by Livable Housing Australia:</p> <ul style="list-style-type: none"> (i) a safe, continuous and step-free path of travel from the street entrance and / or parking area to a dwelling entrance that is level; (ii) at least one step-free, level entrance into the dwelling; (iii) internal doors and corridors that facilitate unimpeded movement between spaces; (iv) a universally accessible toilet on the ground or entry level; (v) a bathroom which contains a step-free shower recess; (vi) reinforced walls around the toilet, shower and bath to support the safe installation of grab rails at a later date; and (vii) a continuous handrail on one side of any stairway where there is a rise of more than 1 metre. <p>(Min. 24 dwellings)</p>	<p>Level of compliance. 24 compliant sized car bays.</p>	<p>compliance - a Livable Housing Australia consultant to certify the project.</p>
<p>(d) At least 50% of the dwellings are to be designed to provide:</p> <ul style="list-style-type: none"> (i) effective natural cross-ventilation; and (ii) significant views from more than one habitable room window or balcony, each being located on a different elevation of the building. <p>(Min. 60 dwellings)</p>	<p>74 dwellings are designed to provide the required cross ventilation.</p> <p>74 dwellings are designed to provide the required significant views.</p>	<p>Satisfied</p> <p>The supplied documentation advises that the 74 dwellings on the west and east elevations of the building can achieve natural cross ventilation. Significant views are generally available in all directions, such as the Perth City skyline, Perth Water, Melville Water or the South Perth townscape. All of the corner dwellings have two habitable rooms with significant views that are located on different elevations of the building.</p>
<p>(e) Viewing corridors to enable as many as possible of the occupiers of neighbouring</p>	<p>The applicant has supplied significant</p>	<p>Satisfied</p> <p>The proposal will</p>

<p><i>buildings to retain significant views.</i></p>	<p>view impact perspectives, contained in Attachment 2.</p>	<p>reduce the extent of significant views, such as towards the city skyline, currently available from some neighbouring buildings. However, the development does not prevent at least a narrow vista (as per the significant views definition) being retained.</p>
<p>(f) <i>One or more facilities such as a meeting room, boardroom, lecture theatre, function room, available for use by external community groups or individuals, or external businesses.</i></p>	<p>A community meeting room is located on the ground floor level. A public gallery / display space is located on the ground floor level. The business incubator / co-working office space (Office land use) is located on the first floor level. The applicant has provided details of the proposed operation of these spaces.</p>	<p>Satisfied* *Planning conditions required to ensure compliance.</p>
<p>(g) <i>Public access to the building, terraces or gardens at ground level, or on the roof of the podium or tower, for leisure, recreational or cultural activities such as, among others:</i> (i) <i>Café/Restaurant;</i> (ii) <i>Cinema/Theatre;</i> (iii) <i>gymnasium;</i> (iv) <i>a dedicated room for use as a community exhibition gallery for display of artworks or for other exhibitions; or</i> (v) <i>an outdoor area designed for public entertainment performances.</i></p>	<p>The proposal includes the provision of a Café/Restaurant tenancy on the ground floor level.</p>	<p>Satisfied* *Planning conditions required to ensure compliance.</p>
<p>(h) <i>A commercial use with wider community benefits such as Child Day Care Centre, after school care centre, Consulting Rooms, Educational Establishment, or other use having wider community benefits.</i></p>	<p>A medical suite (Consulting Rooms land use) is proposed on the first floor level. The applicant has provided details of a proposed operator of this space.</p>	<p>Satisfied* *Planning conditions required to ensure compliance.</p>

	Other commercial uses with wider community benefits may be provided on Levels 2-5, as approval is sought for a range of land uses for the Levels 2-5 commercial floor space, including Consulting Rooms and Educational Establishment.	
There is no Design Consideration 8(i).		
(j) <i>Visiting cyclists' end-of-trip facilities including secure bicycle storage facilities, change rooms, clothes lockers and showers, for use by visitors to the proposed building.</i>	The bicycle bays and end-of-trip facilities located on the ground floor level.	Satisfied* *Planning conditions required to ensure compliance. The proposal includes more bicycle parking facilities than required by Table A to accommodate visiting cyclists.

The proposal satisfies all of the Performance Criteria in Table B. Accordingly, the application is eligible for the requirements of Element 3 'Plot Ratio and Land Use Proportions' and Element 5 'Building Height' to be waived.

Deemed Provisions and TPS6 Schedule A – Variations to Local Planning Scheme Provisions for Heritage Purposes

The development site is abutting a place contained within the City's heritage list established under Deemed Provisions clause 8(1) - *Residence (fmr), 35 Labouchere Road* (Place No. 53, Heritage List Category B). Other places within the City's heritage list that are located in close proximity to the development site include *Perth Zoo* (Place No. 51, Heritage List Category A), *South Perth Police Station & Quarters (fmr)* (Place No. 57, Heritage List Category A) and *Windsor Park and South Perth Bowling Club* (Place No. 65, Heritage List Category B).

Deemed Provisions clause 12 and TPS6 Schedule A (Supplemental Provisions to the Deemed Provisions) provide a discretionary power to vary any site or development scheme requirement.

This discretionary power has been considered as part this assessment.

Deemed Provisions – Matters to be Considered by Local Government

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 matters most relevant to this

proposal and the City's response to each consideration are outlined in the table below:

Matters	Officer's Comment
<p>(a) <i>the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;</i></p>	<p>The proposed development is considered to be consistent with the scheme objectives (TPS6 cl. 1.6) and the objectives of Special Control Area 1 (TPS6 Schedule 9A Provision 1). The objectives do not provide specific guidance as to the appropriateness of a development of the proposed scale in the South Perth peninsula.</p>
<p>(m) <i>the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</i></p>	<p>In an area identified for infill redevelopment the consideration of clause 67(m) requires consideration of the current and desired future setting. The current planning framework established through the South Perth Station Precinct Plan and subsequent scheme amendments to facilitate this plan, and in particular the inclusion of properties within the Special Design Area, envisages taller buildings in this location. The Precinct Plan and Scheme provide no guidance as to ultimately how tall buildings should be. Due to this uncertainty the City is currently reviewing the framework in the form of preparing an Activity Centre Plan for the area. There is, however, evidence (explained in this report) to suggest through the development of the draft South Perth Activity Centre Plan that greater density and taller buildings will be required in this precinct in order to accommodate the future population growth. This evidence has yet to be translated into an endorsed Plan for the area to guide what the future growth should look like. In the absence of this guidance it is not possible to say with any certainty that the development will be compatible with the desired future setting of the precinct. The scale of the proposed development is also not considered compatible with the current setting as a result of the overall height. Whilst design measures have been employed to moderate the impact of the increased height the building still exceeds the overall height of surrounding development. On balance the proposal does therefore not satisfy clause 67(m)</p>

<p>(n) the amenity of the locality including the following —</p> <p>(i) environmental impacts of the development;</p> <p>(ii) the character of the locality;</p> <p>(iii) social impacts of the development;</p>	<p>of the deemed provisions.</p> <p>The existing amenity of the locality will significantly change as a result of this development. The scale of the development is significantly larger than any constructed high-rise development or approved and still valid approval in the peninsula area. As stated above in (m), in its current setting it is out of character.</p>
<p>(q) the suitability of the land for the development taking into account the possible risk of flooding, tidal inundation, subsidence, landslip, bush fire, soil erosion, land degradation or any other risk;</p>	<p>The land and site conditions are seen to be suitable to facilitate this development.</p>
<p>(s) the adequacy of —</p> <p>(i) the proposed means of access to and egress from the site; and</p> <p>(ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;</p>	<p>The access arrangements for cars are considered acceptable. A delivery dock is provided for deliveries and waste collection. A waste management plan condition is required should this development be approved.</p>
<p>(t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;</p>	<p>The proposed traffic impacts are not expected to pose an adverse impact upon the locality.</p> <p><i>Refer to the Officer Comments section for further details of traffic impacts.</i></p>

R-Codes

In accordance with TPS6 clause 4.3(1)(m), for any dwellings within comprehensive new development in Special Control Area SCA1 – South Perth Station Precinct, the applicable development requirements are contained within Schedule 9A, and provisions of the R-Codes do not apply except to the extent specified in that Schedule.

Item	Requirement	Proposal	Compliance
<p><u>6.4.3</u> (Sch. 9A DR3.6) Dwelling Size</p>		<p>89 dwellings</p>	
<p>1 Bedroom Dwellings:</p>	<p>Min. 24 (20%) and Max. 60 (50%).</p>	<p>22 dwellings (18.3%).</p>	<p>Does not satisfy the deemed-to-comply requirements. Design principles compliance required.</p>
<p>2 Bedroom Dwellings:</p>	<p>Min. 48 (40%).</p>	<p>70 dwellings (58.3%).</p>	<p>Satisfies the deemed-to-comply requirements.</p>
<p>Dwelling Size:</p>	<p>Min. 40m².</p>	<p>All dwellings are greater than 40m² plot ratio area. Min. size: 50m².</p>	<p>Satisfies the deemed-to-comply requirements.</p>
<p>Design Principles:</p>	<p><i>Each dwelling within</i></p>	<p>22x 1 bedroom</p>	<p>The proposed size</p>

	<i>the development is of a sufficient size to cater for the needs of the residents. The development must provide diversity / dwellings to ensure that a range of types and sizes is provided.</i>	dwellings. 70x 2 bedroom dwellings. 16x 3 bedroom dwellings. 12x 4 bedroom dwellings.	and diversity of dwellings demonstrates compliance with the design principles. <i>Refer to the Officer Comments section for further discussion.</i>
6.4.5 (Sch. 9A DR3.7) External Fixtures, Utilities and Facilities			
External Fixtures:	To be integrated into the design of the building and not be visually obtrusive from the street or surrounding properties.	The roof plant area is screened by the façade of the building. No other external fixtures are shown on the development plans.	Planning condition required to satisfy the deemed-to-comply requirements.
Storage Area:	External store with Min. 1.5m dimension and 4m ² area.	All dwellings are provided with a compliant store.	Satisfies the deemed-to-comply requirements.
Waste Collection:	Access, storage and collection of waste.	Refer to the proposed Waste Management Plan, contained in Attachment 2 .	Planning condition required to satisfy the deemed-to-comply requirements.
Clothes Drying:	Clothes drying areas screened from street.	Clothes drying facilities are provided.	Planning condition required to satisfy the deemed-to-comply requirements.
6.2.3 (Sch. 9A DR11.3) Sight Lines	Unobstructed 1.5m sight lines adjacent to driveways and street corners.	The minimum required vehicle sight lines are provided, with the exception of the loading dock.	Does not satisfy the deemed-to-comply requirements. Design principles compliance required.
Design Principles: (loading dock)	<i>Unobstructed sight lines provided at vehicle access points to ensure safety and visibility along vehicle access ways, streets, rights-of-way, communal streets, crossovers, and footpaths.</i>	Sight lines are provided at the street boundary, based upon the delivery vehicle parking in a central position within the loading dock, as opposed to the sight lines being based from the extremities of the driveway to the loading dock.	The proposed sightlines are seen to be sufficient to mitigate the risk of collision between pedestrians on the footpath and delivery vehicles leaving the site. The proposal demonstrates compliance with the design principles.
6.3.1 (Sch. 9A DR12.2) Outdoor Living Areas	Min. 2.4m dimension and 10m ² area; direct access from a habitable room.	All dwellings are provided with a compliant balcony.	Satisfies the deemed-to-comply requirement.

Local Planning Policies

Item	Requirement	Proposal	Compliance
<u>Policy P316</u> Public Art	Min. 1% contribution.	Public art opportunities are identified in the applicant's report.	Compliant* *Planning conditions required to comply.
<u>Policy P318</u> Application Requirements	Checklist of information for the applicant to submit.	A completed checklist was submitted with the DAP Form 1 application. <i>Refer to the development plans and reports.</i>	Compliant
<u>Policy P350.01</u> Environmentally Sustainable Building Design	4 star Green Star rating or equivalent.	5 star Green Star level of performance.	The 5 star Green Star scheme requirement prevails over the policy.
<u>Policy P350.03</u> Car Parking	General design requirements. Guidance for considering selected scheme variations.		Compliant
<u>Policy P350.05</u> Trees	Development site and street tree considerations.	There are no existing trees on site. The street trees on Lyall Street are proposed to be removed and replaced.	Compliant* *Planning conditions required to comply.
<u>Policy P350.09</u> Significant Views	Significant views considerations.	<i>Refer to the development plans and reports.</i>	The view corridors scheme requirement prevails over the policy.

Draft Planning Instruments that are 'Seriously Entertained'

Draft State Planning Policy 5.4 (September 2017)

The WAPC has advertised the draft State Planning Policy which would replace the current SPP5.4. The policy review has focused on:

- Improving implementation through the provision of clearer policy measures and guidance;
- Simplifying the noise criteria/assessment;
- Enhancing deemed to comply options through quiet house design; and
- Providing standardised templates for Noise Management Plans, local planning scheme provisions and notification on title wording.

Draft State Planning Policy 7.3 (October 2016)

The WAPC has advertised the draft State Planning Policy which would replace Part 6 of the R-Codes. This draft policy is implied by the reference to any policy or guideline of the WAPC in TPS6 Schedule 9A Table B Design Consideration 1.

Other Draft Planning Instruments

There are currently no local draft planning instruments that are seriously entertained that affect this application. The City is in the process of preparing a draft activity centre plan and associated town planning scheme amendment for the South Perth peninsula (South Perth Activity Centre), to replace the current planning requirements that apply to developments within this area.

In preparing the South Perth Activity Centre Plan an economic and demographic assessment has been prepared to inform the Plan. This assessment considers the likely future growth of the Centre in terms of population, employment, commercial floor space, visitor numbers and retail expenditure. In determining the likely future growth of the Centre the assessment considers the growth needs of the Centre to ensure its ongoing function and viability. To ensure that this occurs, and to be consistent with state policy direction, the assessment highlights that a greater proportion of the growth of the overall suburb should be directed to the South Perth Activity Centre, resulting in a forecast for greater population and dwelling growth in the Centre. In order to accommodate this forecast growth there will be a need (and demand) for high density, high rise, and mixed use development. The pattern of streets, existing development and property ownership in the area significantly constrain development, with many properties very unlikely to redevelop in the foreseeable future. Growth is therefore constrained to a limited number of available sites which will ultimately mean that taller buildings will be required to accommodate the growth.

This evidence has yet to be translated into an endorsed Activity Centre Plan for the area to guide what the future growth should look like and where it should be located.

A proposed draft South Perth Activity Centre Plan and an associated scheme amendment were considered by Council in October 2018. Council resolved not to proceed with public advertising and to revise and further consider the activity centre plan and scheme amendment at a later date.

A South Perth Activity Centre Plan has not reached a stage that would satisfy the 'seriously entertained' requirement in Schedule 2 clause 67(b) of the Regulations.

Officer Comments

KEY ISSUES

Building Height (SCA1 Element 5 & SCA1 Element 6: Special Design Area)

TPS6 Schedule 9A Table A Element 5 and Plan 3 specifies a maximum 25m building height limit, measured to the finished floor level of the highest storey, which equates to RL29.30m, in accordance with TPS6 cl. 6.1A. The proposed development exceeds the building height limit.

TPS6 does not specify a methodology for the measurement of building height as the proposed building is higher than the Building Height Limit shown on Plan 3 'Building Heights' in Schedule 9A. In accordance with TPS6 cl. 6.1A(10)(b), the method of measuring height included in the Scheme does not apply to this proposal. The height of the proposed development is as follows:

- RL148.75m - the highest point of the building.
- 137.55m (RL141.85m) if the TPS6 cl. 6.1A(10) highest floor level measurement was applicable i.e. 112.55m variation.
- 144.45-145.37m above ground level to the highest point of the building, based upon the datum points in the site survey plan.

As specified in TPS6 Schedule 9A Provision (4) and Table A Development Requirements 5.1, 6.1, 6.2 and 6.3, the specific criteria for considering building height variations to the 25m limit in Plan 3 are as follows:

- The site is located in the Special Design Area;
- The total plot ratio of the development is more than 3.0;
- The development site area is at least 1700m²;
- The development site frontage is at least 25m;
- The development is consistent with Guidance Statements 5a and 5b;
- The development satisfies all of the Table B performance criteria; and
- An applicant report demonstrating how the Table B performance criteria are satisfied is submitted.

The expanded comments relating to criteria (b)(ii) of Design Consideration 1 'Design Quality' are as follows:

Criteria	Officer's Comment
(A) <i>exhibits exemplary levels of architectural design quality, as defined by any policy or guideline of the Western Australian Planning Commission relating to architectural design quality;</i>	<p>The City has considered the consistency of the proposed development with the objectives of the WAPC's draft Design WA apartment design policy, having regard to the design criteria (deemed-to-comply) and design guidance (design principles) provisions and scheme provisions that would prevail over these policy provisions. The proposal is largely consistent with the apartment design document. The primary matters that involved a discretionary assessment related to:</p> <ul style="list-style-type: none"> • Overshadowing impacts to the southern adjoining property. • The use of planting on structure as a substitute for deep soil zones. • Visual privacy setbacks to the southern adjoining property. • The provision of motorcycle and scooter parking.
(B) <i>delivers a high level of amenity within the public realm by:</i>	
(i) <i>being of a scale along the street alignment which is conducive to creating a comfortable pedestrian environment;</i>	<p>The eastern component of the development is a 'tower to the ground' design with 4m setbacks provided to the street boundaries, largely allocated to providing an alfresco dining area for the Café/Restaurant tenancy. The western component has a more traditional podium design with nil setback to Lyall</p>

	<p>Street, a canopy projecting over the footpath and being 12.90m-13.47m in height to Lyall Street.</p> <p>The interface with the public realm is well articulated, functional and provides an activated frontage in a key pedestrian location.</p>
<p>(II) <i>allowing for appropriate levels of sunlight penetration into key pedestrian and public spaces;</i></p>	<p>The orientation of the lot ensures that any overshadowing to adjacent public spaces is minimal and moves rapidly</p>
<p>(III) <i>minimising adverse wind impacts; and</i></p>	<p>The applicant has engaged wind consultants Arup to conduct an environmental wind assessment for this development. This assessment is included in Attachment 2 and the executive summary is as follows:</p> <p><i>Arup have been commissioned by Sirona Capital to provide an experienced-based impact assessment of the proposed Lyall Street development, South Perth on the pedestrian level wind conditions for comfort and safety in and around the site.</i></p> <p><i>It is considered that the proposed development would have a significant impact on the wind conditions in and around the site. All locations are expected to pass the safety criterion and be classified as suitable for walking from a comfort perspective, which meets the primary use of the space.</i></p> <p><i>Benefits of the design include the orientation of the building to the prevailing wind directions, pedestrian and vehicular entries, and the design of the private balconies.</i></p> <p><i>To meet the intended use of the space, improvements to the wind conditions in the outdoor eating areas on the corner of Lyall Street and Labouchere Road, and the podium roof would be recommended. It is considered that these issues are best addressed during detailed design.</i></p> <p>The recommendations and measures to address wind impacts will need to be reflected in development plans submitted with a building permit application. Should the development be approved, a suitable planning condition is required.</p>

<p><i>(IV) minimising impact on adjoining properties, maximising space between existing and potential future development on adjoining sites and contributing to an attractive skyline and outlook from the public realm within the South Perth Station Precinct and surrounding vantage points; and</i></p>	<p>The development is prominent, robust and contemporary, and has visual interest. It will therefore contribute to an attractive skyline both within the precinct and from surrounding vantage points.</p>
<p><i>(C) delivers a high level of amenity within buildings by providing for appropriate natural light access, natural ventilation, privacy and outlook;</i></p>	<p>The proposed development is considered to be consistent with the guidance provided for the listed amenity factors within the WAPC's draft Design WA apartment design policy. The proposal is considered to provide a high level of amenity for the occupants of this development.</p>

As demonstrated in the Planning Assessment section of this RAR, the proposal meets the requirements of Development Requirements 6.1, 6.2 and 6.3, Table B and Element 5 Guidance Statements (a) and (b), to potentially approve a variation to the Plan 3 building height limit. The building height requirement of 25 metres can be waived as the development satisfies the listed criteria for such a variation to be considered.

The building height is approximately 5 times greater than the base height limit and detailed in Schedule 9A Plan 3 and is approximately double the height of the tallest buildings existing in the South Perth peninsula. The proposal seeks a substantial level of discretion in order to approve the development. Although the Scheme does not cap height where a development satisfies Schedule 9A, the DAP should consider the amount of discretion sought and whether it is appropriate when determining if any variation should be granted.

The Scheme does not provide any guidance for the extent of discretion that should be allowed. The criteria that a development must satisfy are the same regardless of the extent of discretion sought in respect of building height.

The scale of the proposed development is not considered compatible with the current setting as a result of the overall height. Whilst design measures have been employed to moderate the impact of the increased height the building still exceeds the overall height of surrounding development significantly.

Podium Height (SCA1 Element 4)

The podium component of the proposed development, based upon the TPS6 Schedule 9A Provision 4 definition, is identified as consisting of all levels of the building up to Level 2. Accordingly, the top of the podium is identified as being the Level 3 finished floor level, being RL16.85m (western component) and RL17.65m (eastern component).

The development proposes a podium height as follows:

- Western podium component: 12.77m - 13.47m above ground level.
- Eastern podium component: 13.30m - 14.00m above ground level.

The eastern component of the podium is part of the development's 'tower to the ground' design and the western component has a more traditional and visually evident podium design.

As the development site abuts a heritage place - *Residence (fmr), 35 Labouchere Road* (Place No. 53, Heritage List Category B), the 7.0m and 10.5m podium height requirements of Development Requirement 4.2 prevail over the 9.0m and 13.5m podium height requirements of Development Requirement 4.1 that would otherwise apply. The proposal complies with the minimum 7.0m podium height and seeks a variation to the maximum 10.5m podium height, which can be considered as the development requirement provides the local government (DAP) a discretionary power to approve variations.

The location of the podium to the rear of the heritage place is not considered to adversely affect the heritage value of the No. 35 Labouchere Road building. In relation to the podium height adjacent to non-heritage buildings, the podium height is consistent with the development requirements that would have otherwise applied.

Podium Street Setbacks (SCA1 Element 7: Relationship to the Street)

The street setback requirements for the podium component of the development differ depending on the circumstances of the development of the adjoining properties. These requirements are summarised as follows. The requirements of Development Requirement 7.6.1 can be varied if the proposal satisfies the applicable guidance statements.

Development Requirements	
<u>Street Setbacks – Podium (SCA1 General Requirement):</u>	
7.2 All comprehensive new development shall incorporate a podium with a nil street setback (Development Requirements 7.3, 7.4 and 7.5 are not applicable to this site).	
<u>Street Setbacks – Podium (Scott-Richardson Sub-Precinct Requirements):</u>	
7.6.1(a)(i)	A nil setback is required in certain circumstances, summarised as follows: <ul style="list-style-type: none"> • A nil setback would not adversely affect the amenity of an adjoining property; OR • There is a prospect of imminent redevelopment of the adjoining site. Min. 50% of the lot frontage is required to have a nil setback. Max. 60% of the lot frontage is permitted to have a nil setback.
7.6.1(a)(ii)	A greater than nil setback (up to 4.0m) is required in certain circumstances, summarised as follows: <ul style="list-style-type: none"> • There is no prospect of imminent redevelopment of adjoining site due to: <ul style="list-style-type: none"> o The contemporary nature of the existing building; AND o The existing building has a high monetary value relative to the current land value; AND • A setback less than 4.0m would adversely affect the amenity of the adjoining property. In these circumstance, the decision maker is to specify: <ul style="list-style-type: none"> • Max. % of the lot frontage permitted to have a nil setback; AND • The position of the nil setback; AND Min. setback required for the rest of the podium is two-thirds of the adjoining building's setback, up to 4.0m Min. setback.

A summary of the relevant adjoining properties and the resultant podium street setback requirement is listed as follows.

Adjoining Property:	No. 22 Lyall Street	No. 35 Labouchere Road (Adjoining Strata Lot)	Lot 300 Labouchere Road / Hardy Street (Adjoining Lot)
<u>Development Description:</u>	2 storey office + caretaker dwelling building.	1 storey commercial building (dentist).	3-4 storey residential building + separate 1 storey commercial building.
<u>Building Permit Issued:</u>	Pre-1930 (original building, based upon aerial photographs, no permit on file), 1998 (additions).	Construction date c. 1910 (City of South Perth Local Heritage Inventory (2018)).	2002 (residential buildings).
<u>Ownership Status:</u>	Single ownership between two people.	Strata Lot 40 – single ownership between two people.	Strata with multiple owners.
<u>Street Setback:</u>	Approx. 7m to front verandah. Approx. 9m to the external wall.	Approx. 10m to front verandah. Approx. 13m to the external wall.	Approx. 6m to main residential building.
<u>Contemporary Status:</u>	The original component of the building is unlikely to be seen as contemporary. The rear additions could be seen to be contemporary, as this was built 20 years ago.	This building is unlikely to be seen as contemporary, being constructed more than 100 years ago.	This building is likely to be seen as contemporary, being constructed within the past 20 years – the building age is a barrier to redevelopment.
<u>Monetary Value:</u>	The applicant has not supplied any specific data for consideration. The building would be expected to have a relatively lower value in relation to the current land value.	The applicant has not supplied any specific data for consideration. The building would be expected to have a relatively lower value in relation to the current land value.	The applicant has not supplied any specific data for consideration. The building would be expected to have a relatively higher value in relation to the current land value.
<u>Amenity Impact of <4m Setback:</u>	A nil street setback positioned away from the western boundary would have little amenity impact upon this property. A reduced setback next to the western boundary would pose some adverse impact	A reduced street setback would pose some adverse impact upon this property, in terms of visual impact and overshadowing.	A reduced street setback would pose some adverse impact upon this property, in terms of visual impact and overshadowing.

	upon this property, in terms of visual impact and morning overshadowing.		
<u>Table A Prospect of Imminent Redevelopment:</u>	Yes - Not contemporary. - Low building value.	Yes - Not contemporary. - Low building value.	No - Contemporary. - High building value.
<u>Realistic Prospect of Imminent Redevelopment:</u>	Possible/Unlikely. - No major constraints to prevent redevelopment. - The City is not aware of any redevelopment proposals.	Unlikely. - Heritage listed property. - The City is not aware of any redevelopment proposals.	Unlikely. - Relatively new building. - Multiple ownership of the property. - The City is not aware of any redevelopment proposals.
<u>Podium Setback Requirement:</u>	Applies to the Lyall Street frontage.	Applies to the Labouchere Road frontage.	Applies to the Labouchere Road frontage.

Development Element	Development Requirement	Proposed	Compliance
Labouchere Road:	Strata Lot 40 is considered to be the 'adjoining site' for the purpose of this assessment. DR7.6.1(a)(i): Min. 50% & Max. 60% zero setback.	4.0m (external wall) and 3.5m (façade frame projections).	Not compliant. - Less than 50% zero setback.
Lyall Street:	DR7.6.1(a)(i): Min. 50% & Max. 60% zero setback.	0.3m setback for 60.5% of the Lyall Street lot frontage (external wall). 4m or greater setback for the rest of the site (external wall). 0.2m encroachment and 3.5m setback (façade frame projections).	Not compliant. - Greater than 60% zero setback. - Encroachments into the verge. <i>Refer to the Planning Assessment section for Guidance Statement compliant comments.</i>

In regards to the Labouchere Road frontage, the situation conforms to Development Requirement 7.6.1(a)(i), as while a zero setback poses some adverse impact there is some prospect of imminent redevelopment only considering non-contemporary nature and building value. The scheme provision does not consider that redevelopment this site would never be realistically realised due to the heritage status of the building.

As a zero podium setback development requirement to Labouchere Road is seen to pose an unacceptable impact to the adjoining site and this adjoining site is a place listed in the City's heritage list, the City recommends that the development requirement for the podium street setback be varied using Deemed Provisions clause 12. The podium street setback to Labouchere Road requirement is recommended to be varied to be a minimum of 4.0m. This 4.0m setback required is considered to facilitate the built heritage conservation of the adjoining site.

Podium Side and Rear Setbacks (SCA1 Element 8: Side and Rear Setbacks)

The side setback requirements for the podium component of the development differ depending on the circumstances of the development of the adjoining properties. These requirements are summarised as follows.

Development Requirements	
<u>Podium:</u>	
8.1(a)	A nil setback is required in certain circumstances, summarised as follows: <ul style="list-style-type: none"> • A nil setback would not adversely affect the amenity adjoining property; OR • There is a prospect of imminent redevelopment of the adjoining site. A variation to the nil setback requirement is permitted if the proposal satisfies Guidance Statement 8(a).
8.1(b)	A greater than nil setback (up to 3.0m) is required in certain circumstances, summarised as follows: <ul style="list-style-type: none"> • There is no prospect of imminent redevelopment of adjoining site due to: <ul style="list-style-type: none"> o The contemporary nature of the existing building; AND o The existing building has a high monetary value relative to the current land value; AND • A setback less than 3.0m would adversely affect the amenity of the adjoining property e.g. obstruction of light and solar penetration or the penetration or prevention of adequate ventilation between buildings. In this circumstance, the decision maker is to specify the portion of the building that is required to have a greater lot boundary setback. Min. setback required for the rest of the podium is 2.0m (podiums up to 9.0m in height) and 3.0m (podiums greater than 9.0m in height).
8.2	Podium walls may have a zero setback from the rear boundary
8.4	Minimum setbacks determined by the local government (as this site is adjoining a heritage place). The local government may require greater setbacks than DR8.2 having regard to the visual significance and integrity of the heritage place.

A summary of the relevant adjoining properties and the resultant podium side setback requirement is listed as follows. This should be read in conjunction with the summary provided in the Officer Comments for the podium street setbacks.

Adjoining Property:	No. 22 Lyall Street	No. 35 Labouchere Road (Adjoining Strata Lot)	Lot 300 Labouchere Road / Hardy Street (Adjoining Lot)
<u>Side Setback:</u>	Minimum 1.0m (front) & 1.2m (rear).	Minimum 5.6m (north) & approx. 11m (west) to commercial building. Abutting car parking.	Approx. 12m (north) to private courtyards, approx. 16m-18m (north) to main residential building & approx. 14m-19m

			(west) to main residential building. Abutting communal open space.
<u>Amenity Impact of <3m Setback:</u>	A reduced setback next to the western boundary would pose some adverse impact upon this property, in terms of visual impact and morning overshadowing.	A reduced setback would pose some adverse impact upon this property, in terms of visual impact and overshadowing.	A reduced setback would pose an adverse impact upon this property, in terms of visual impact and overshadowing.

Development Element	Development Requirement	Proposed	Compliance
<p>Western Lot Boundary Setback: <i>Lot 12 Lyall Street western boundary</i></p>	<p>DR8.1(a): Zero setback.</p> <p>The City recommends that DR8.4 (heritage) should not be used to vary the above setback requirement, as the affected property is not heritage listed.</p>	0.0m.	Compliant
<p>Southern (Western Portion) Lot Boundary Setback: <i>Lot 12 Lyall Street southern boundary</i></p>	<p>DR8.1(b): Min. 3m setback where specified by the decision-maker.</p> <p>The City recommends that the whole building above the height of the dividing fence should be setback at least 3.0m.</p> <p>The City recommends that DR8.4 (heritage) should not be used to vary the above setback requirement, as the affected property is not heritage listed.</p>	<p>0.0m for the full length of the boundary up to 1.96m-2.75m (RL5.70m) in height. 3.0m for full length of the boundary above the ground parking level.</p>	Compliant
<p>Eastern Lot Boundary Setback: <i>Lot 12 Lyall Street</i></p>	<p>DR8.1(a): Zero setback.</p> <p>DR8.4 (heritage):</p>	0.0m.	DR8.1(a): Compliant

<i>eastern boundary</i>	As determined by the local government (DAP).		
Southern (Eastern Portion) Lot Boundary Setbacks: <i>Lot 82 Labouchere Road southern boundary</i>	DR8.1(a): Zero setback. DR8.4 (heritage): As determined by the local government (DAP).	1.5m setback for 18.3m length (external wall). 1.95m setback for 16.8m length at ground level (external wall). 4m setback for the rest of the site (external wall). 3.5m setback (façade frame projections).	DR8.1(a): Not compliant

As identified in the preceding tables, the proposal does not satisfy Development Requirement 8.1(a) and needs to satisfy the applicable guidance statements to be approved, as identified as follows:

Guidance Statements
<p>8(a) <i>The podium levels of buildings will normally be required to have zero side setback to ensure a high degree of continuity of the street edge. However, the local government may approve a greater side setback if such setback is:</i></p> <ul style="list-style-type: none"> (i) <i>integrated with an open forecourt or alfresco area, or the like, which is visible from the street; or</i> (ii) <i>concealed from view from the street by a portion of the podium which has a zero side setback.</i>

The provided southern setback area is considered to be consistent with part (i) of the guidance statement.

Traffic

In addition to TPS6 Schedule 9A Table B Design Consideration 3, Deemed Provisions cl. 67(t) requires the local government (DAP) to have due regard to traffic generation impacts to the road system in the locality.

Separate to the applicant's reports, The City's consultant Cardno has undertaken modelling (based upon the May 2018 design) that indicates the following maximum delays (2021):

Peak Period:	AM	PM
Labouchere Road:	+3 seconds	+2 seconds
Lyal Street:	+14 seconds	+8 seconds
Mends Street:	+15 seconds	+23 seconds

This modelling is contained in **Attachment 5**.

In summary, based upon the traffic modelling undertaken, the traffic impact from the proposal is considered to be manageable and would not pose adverse impacts upon the road system.

Tower South Side Setback (SCA1 Element 8: Side and Rear Setbacks)

The main tower does not comply with the minimum 4.0m setback to the southern lot boundary specified by Development Requirement 8.3, as the frame façade projects 0.5m into this setback area. The external walls are setback 4.0m and comply with this setback requirement.

The City recommends that Development Requirement 8.4 should be used to vary the above setback requirement, to permit projections within 4m of the lot boundary. The incorporation of the façade frame provides articulation to the tower element of the development and is considered to positively reduce the impacts of building bulk by creating a softer interface onto the neighbouring heritage place.

Overshadowing and Visual Impact to Perth Zoo

The Perth Zoo is located to the south east of the development site and would be affected by the shadow cast over the zoo grounds in the afternoon and the visibility of the proposal from within the zoo grounds from the tall building height.

The Perth Zoo was invited to comment on the proposal in May 2018 and part of the public consultation process and provided comments addressing the following:

- Impact upon Perth Zoo.
- Zoo's aesthetic, historic and social significance.
- Building height – visual impact.
- Overshadowing – garden management, exhibit temperature control, animal welfare impacts, increased power generation costs, visitor experience, visitor immersion.
- Parking – impact upon public car parks.
- Overshadowing of Zoo's solar array (400+ solar panels) – reduction to daily solar generation and associated increased electricity costs.

In response to the Perth Zoo's comments, the applicant prepared a detailed analysis of the overshadowing impact upon the zoo, being the Perth Zoo PV model report prepared by Floth dated 13 July 2018 and the shadow impact analysis prepared by Veris dated 9 August 2018. In October 2018, the City invited the Perth Zoo to provide a response to these technical documents. The Perth Zoo reinstated their concerns relating to the visual impact and overshadowing impacts to the zoo grounds, exhibits and the solar array and resultants impacts to their visitors, gardens, animals and sustainability.

The Floth report calculated that the construction of the proposal would reduce the annual power generation of the Perth Zoo's solar array by 5.5%, equivalent to 12.74 megawatt-hours per year. The Perth Zoo has calculated that this equates to 23 tonnes of carbon dioxide emissions.

The local planning framework does not contain any specific objectives or development restrictions to address the potential impacts to the Perth Zoo from development in the South Perth Station Precinct. The applicant provided the following comments for consideration:

The Zoo has not been identified for unique protection or afforded special status under the current planning scheme, in terms of how perceived visual impacts or overshadowing from surrounding developments are controlled. Presumably if this were considered a State level priority or desired outcome, then the

Schedule 9A provisions would have reflected this, or been modified accordingly by the Minister for Planning in approving Scheme Amendment 46.

It is noted that any tall building along Labouchere Road within the South Perth Station Precinct will have an impact on Perth Zoo in particular in regard to visual impact and overshadowing.

The issues raised in this regard can be considered by DAP as part of the matters listed in Deemed Provisions cl. 67, such as subclauses (v), (y), (za) and (zb). Ultimately, this is a subjective decision having regard to the information and comments on hand.

OTHER ISSUES AND VARIATIONS

Non-Residential Plot Ratio (SCA1 Element 3: Plot Ratio and Land Use Proportions)

Development Requirements 3.2 and 3.5 require the development to provide a minimum 1.0 non-residential plot ratio. The City has reviewed the methodology the applicant has used to calculate the non-residential plot ratio and is satisfied that it conforms to the statutory definition of plot ratio contained in TPS6 Schedule 1.

For the purpose of the following component of the plot ratio definition – “the floor area is measured from the inner faces of external walls”, the inner face of the curtain wall of the building is identified as the inner face of the external wall of the building. In TPS6 Schedule 1, ‘external wall’ “means an outer wall of a building that separates the building’s internal space from the external environment”. The City is satisfied that the curtain wall without the inclusion of the adjacent structural wall is seen to be the statutory ‘external wall’. In the event the DAP viewed otherwise, the implication is that the non-residential plot ratio calculation would be less than 1.0 (0.97) and the proposal would conflict with the Element 3 requirements. As discussed below, a non-residential plot ratio less than 1.0 can be approved in this instance.

It should be noted that the detailed fitout may result in a minor variation to the final as-built plot ratio calculation. A non-residential plot ratio less than 1.0 can be approved in this instance, as the applicable criteria are met. Under Development Requirement 6.2, the plot ratio requirement may be waived (i.e. less than 1.0 non-residential plot ratio) where the development is consistent with Guidance Statements 3a and 3b and satisfies all of the Table B performance criteria.

Dwelling Diversity (SCA1 Element 3: Plot Ratio and Land Use Proportions)

The proposal does not satisfy the minimum one bedroom dwelling deemed-to-comply provision of the R-Codes clause 6.4.3 (the relevant provision referenced by Development Requirement 3.6), as a 2 dwelling shortfall is proposed. Notwithstanding, the development can be approved if the proposal is considered to demonstrate compliance with the corresponding design principles.

Dwelling Type	Deemed-to-Comply	Proposal	Compliance
One Bedroom Dwellings:	Min. 24 (20%) dwellings.	22 dwellings (18.3%).	Not compliant.
	Max. 60 (50%) dwellings.		Compliant.
Two Bedroom	Min. 48 (40%)	70 dwellings (58.3%).	Compliant.

Dwellings:	dwellings.		
	No maximum.		Not applicable.
Three Bedroom Dwellings:	No requirement.	16 dwellings (13.3%).	Not applicable.
Four Bedroom Dwellings:	No requirement.	12 dwellings (10.0%).	Not applicable.

Design Principles

6.4.3 P3 Each dwelling within the development is of a sufficient size to cater for the needs of the residents. The development must provide diversity in dwellings to ensure that a range of types and sizes is provided.

In relation to the design principles, all of the dwellings are greater in size than the minimum 40m² apartment size required by the R-Codes. It is observed that the proposal provides a diversity of dwelling types and sizes, which is considered to be sufficient to demonstrate compliance with the design principles. This diversity is also seen to be sufficient to be consistent with Element 3 Guidance Statement (a).

Noting that the proposal satisfies the utilities and facilities deemed-to-comply requirements (subject to standard planning conditions), it is considered that the proposal is also consistent with Element 3 Guidance Statement (b).

Accordingly, the proposal complies with Schedule 9A Development Requirement 3.6.

SCA1 Element 9: Parking

As identified in the Planning Assessment section, a shortfall of non-residential car and bicycle parking bays is proposed, compared to the minimum parking ratios of Development Requirement 9.1. A variation to the non-residential parking requirements can be permitted if the requirements of Development Requirement 9.2, which refers to the peak parking demand, are satisfied.

Development Requirements	Minimum Required	Proposed	Compliance
Non-Residential (Total):	71 car bays and 18 bicycle bays + end-of-trip facilities.	54 car bays, 16 bicycle bays, 32 clothes lockers, 3 male showers and 3 female showers.	Not compliant.
Non-Residential for Visitors:	8 car bays.	6 of the 54 car bays are marked for visitor use only.	Not compliant.

TPS6 does not specifically clarify the extent that floor areas that are shared between residential and non-residential uses, such as the common fire escapes, should be included into the non-residential gross floor area calculation. The definition of non-residential use refers to the non-residential uses listed in TPS6 Table 1.

In the absence of these shared spaces being classified as any other land use, it is read that these spaces form part of the overall Mixed Development land use and hence need to be fully incorporated into the non-residential gross floor area calculation. Using this methodology, the proposal is not compliant with the minimum parking requirements, with a shortfall of 17 car bays and 2 bicycle bays.

In relation to Development Requirement 9.2, the proposal is eligible for consideration of approving a lesser number of car and bicycle parking bays. The provided parking provides the minimum needed for the wholly non-residential spaces (2564m², 52 car bays), such as the commercial tenancies and associated lobbies. The shared spaces referred to previously are not anticipated to generate any parking demand from occupiers or visitors. Accordingly, it is seen that peak parking demand for non-residential uses would be satisfied by the provided parking bays and accordingly the proposal is compliant with Development Requirements 9.1 and 9.2.

As identified in the Planning Assessment section, the proposal conflicts with Development Requirement 9.4 for all visitor bays to be outside of a security barrier (roller shutter), as none are proposed. The location of the car and bicycle parking bays within the car park is seen to satisfy the close/visible to the vehicular entry requirement as long as adequate signage and directions are installed on site. This can be ensured via the inclusion of an appropriate condition.

Development Requirement 9.5 provides scope to permit alternative visitor parking location arrangements to those specified by Development Requirement 9.4. The proposal may be approved if the proposed visitor bays are considered to be placed in a more convenient location for visitors, the proposal satisfies Guidance Statement 9(c) (as all visitor bays are located behind a security barrier) and the proposal provides visitors convenient access to an electronic communication system linked to each occupier of the building.

Guidance Statements

<i>9(c) On-site visitor parking bays need to be provided in a conveniently accessible location without obstructing entry to, or egress from, occupiers' parking bays.</i>

The provided visitor bays are positioned to provide convenient and weather protected access to the lobbies through internal entrances. The location of the visitor parking could pose some temporary obstruction access to any of the occupier parking bays, though this is seen to only impose a potential minor inconvenience. The proposal includes an electronic communication system, as annotated on the communal driveway in front of the roller shutter. Specific details of the operation of this visitor intercom and barrier system have not been provided, though the intercom and associated barrier opening access will need to be connected to all commercial tenancies and apartments to satisfy the scheme requirement. Having regard to the above, the proposal is considered to comply with Development Requirements 9.4 and 9.5 with the inclusion of relevant planning conditions.

SCA1 Element 15: Road and Rail Transport Noise

As the site is affected by transport noise from the Kwinana Freeway and the proposal contains noise sensitive land uses, TPS6 Schedule 9A Table A Element 15 specifies a number of requirements relating to the noise impacts from the transport noise upon these noise sensitive land uses.

The applicant has supplied an acoustic report and an updated acoustic memorandum, contained in **Attachment 2**. In summary, the report and memorandum identifies that:

- The freeway/railway noise levels exceed the SPP5.4 noise targets and noise limits.

- The indoor residential areas will meet Australian Standards indoor noise requirements, based upon the identified minimum glazing, façade and internal wall specifications.
- Level 3 outdoor communal area will meet noise targets, as the glass barrier provides sufficient acoustically shielding. The report is using this area as the minimum one outdoor living area per residential lot that is required by SPP5.4 to be protected from vehicle noise.
- The residential balconies would be subjected to noise levels greater than the SPP5.4 noise limit.

A planning condition will be necessary to ensure the internal areas have sufficient acoustic treatments as recommended by the acoustic consultant to comply with SPP5.4.

In this circumstance, the proposal is considered to be capable of approval. However, as the use of the private residential outdoor living areas are affected by transport noise, it is recommended that an appropriate notification be placed on the affected titles.

Minimum Floor and Ground Levels

TPS6 cl. 6.9 prescribes the minimum floor and ground levels that a lot or building is to be developed at, summarised as follows. A lower level can be approved if the development is considered to satisfy the requirements of sub-clause (3).

Development Element	Minimum Required	Minimum Proposed	Compliance
Ground Level:	1.70m AHD.	Approx. 3.00m AHD.	Compliant.
Habitable Rooms Floor Level:	2.30m AHD.	3.65m AHD.	Compliant.
Non-Habitable Rooms Floor Level:	1.75m AHD.	-3.65m AHD.	Not compliant.
Car Parking Floor Level:	1.75m AHD.	-3.65m AHD.	Not compliant.

Discretionary Provisions

(3) *The local government may permit land to be developed with lower levels than prescribed in sub-clauses (1) and (2), if:*

- (a) *provision is made in the design and construction of the floor and walls of the building for adequate protection against subsoil water seepage;*
- (b) *the applicant provides the local government with certification from a consulting engineer that adequate water-proofing has been achieved; and*
- (c) *the applicant satisfies the local government in such manner as the local government may specify that the proposed levels are acceptable having regard to the 100 year flood levels applicable to the lot.*

Specific details have not been supplied as part of this application to address (a) and (b), though it considered acceptable for these technical details and certification be provided as part of the building permit documentation.

In relation to the 100 year flood level, the development site is not in an area identified in the City’s mapping that would be affected by a flooding event. Based upon recent advice obtained from the Department of Water and Environment Regulation for 3

Lyll Street, the 1 in 100 Annual Exceedance Probability (AEP) is currently expected to be approx. 1.35m AHD. Should sea level rise as expected, which is 0.9m over the next century this flood level increases to approximately 2.20m AHD at the year 2110. The lowest entry point for floodwaters into the building is expected to be the car park entrance at RL3.35m floor level, which is sufficiently elevated above these predicted flood levels.

With the inclusion of appropriate planning conditions, the development is considered to be compliant with the minimum floor and ground level requirements.

Maximum Floor and Ground Levels

TPS6 cl. 6.10 specifies maximum floor and ground level requirements.

The proposed floor and ground levels are mostly considered to achieve the 'equal cutting below and filling above' requirements in sub-clauses (1)(a) and (3) respectively. The only significant variation is the Café/Restaurant and Community Room tenancies have a finished floor level elevated approximately 280mm above the 'equal cutting below and filling above + 100mm' calculation. In addition, the floor level is raised by approximately 200mm-500mm above the adjacent footpath level. The proposed level can be approved if the development is considered to satisfy the requirements of sub-clause (1)(b).

Discretionary Provisions

- (1)(b) The local government may permit or require the floor level to be varied to the extent necessary to comply with the following:*
- (i) In no case shall the floor level be lower than required by clause 6.9.*
 - (ii) The floor shall not be at a level which, in the local government's opinion, would cause the building to unreasonably adversely affect the amenity of neighbouring properties in relation to visual impact and overshadowing.*
 - (iii) The local government may require the floor level to be varied where necessary in the local government's opinion to achieve a visually balanced streetscape, having regard to the floor levels of buildings on adjoining lots.*

The proposed floor level complies with the TPS6 cl. 6.9 minimum levels. The tenancy's floor level is not seen to pose any adverse overshadowing or visual impacts to neighbouring properties. Considering the floor levels of the adjoining property, the building's setback from the street boundary and the visual screening provided by the landscape planter, the tenancy's floor level is seen to maintain a visual balanced streetscape.

The central vehicle ramps between each parking level are steeper than the prescribed 1:8 gradient in sub-clause (2), with a maximum 1:7.5 gradient proposed. In addition to the standard discretionary provisions in TPS6 cl. 7.8, Policy P350.03 cl. 7.2 provides guidance for allowing steeper gradients than the scheme requirement. In this instance, the policy requires the applicant to submit an indemnity letter for any access difficulties without future recourse to the City and certification confirming compliance with Australian Standard 2890.1.

With the inclusion of appropriate planning conditions, the development is considered to be compliant with the maximum floor and ground level requirements.

Options/Alternatives:

An Alternative Recommendation may be sought under DAP Regulation 13.

Council Recommendation:

The Council of the City of South Perth had not provided comments on the current proposal at the time this Responsible Authority Report was lodged.

Conclusion:

The City acknowledges that the proposed development demonstrates compliance with the planning provisions of TPS6 Schedule 9A Table A including land use, plot ratio, podium heights, building setbacks, parking and a number of other design considerations.

Notwithstanding, a significant level of discretion is being sought in relation to height which requires assessment against TPS6 Schedule 9A, Table B. This assessment needs to be considered and balanced against the relevant criteria of clause 67 of the Deemed Provisions. Whilst the development is considered to satisfy Table B, it does not satisfy clause 67(m) for the following reasons:

- The scale of the proposed development is not considered to be compatible with the current setting as a result of the overall height being significantly greater than the established height pattern in the immediate locality; and
- It is acknowledged that there is discretion available for this site and that the existing local planning framework envisages taller buildings in the Special Design Area, however, the framework provides no guidance as to ultimately how tall buildings should be. The framework is currently under review but to date there is no endorsed revised plan or vision for the area to guide what the future built form will look like. In the absence of this guidance, it is not possible to say with any certainty that the development will be compatible with the desired future setting of the precinct.

Therefore the application is recommended for refusal.