

AGENDA.

Council Agenda Briefing

19 February 2019

Notice of Meeting

Mayor and Councillors

The next Council Agenda Briefing of the City of South Perth Council will be held on Tuesday 19 February 2019 in the City of South Perth Council Chamber, Cnr Sandgate Street and South Terrace, South Perth commencing at 5.30pm.



GEOFF GLASS
CHIEF EXECUTIVE OFFICER

14 February 2019

Welcome to Country

Kaartdjinin Nidja Nyungar Whadjuk Boodjar Koora Nidja Djining Noonakoort kaartdijin wangkiny, maam, gnarnk and boordier Nidja Whadjul kura kura.

We acknowledge and pay our respects to the traditional custodians of this land, the Whadjuk people of the Noongar nation and their Elders past, present and future.

Our Guiding Values



Disclaimer

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

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

Contents

1.	DECLARATION OF OPENING	4
2.	ATTENDANCE	4
2.1	APOLOGIES	4
2.2	APPROVED LEAVE OF ABSENCE	4
3.	DECLARATIONS OF INTEREST	4
4.	DEPUTATIONS	4
5.	DRAFT REPORTS AS LISTED IN THE APPENDIX	4
6.	CLOSURE	4
	APPENDIX	5
10.3	STRATEGIC DIRECTION 3: ENVIRONMENT (BUILT AND NATURAL)	5
10.3.1	Initiation of Town Planning Scheme Amendment No. 62 - Introduction of Specific Development Requirements for South Perth Hospital	5
10.3.2	Final adoption of draft Local Planning Policy P320 'Assessment of Significant Obstruction of Views in Precinct 13 - Salter Point'	17
10.3.3	Proposed 14 Multiple Dwellings in a Four (4) Storey Building on Lot 7 (No. 31) Baldwin Street, Como	26
10.3.4	Proposed 2 x Two Storey Single Houses on Lot 802 (No. 42) Salter Point Parade, and Lot 803 (No. 49) Letchworth Centre Avenue, Salter Point	59
10.3.5	Proposed Fencing Addition to Private Institution (School Playing Grounds) - Lot 3 (No. 6) Elderfield Road, Manning	77
10.3.6	Proposed Two-Storey Single House on Lot 56 (No. 25) Waverley Street, South Perth	83
10.3.7	Proposed Additions and Alterations to Single House at Lot 32 (No. 4) The Pines Road, Como	99
10.4	STRATEGIC DIRECTION 4: LEADERSHIP	109
10.4.1	WALGA Preferred model for Third Party Appeal Rights for decisions made by Development Assessment Panels	109
10.4.2	Annual Electors Meeting 2018	112
10.4.3	Local Government Act Review - Submission to WALGA	114
10.4.4	Inner City Memorandum of Understanding	116
10.4.5	Listing of Payments - December 2018	118
10.4.6	Listing of Payments - January 2019	121
10.4.7	Monthly Financial Statements - December 2018	124
10.4.8	Monthly Financial Statements - January 2019	127
10.4.9	Budget Review for the Period ended 31 December 2018	130

Council Agenda Briefing - Agenda

1. DECLARATION OF OPENING
2. ATTENDANCE
 - 2.1 APOLOGIES
 - 2.2 APPROVED LEAVE OF ABSENCE
3. DECLARATIONS OF INTEREST
4. DEPUTATIONS
5. DRAFT REPORTS AS LISTED IN THE APPENDIX
6. CLOSURE

APPENDIX

10.3 STRATEGIC DIRECTION 3: ENVIRONMENT (BUILT AND NATURAL)

10.3.1 Initiation of Town Planning Scheme Amendment No. 62 - Introduction of Specific Development Requirements for South Perth Hospital

Location:	Lot 60 (No. 26) Fortune Street, South Perth
Ward:	Como Ward
Applicant:	Element Advisory Pty Ltd
File Ref:	D-18-123664
Meeting Date:	19 February 2019
Author(s):	Mark Carolane, Senior Strategic Planning Officer
Reporting Officer(s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy:	3.2 Sustainable Built Form

Summary

This report provides details of proposed applicant-requested Amendment No. 62 to Town Planning Scheme No. 6, relating to Lot 60 (No. 26) Fortune Street, South Perth (South Perth Hospital).

The amendment proposes to introduce specific development requirements for the South Perth Hospital site to facilitate the future redevelopment of the Hospital. The proposed development requirements include:

- building height limits and minimum setbacks that define a building envelope for the site; and
- that a local development plan be adopted by the Council prior to the approval of any future development application to specify the detailed built form, access and parking requirements for the site.

The proposed amendment will enable the future expansion of the hospital in a manner that capitalises on the site's existing established use, while ensuring that development is compatible with the surrounding urban context.

It is recommended that the Council support the adoption of the proposed draft amendment for the purposes of public advertising in accordance with Regulation 38 of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) and Clause 4 of the Deemed Provisions.

It is recommended that the proposed amendment is classified as complex under Regulation 34 of the Regulations and must therefore be referred to the Western Australian Planning Commission (WAPC) before it is advertised.

Officer Recommendation

That Council:

1. Resolve pursuant to Section 75 of the *Planning and Development Act 2005* and Regulation 37(1) of the Planning and Development (Local Planning Schemes) Regulations 2015, to adopt the proposed Scheme Amendment No. 62 to Town Planning Scheme No. 6 as detailed in the amendment documents contained in **Attachment (a)** for the purpose of public advertising.
2. Pursuant to Regulation 35(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, resolve that the amendment is a complex amendment for the following reasons:
 - a. There is no local planning strategy for the scheme that has been endorsed by the Commission;
 - b. The land the subject of the amendment is not addressed by an adopted Local Planning Strategy; and
 - c. The amendment relates to development that is of a scale, and will have an impact, that is significant relative to development in the locality.
3. Pursuant to Section 81 of the *Planning and Development Act 2005*, refer the proposed amendment to the Environmental Protection Authority for consideration prior to advertisement.
4. Pursuant to Regulation 37(2) of the Planning and Development (Local Planning Schemes) Regulations 2015, submit the proposed amendment to the Western Australian Planning Commission for examination prior to advertising.
5. Upon receipt of consent to advertise from the Western Australian Planning Commission, prepare notice of, and advertise, the proposed amendment with a submission period of not less than 60 days pursuant to Regulation 38(4) of the Planning and Development (Local Planning Schemes) Regulations 2015, Clause 4 of the Deemed Provisions, and local planning policy P301 'Community Engagement in Planning Proposals'.

Background

The proposed Scheme Amendment No. 62 applies to Lot 60 (No. 26) Fortune Street, South Perth (South Perth Hospital). The site has a land area of almost 8,000m², with frontages to South Terrace, Fortune Street, Burch Street and Ernest Johnson Reserve, as shown on Figure 1.



Figure 1: South Perth Hospital site

A number of medical and commercial uses have developed adjacent to the hospital and around the intersection of South Terrace and Coode Street. These facilities and businesses support and complement the hospital and vice versa.

The existing buildings on the hospital site comprise a predominantly single storey building, with two storey elements along the South Terrace and Fortune Street facades, and incorporate several enclosed courtyards within the site. Since its construction in the 1950s, the hospital has retained most of the original buildings; however as operational needs, expectations, regulations and service demands change there will be a need to redevelop the facility in the near future.

In June 2006, in considering a development application for single storey extensions and refurbishment to the hospital, the Council resolved that the hospital should prepare a “conceptual master plan” to guide planning for the future needs of the hospital. In response to this resolution and need for redevelopment, South Perth Hospital has embarked on a process of strategic planning for the future of the site. Preliminary planning for the hospital site has involved the preparation of feasibility development concepts to accommodate the hospital’s future requirements, as well as preliminary consultation and engagement with the City of South Perth and local community.

The applicant has consulted directly with the City over the past two years in progressing the planning and design for the Hospital site, including resolution of the recommended approach and planning mechanisms required to facilitate the redevelopment of the site. The recommended approach and consultation undertaken to date is described in the comment section of this report.

Comment

City officers have met a number of times with the applicant through the development of design concepts and the preparation of the proposed amendment since 2016. The proposed approach is appropriate to facilitate the redevelopment of the hospital.

The applicant has also presented the draft concept plans for the redevelopment of the hospital to the City's Design Review Panel for design advice in July 2016 and March 2018. The purpose of the presentations was to seek feedback on the preliminary plans, to assist with informing future design development and guide detailed planning for the hospital site. The Panel were generally supportive of the concept plans at both meetings and more detail on the feedback provided to the applicant is in the Scheme Amendment Report contained in **Attachment (a)**. It is expected that the Design Review Panel will provide further advice on any development application for redevelopment of the hospital.

The applicant and South Perth Hospital Board also provided briefings to the Council in October 2016 and February 2019.

Preliminary community consultation

In May 2017, the applicant and the hospital's architects undertook a process of preliminary engagement with the local community to provide information, answer questions and collect feedback on the proposed hospital redevelopment concept. A total of 151 residents and property owners neighbouring the hospital were invited to attend 1 of 3 sessions. A set of frequently asked questions was developed to provide interested residents and property owners with additional detail around key questions related to the concept proposal. Copies were mailed out along with the invitation and provided at each engagement session. A total of 11 residents/property owners attended the scheduled sessions.

A summary of the engagement process and feedback is provided in the Scheme Amendment Report contained in **Attachment (a)**.

The engagement process highlighted key considerations for the ongoing development of the project, including:

- Parking and traffic need to be appropriately managed;
- Pedestrian shelter and comfort should be improved through the redevelopment of the hospital; and
- The separation zones between buildings, shown in the concept drawings, were supported because they break up the massing of the buildings and reduce their bulk.

The building envelope created by the proposed amendment provides for these issues to be addressed through a Local Development Plan and detailed design of the redeveloped hospital.

The engagement process also highlighted the need for ongoing communication and engagement with the local community through the planning and redevelopment process. Further engagement to be undertaken during the scheme amendment process is described in the consultation section of this report.

Proposed Scheme Amendment

Ultimately, the proposed amendment aims to facilitate the redevelopment of the South Perth Hospital. The purpose of the proposed amendment is to increase the building height limits on the hospital site and introduce specific built form requirements to facilitate the redevelopment of the hospital. The current building height limit of 7.0 metres does not allow for redevelopment in line with the Hospital's long term strategic objectives.

In summary the amendment proposes the following:

1. Inserting a new sub-clause into TPS6 at Clause 5.4 Development Requirements for Certain Sites, to apply to the South Perth Hospital site (Lot 60 (No. 26) Fortune Street, South Perth;
2. The new sub-clause allows for development on the hospital site to be approved up to 22.5 metres in height, subject to the following requirements:
 - a. The proposed development meets a set of defined height and setback requirements to be inserted as a new Figure 5; and
 - b. A Local Development Plan is adopted by the Council to set out detailed development requirements including (but not limited to) objectives and requirements for:
 - Building design;
 - Massing and overshadowing;
 - Ground floor design and streetscape interface;
 - Landscaping and open space;
 - Traffic management;
 - Parking;
 - Pedestrian access;
 - Servicing; and
 - Signage.

The hospital site is currently zoned as Private Institution in TPS6 and there are no proposed changes to the land use requirements on the site.

The Scheme Amendment Report contained in **Attachment (a)** provides background information, a review of the existing planning framework, details of the proposed amendment, and justification for the proposal. The below section discusses the key criteria of the amendment.

Proposed building height limits and setbacks

The proposed amendment requires development to be in accordance with the height and setback requirements depicted in Figure 2. Minor setbacks may be permitted within the setback areas to a maximum of 1 metre. This is to allow a level of flexibility to accommodate the final detailed design of the project.

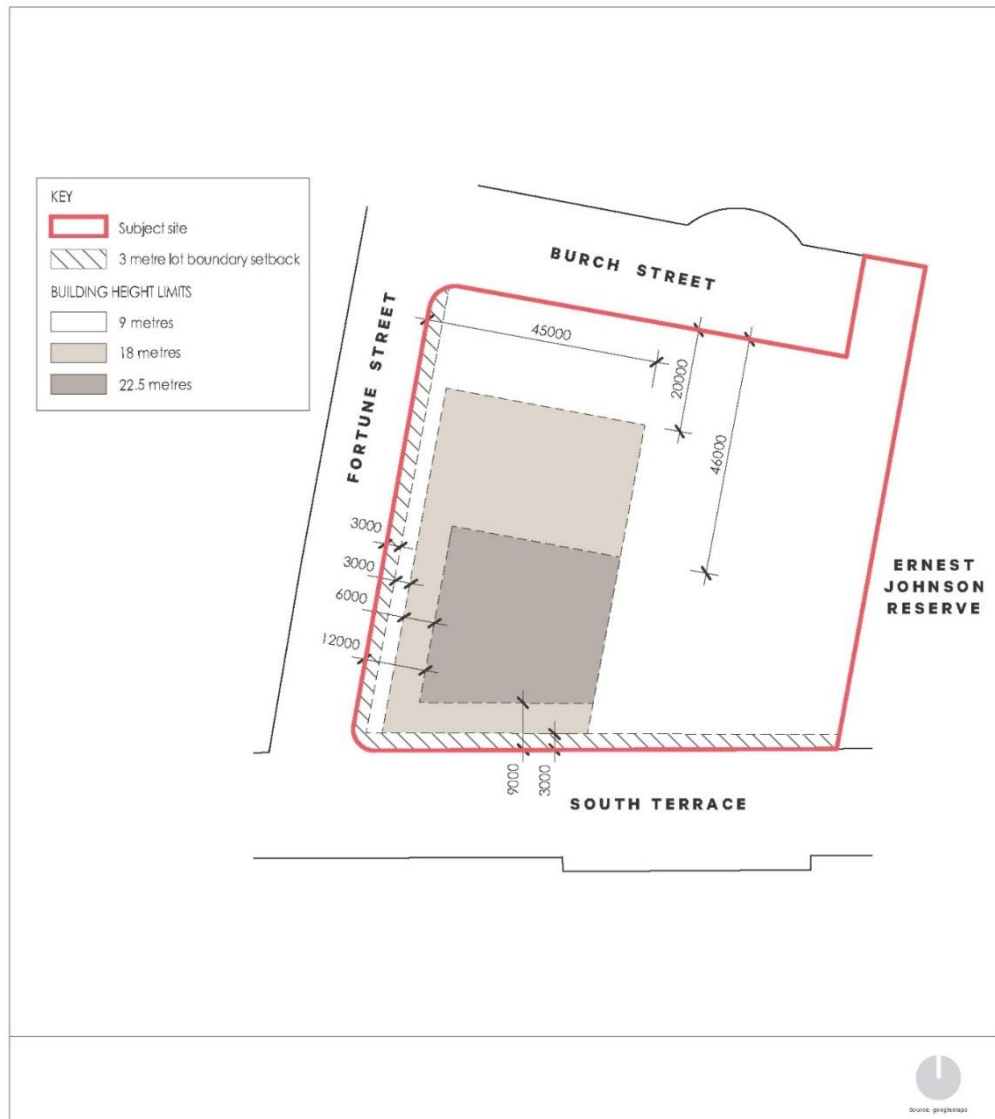


Figure 2: Building height and setback requirements (South Perth Hospital site)

The height and setback requirements combine to provide an 'envelope' within which the building may be designed. The proposed building envelope provides a maximum of 22.5 metre (four levels) height in the vicinity of the South Terrace/Fortune Street intersection, with height progressively stepping down to 9 metres (two levels) across the eastern portion of the site, and across the northern portion of the site where it interfaces with existing residential development. Each storey of the redeveloped Hospital is expected to be 4.5 metres in height, which is larger than a typical residential or commercial building but necessary to accommodate the hospital's specialist requirements.

A 3 metre minimum setback is provided to both the South Terrace and Fortune Street frontages to provide space for pedestrians, landscaping and separation from the street. Greater setbacks are required to the upper levels along the Fortune Street frontage to reduce the impact of building bulk.

The height and setback requirements concentrate any development above two levels in height towards the South Terrace/Fortune Street intersection. The northern and eastern portions of the site, adjacent to residential development and Ernest Johnson Reserve respectively, remain at a similar height to the existing two storey portions of the Hospital and adjacent residential development.

The location and distribution of height ensures that new development is of a scale that appropriately interfaces with the adjacent residential areas and the public realm, and does not detrimentally affect existing amenity of surrounding development in terms of building bulk or overshadowing. The proposed street setbacks, together with increased setbacks to the upper levels along the Fortune Street frontage, assist to reduce the visual impact and perceived building bulk as viewed from the street.

Proposed requirement for a Local Development Plan

In order to exceed the existing 7 metre building height limit it is proposed that a Local Development Plan must be adopted by the Council prior to the consideration of any application for development approval. The Local Development Plan is to set out objectives and requirements for (but not limited to):

- building design;
- massing and overshadowing;
- ground floor design and streetscape interface;
- landscaping and open space;
- traffic management;
- parking;
- pedestrian access;
- servicing; and
- signage.

The Scheme Amendment Report contained in **Attachment (a)** includes indicative plans that provide examples of the type of detail that may be included within a Local Development Plan for the hospital site. These plans would be augmented by design objectives and detailed development standards and provisions to be achieved in relation to built form, public realm interface, access and architectural design matters. Draft key objectives that would form part of a Local Development Plan are also provided in the Scheme Amendment Report.

A Local Development Plan has the status of a local planning policy and must be given due regard in the assessment of a development application. This is recommended as an appropriate way to establish detailed development requirements for the redevelopment of the hospital within the overall building envelope defined by height and setback limits, discussed above.

A Local Development Plan will be prepared and advertised for public comment before being adopted by the Council following approval of the proposed amendment. The amendment process is necessary in order first define the building envelope within which development can occur, before progressing to more detailed planning and design through the preparation of a Local Development Plan.

Outcomes from the proposed amendment

The proposed amendment is anticipated to facilitate the redevelopment of the South Perth Hospital within the building envelope defined by the building height and setback limits described above, with detailed development requirements to be defined through a Local Development Plan. The Scheme Amendment Report contained in **Attachment (a)** includes concept drawings to illustrate the proposed massing in the context of the surrounding urban fabric, and how future development of the Hospital will fit in with the site's existing context. Figures 3 and 4 show elevations to South Terrace and Fortune Street, and massing of development respectively.

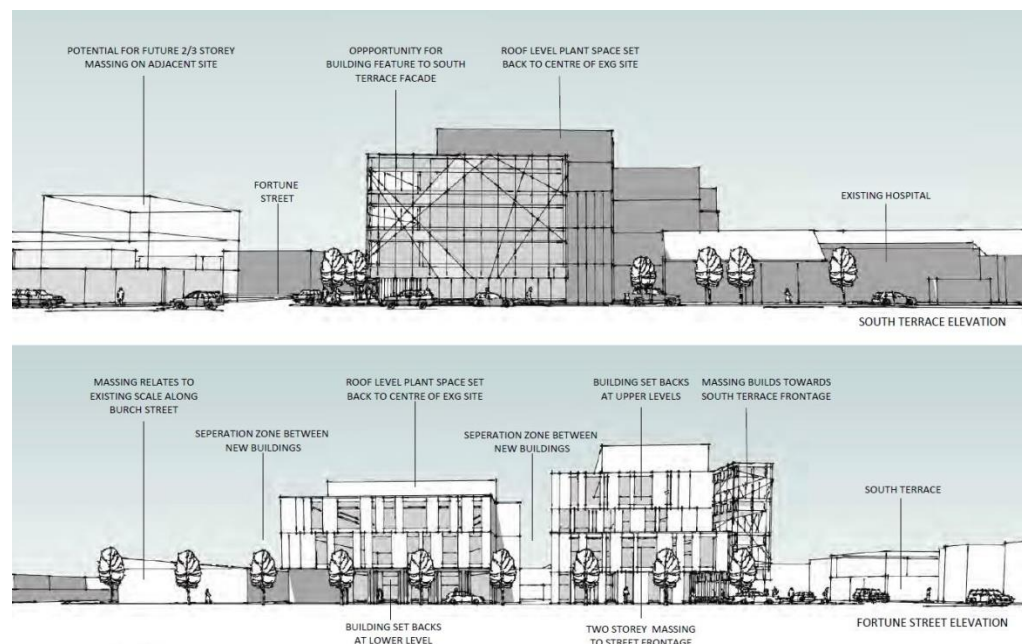


Figure 3: Street elevations concepts expected as a result of the proposed amendment

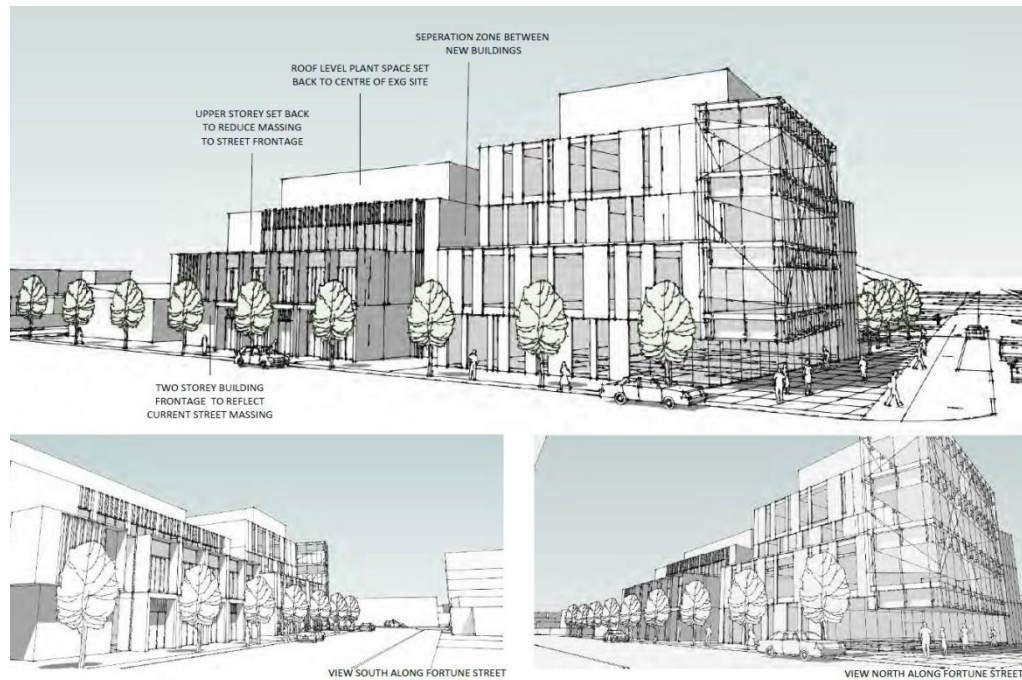


Figure 4: Development massing concepts expected as a result of the proposed amendment

The concept drawings show the bulk of the hospital building addressing the South Terrace/Fortune Street intersection to provide a significant civic building. The height of the building steps down towards the northern and eastern part of the site in order to minimise the impact on adjacent residential properties on Fortune and Burch Streets, and public open space on Ernest Johnson Reserve.

The concept drawings show separation zones between the buildings along the frontage with Fortune Street to break up the bulk of the buildings and provide for natural light access into the hospital. The detailed design of the buildings and their frontages will be further refined through the development of a Local Development Plan and development application following approval of the proposed amendment.

A shadow analysis has also been undertaken based on the concept designs for the hospital to analyse the potential impact of redevelopment on the surrounding area. The analysis (contained in the Scheme Amendment Report in **Attachment (a)**) demonstrates that the overshadowing that could occur if the site is developed to the maximum building envelope allowed by the proposed amendment will have minimal impact on surrounding residential properties. Figure 5 shows the shadow analysis results.

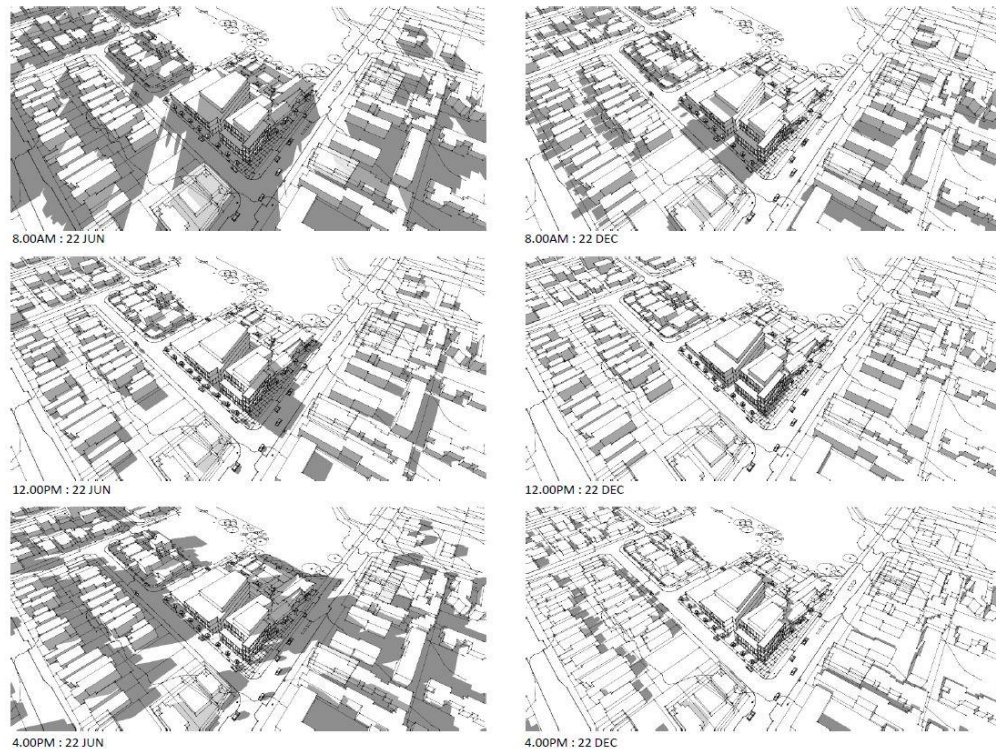


Figure 5: Shadow analysis of South Perth Hospital redevelopment concept

The City's Design Review Panel have provided advice to the applicant on the proposed development concept, including support for the mass of the building to be focussed at the corner of South Terrace and Fortune Street, with the building stepping down towards the northern and eastern parts of the site, as discussed above. The Panel also supported the variety in built form across the site and breaking up of the bulk of the building with breaks and articulation of the frontage.

Consultation

Community consultation requirements for complex amendments are prescribed by Regulation 38(2) of the Planning and Development (Local Planning Schemes) Regulations 2015. These requirements are supplemented by Part 10 of Local Planning Policy P301 - 'Community Engagement in Planning Proposals', which provides further guidance for advertising such proposals.

The City's Local Planning Policy P301 - 'Community Engagement in Planning Proposals' does not require preliminary consultation to be undertaken for this amendment as it only applies to the land owned by the South Perth Hospital. However, as discussed above, the applicant has undertaken a process of preliminary consultation with neighbouring landowners who may be affected by the proposed redevelopment of the hospital. This included mailed letters to residents and property owners and three workshop sessions, which were attended by a total of eleven people. The engagement process is detailed in the Scheme Amendment Report contained in **Attachment (a)** and highlighted a number of key considerations to be addressed through the preparation of a Local Development Plan and detailed design of the redeveloped Hospital.

Following Council's endorsement of the draft Scheme Amendment, it will be forwarded to the Western Australian Planning Commission for preliminary assessment and referred to the Environmental Protection Authority for assessment. Upon receipt of advice from the aforementioned authorities, community consultation on the amendment and draft local planning policy will be undertaken for a minimum period of 60 days in accordance with the Regulations.

Consultation will include letters to potentially affected landowners and occupiers, multiple signs around the site, and notices in the Southern Gazette newspaper, the Civic Centre, the City's Libraries and on the City's web site in accordance with Local Planning Policy P301 'Community Engagement in Planning Proposals'.

Policy and Legislative Implications

The amendment is considered to be a complex amendment under Regulation 34 of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) for the following reasons:

- a. There is no local planning strategy for the scheme that has been endorsed by the Commission;
- b. The land the subject of the amendment is not addressed by an adopted Local Planning Strategy; and
- c. The amendment relates to development that is of a scale, and will have an impact, that is significant relative to development in the locality.

The statutory process for Complex Scheme Amendments is set out in Part 5, Divisions 1 and 2 of the Regulations. The process as it relates to proposed Amendment No. 62 is set out below, together with an estimate of the likely timeframe associated with each stage of the process. The below timeframes are based on the WAPC undertaking preliminary assessment within the prescribed 60 day time period.

Stage of Amendment	Estimated Time
Council resolution to adopt proposed draft amendment for advertising purposes.	February 2019
Referral of draft amendment proposals to EPA for environmental assessment and WAPC for examination within a 60 day time period.	February 2019
Public advertising period of not less than 60 days.	April - June 2019
Council consideration of report on submissions and resolution on whether to support the amendment, support with modifications or not support.	July 2019

Referral to WAPC and Planning Minister for consideration, including: <ul style="list-style-type: none"> • Report on submissions; • Council's recommendation on the proposed amendment; and • Three signed and sealed copies of amendment documents for final approval. 	August 2019
Minister's final determination of amendment and publication in the Government Gazette.	Not yet known

Financial Implications

The estimated costs for the proposed scheme amendment have been paid for by the applicant as prescribed in the City's adopted Fees and Charges Schedule. These costs are in accordance with the Planning and Development Regulations 2009, which allows the City to recover the costs associated with a scheme amendment that is submitted by a landowner. Should the final cost be lesser or greater than the estimated costs the City will arrange for a refund or for additional fees to be paid as required.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Environment (Built and Natural)
Aspiration:	Sustainable urban neighbourhoods
Outcome:	3.2 Sustainable built form
Strategy:	(A) Develop a local planning framework to meet current and future community needs and legislative requirements

Attachments

10.3.1 (a):	Scheme Amendment Report - 62 South Perth Hospital for Council Initiation December 2018
--------------------	--

10.3.2 Final adoption of draft Local Planning Policy P320 'Assessment of Significant Obstruction of Views in Precinct 13 - Salter Point'

Location:	Not Applicable
Ward:	Manning Ward
Applicant:	Not Applicable
File Ref:	D-19-4028
Meeting Date:	19 February 2019
Author(s):	Matthew Andrews, Strategic Planning Officer
Reporting Officer(s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy:	3.2 Sustainable Built Form

Summary

The City prepared draft local planning policy 'P320 – Assessment of Significant Obstruction of Views in Precinct 13 – Salter Point' (P320) in response to a Council resolution in May 2018. The purpose of the policy is to provide guidance on the application of clause 6.1A(9)(c) of Town Planning Scheme No. 6 (the Scheme). Council resolved to publically advertise the draft local planning policy at its meeting of 30 October 2018, with public consultation on the draft policy concluding on 14 December 2018.

At the conclusion of the consultation period 23 submissions had been received and from these submissions a number of modifications to the draft policy are recommended. The modifications seek to make the discretionary elements of the policy clearer and more robust as the majority of submissions raised concern that the advertised policy criteria did not provide enough certainty over development outcomes.

It is recommended that Council adopt the modified draft local planning policy.

Officer Recommendation

That Council:

1. In accordance with the provisions of Schedule 2, clause 4(3) of the Planning and Development (Local Planning Schemes) Regulations 2015:
 - a. Adopt the modified draft local planning policy 'P320 – Assessment of Significant Obstruction of Views in Precinct 13 – Salter Point' as set out in **Attachment (a)**; and
 - b. Publish a notice of the policy adoption in the local newspaper circulating in the local area.

Background

Clause 6.1A(9)(c) of the Scheme requires that a person shall not erect or add to a building on any land which has been assigned a building height limit of 3.0 metres, 3.5 metres or 6.5 metres in Precinct 13 – Salter Point (the policy area), unless the local government is satisfied that views of the Canning River from any buildings on neighbouring land will not be 'significantly obstructed'.

Clause 6.1A(9)(c) provides no guidance regarding when the obstruction of a view may be considered 'significant'.

Topography in the policy area allows a number of properties to achieve views of the Canning River, not just those adjacent to Salter Point Parade. Protection of these views has been the subject of past contention and has resulted in previous changes to the City's planning framework.

At its meeting held 29 May 2018 Council considered an item (refer item 10.3.2) relating to building height limits within the policy area. In response to this item Council resolved to prepare a local planning policy to provide guidance on the application of clause 6.1A(9)(c) of the Scheme. In response to this resolution draft local planning policy 'P320 – Assessment of Significant Obstruction of Views in Precinct 13 – Salter Point' (P320) was prepared. At its meeting held 30 October 2018, Council resolved to carry out community consultation on P320. Further background in respect to building height controls in the policy area is included in the report to the October 2018 Council meeting (refer item 10.3.3).

Consultation occurred in November/December of 2018 for a period of 24 days, concluding on Friday 14 December 2018.

Comment

Purpose of the policy

At present, clause 6.1A(9)(c) of the Scheme does not provide guidance on what constitutes a 'significant obstruction' or how to assess significant obstructions of views of the Canning River. The purpose of P320 is to provide guidance as to how this clause should be interpreted so that future planning decisions are more clear, robust and consistent. It does this by setting a series of development controls to illustrate acceptable and unacceptable forms of development rather than attempting to directly define 'significant obstruction'. It seeks to minimise the instances where a development is likely to cause a significant obstruction by limiting the scope of 'projections' that can occur above the building height limit.

It is not the purpose of the policy to either:

- a. Modify the building height limit's that exist in the area; or
- b. Expressly limit development up to (or below) the building height limit unless there is a clear link between projections above the building height limit and a loss of views to the Canning River.

Key issues arising from consultation

The City received 23 submission on P320, of which 14 provided some degree of objection to the draft policy, 4 outlined support and 5 raised no objection or support for the policy. Notwithstanding, the majority of objections received did not raise concern with the overall objectives of P320, but rather that the provisions were not clear or robust enough to ensure these objectives would actually be achieved. The table below summarises the key matters that were raised by submissions.

Matter	Officer summary of key issue	Officer comment
Roof pitch	<p>The lesser roof pitch is supported and could be lower in some instances.</p> <p>On wider blocks, the lesser roof pitch still allows a landowner to develop a significant upper storey.</p>	<p>The reduced roof pitch is intended to restrict the ability for a majority of lots within the policy area to be developed with an additional storey within any 'roof space'. It is recognised that in some instances the width of the block may allow for a small upper floor area.</p> <p>Modifications are recommended to the advertised version of P320 (see below) that provide additional restrictions on roof structures above the building height limit to ensure that views to the Canning River are protected.</p>
Protection of views	<p>Views from balconies from 'middle' blocks to the Canning River should be uninterrupted.</p> <p>Views of the Canning River should not be arbitrarily determined. The policy/Council should set clear guidelines to limit building size and remove any assessment of views.</p>	<p>As stated above, modifications to the advertised version of P320 are recommended to ensure existing views (such as from balconies) are protected.</p> <p>P320 seeks to provide guidance on how the provisions of clause 6.1A(9) of the Scheme should be interpreted. This is achieved through a series of quantitative and qualitative criteria. The Scheme requires the City to make an assessment of whether a view is 'significantly obstructed' and the policy cannot 'remove' the need to assess an impact on views.</p>

Vegetation	The policy should control the growing of tall vegetation, which equally impact on views.	The <i>Planning and Development Act 2005</i> defines 'development' in a way that excludes vegetation. Planning approval to plant and grow vegetation is not required and therefore cannot be controlled by a planning policy.
Defining the view	The view should be defined as the river and not include other elements like the riverbank, wetlands or lagoon.	Modifications to the advertised version of P320 seek to clarify that a 'significant obstruction' can only (a) be in the form of a projection above the building height limit, and (b) be where the projection obstructs a view from an active habitable space to the water of the Canning River. This shall be determined by establishing a 'line-of-sight', contained within a 45 degree cone-of-vision, from the active habitable space to the water of the Canning River.
Allowing buildings with lesser impacts than what currently exist	Clause 4.0 of the policy is not supported as it allows new buildings with lesser impacts to be built, despite having an impact on views.	Clause 4.0 (recommended to be altered to clause 2.2(b)) recognises that there is a lesser need to 'protect' a view that is already obstructed. The clause provides that a development is more likely to satisfy clause 2.2, albeit subject to the limits contained in 2.1 where it replaces an existing building that currently obstructs views to the Canning River. This recognises the need to balance both the protection of views and the ability for landowners to develop 'reasonable' scaled buildings (up to the limits of clause 2.1(a)) in recognition that such a development will offer a lesser obstruction to a view than the existing building.

Defining 'significant obstruction' and consistency in decision making	<p>The policy is not supported because it does not provide certainty over what is a 'significant obstruction'.</p> <p>A number of houses are developed/approved with greater roof pitches. It is unfair to now change the controls for future developments.</p>	<p>The purpose of P320 is to provide guidance on the interpretation of 'significant obstruction' as contained in clause 6.1A(9)(c) of the Scheme. The policy does not seek to add any additional restriction, or lesser development standards on development in the policy area. The policy has been modified to provide further clarity on that it is open to a decision maker, irrespective of P320, to require development to be to a lesser scale than otherwise permitted by building height limit. It is not possible to clearly and reasonably define 'significantly obstruct' as given the varying topography, lot size and dimensions and existing extent of views throughout the policy area as this will vary from lot to lot. Instead P320 takes the approach of defining what forms of development are acceptable and what forms are unacceptable. This is considered to provide a high degree of certainty as to how development may proceed in the area in the future, while providing enough flexibility for the unique circumstances of each individual lot. The policy has been modified to provide further clarity on what projections above the building height limit will be considered acceptable and unacceptable (see below).</p>
---	---	---

Flat roofs	Buildings on Salter Point Parade should not be permitted to extend beyond the building height limit and should be constructed with flat roofs.	P320 seeks to provide guidance on the interpretation of clause 6.1A(9) of the Scheme to determine situations where a development proposes a 'significant obstruction' to river views. Applying a 'hard-and-fast' limit for Salter Point Parade would be difficult to enforce/defend if the development clearly didn't obstruct views. Instead P320 seeks to provide a system that allows for design flexibility while also identifying more clearly situations where views will be considered 'significantly obstructed'.
------------	--	---

A schedule of submissions, with detailed responses to each submission received by the City is included as an attachment to this report at **Attachment (c)**.

Defining 'significant obstruction'

A number of submissions raised concern that P320 does not define 'significant obstruction' and therefore the policy would not be successful in providing guidance on clause 6.1A(9)(c).

The difficulty with clause 6.1A(9)(c) is that it requires the City to consider the severity of any obstruction of views to the Canning River (and determine whether it is significant) irrespective of whether the development complies with all of the other requirements of the Scheme. Given the variability to topography, lot arrangement and extent of existing views available to properties in the policy area, consistently applying clause 6.1A(9)(c) in a way that balances both the need to protect views with the ability of landowners to develop 'reasonable' proposals is challenging.

To best define 'significant obstruction' P320 could simply state that new buildings that obstruct direct views of the Canning River should not be supported. Moreover, quantifying the extent of view (for instance as a percentage of a total view) would be unnecessarily complex. Either approach would also neglect the need to ensure landowners are able to build reasonable scaled dwellings and that some obstruction of view from adjoining properties may be inevitable; without constituting a 'significant' obstruction.

Instead, P320 takes the following approach to making assessment of views to the Canning River far more clear and robust than set out in the Scheme by:

- clearly defining which buildings are generally going to be considered to satisfy **clause 6.1A(9)(c)**, being those wholly below the building height limit with no projections/roof above this height; and,
- clearly defining which buildings **will not be supported** by the City, being those with projections above the building height limit that do not meet the quantitative criteria of clause 2.1 of the policy, and/or the more qualitative criteria of clause 2.2; and

- providing for limited discretion to approve projections above the building height limit when all of the quantitative criteria in clause 2.1 are met and the projection does not interrupt views, established by a direct line-of-sight within a 45 degree cone-of-vision, between the water of the Canning River and an active habitable space forming part of a building on an adjoining lot.

Modifications to the draft policy

A number of modifications to P320 are recommended. These modifications are summarised below and seek to rectify issues raised in submissions, including:

- The need to clearly define that both clause 2.1 and 2.2 (formerly clauses 2.0 and 3.0) are both required to be satisfied in order for a development to be considered acceptable.
- The need to more clearly define which situations are acceptable and which are unacceptable; and
- Clarify how some external fixtures will be assessed.

A schedule of modifications is included as **Attachment (b)** to this report.

Providing a 'line-of-sight' to Canning River

Clause 2.1 of P320 provides a set of quantitative criteria that limit any projections above the building height limit. This includes a limit on roof pitches above the building height limit to not more than 15 degrees and an inability to permit walls above the building height limit (as currently permitted in certain circumstances under clause 6.1A(4) of the Scheme).

In recognition that developments proposing projections above the BUILDING HEIGHT LIMIT could still obstruct a view to Canning River, notwithstanding the criteria of 2.1, a further clause (2.2) seeks to provide additional more qualitative criteria, for the assessment of any projection.

Clause 2.2(a) has been modified to clearly state that any obstruction between an 'active habitable space' and the water of the Canning River caused by a projection above the building height limit shall be considered a 'significant obstruction' for the purpose of the policy, and therefore be inconsistent with clause 6.1A(9)(c) of the Scheme. Clause 2.2(a) has been also modified to provide parameters as to how this is to be assessed. Clause 2.2(a) states that a 'line-of-sight' shall be established between an active habitable space and the water of the Canning River. The line-of-sight shall be measured from a point 0.5m back from the extent of the active habitable space, at a height of 1.6m above the floor level and be contained within a 45 degree cone-of-vision as defined by the R-Codes. These parameters provide a robust, consistent way to assess whether the line-of-sight is interrupted and therefore whether the projecting building proposes a 'significant obstruction' of a view to the Canning River.

Design of the building

The advertised version of P320 contained a discretionary clause 3.0(b) that allowed the City to consider a projection above the building height limit where the design of the building 'minimised' the potential to obstruct a view. If a development met the quantitative criteria of clause 2.0 (as advertised), such as the 15 degree roof pitch criteria and 'minimised' the potential to obstruct a view by adopting a particular roof design, then such a development could be supported.

A number of submissions raised that this criteria was both too subjective and also made the protection of views less certain. It is agreed that inclusion of this provision offers no certainty that a view would be protected from any 'significant obstruction'. As a result, the provision is recommended to be deleted.

External fixtures at or below the roof line

The advertised version of P320 provided that external fixtures (such as solar panels and air-conditioning condensers) should sit 'flush/flat with the roof line' and be 'integrated with the design [of the building]'. A number of submissions raised concern with the types of external fixtures that might be considered 'integrated' and the potential for these fixtures to obstruct views. To clarify the situation the provision has been modified to make it clear that external fixtures are to be made flush/flat with the roof and/or be below the roof line.

Modification to policy structure

As a result of the abovementioned modifications to the content of P320, the structure of the policy has also been modified as follows;

- Clauses 2.0 and 3.0 have been integrated into a single clause 2.0 (as clause 2.1 and 2.2). This arrangement makes it more clear that both clauses shall apply to any building projecting above the building height limit; and
- Clause 4.0 has been integrated into clause 2.0 as clause 2.2(b) as this criteria also relates to buildings projecting above the building height limit.

Consultation

P320 was advertised for a period of 24 days, concluding on Friday, 14 December 2018. The consultation involved;

- Written notification sent to all owners and occupiers within the policy area and surrounding areas, being all those properties south of Letchworth Centre Avenue and east of Sulman Avenue;
- Publication of a notice in the Southern Gazette, appearing in the 20 November 2018 edition;
- Notice of copies of the local planning policy being published on 'Your Say South Perth' throughout the consultation period; and
- Hard copy notices and copies of the local planning policy being available at the City's Civic Centre and libraries throughout the consultation period.

At the conclusion of the consultation period, 23 submissions had been received. These submissions are summarised in the 'Comment' section above. A schedule of submissions is included at **Attachment (c)** of this report.

Policy and Legislative Implications

A local planning policy does not form part of a Scheme, and cannot bind a decision maker in respect of an application or planning matter. The draft policy will provide guidance in the assessment of clause 6.1A(9)(c) of the Scheme.

In regard to local planning policies, clause 4 of the Deemed Provisions sets out the process for the local government to adopt or modify a local planning policy. The relevant processes have been followed in preparing this draft policy. The draft policy will be appropriately adopted under that provision.

Financial Implications

There will be minor financial implications to the City in publishing notice of the adopted local planning policy. This cost is included in the 2018/19 operating budget.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Environment (Built and Natural)
Aspiration:	Sustainable urban neighbourhoods
Outcome:	3.2 Sustainable built form
Strategy:	(A) Develop a local planning framework to meet current and future community needs and legislative requirements.

Attachments

10.3.2 (a):	Draft Policy P320 - Assessment of Obstruction of Significant Views in Precinct 13 - Salter Point (Final)
10.3.2 (b):	Schedule of Modifications Post Advertising - Draft Policy P320
10.3.2 (c):	Schedule Of Submissions - Draft Policy P320

10.3.3 Proposed 14 Multiple Dwellings in a Four Storey Building on Lot 7 (No. 31) Baldwin Street, Como

Location: Lot 7 (No. 31) Baldwin Street, Como
Ward: Moresby Ward
Applicant: AND Design
File Reference: D-18-62584
DA Lodgement Date: 23 January 2018
Meeting Date: 19 February 2019
Author(s): Valerie Gillum, Statutory Planning Officer Development Services
Reporting Officer(s): Vicki Lummer, Director Development and Community Services
Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy: 3.2 Sustainable Built Form

Summary

To consider an application for development approval for 14 Multiple Dwellings in a four (4) storey building on Lot 7 (No. 31) Baldwin Street, Como. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Street Setbacks	CBACP Desirable Outcome 4 of Element 4 and Deemed Provisions cl. 43(1)
Side Setbacks	CBACP Desirable Outcome 5 of Element 5 and Deemed Provisions cl. 43(1)
Facades	CBACP Desirable Outcome 9 of Element 9 and Deemed Provisions cl. 43(1)
Open Space and Landscaping	CBACP Desirable Outcome 10 of Element 10 and Deemed Provisions cl. 43(1)
Utilities and Facilities	R-Codes Design Principle 6.4.5 P5.3 and TPS6 cl. 6.3(6) and 7.8

Officer Recommendation

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for development approval for 14 Multiple Dwellings in a four storey building on Lot 7 (No. 31) Baldwin Street, Como **be approved** subject to:

1. The development shall be in accordance with the approved plans unless otherwise authorised by the City.
2. Prior to the issuing of a building permit, the applicant is required to pay a sum of \$434.50 as detailed on the tax invoice that will be issued by the City for the cost of pruning an existing street tree that is in conflict with the proposed crossover. (Refer to related Advice Note).
3. Prior to the submission of a building permit or a demolition permit application, or the commencement of development, whichever is earlier, a Construction Management Plan must be submitted to, and approved by, the City. The Construction Management Plan must address the following issues, where applicable:
 - a. public safety and amenity;
 - b. site plan and security;
 - c. contact details of essential site personnel, construction period and operating hours;
 - d. community information, consultation and complaints management Plan;
 - e. noise, vibration, air and dust management;
 - f. dilapidation reports of nearby properties;
 - g. traffic, access and parking management;
 - h. waste management and materials re-use;
 - i. earthworks, excavation, land retention/piling methods and associated matters;
 - j. stormwater and sediment control;
 - k. street tree management and protection;
 - l. asbestos removal management Plan; and/or
 - m. any other matter deemed relevant by the City.
4. The Construction Management Plan must be complied with at all times during development, to the satisfaction of the City.
5. Prior to the submission of a building permit application, a detailed landscaping plan for the site shall be submitted by the applicant that is to the satisfaction of the City.
6. Prior to the submission of an occupancy permit application, landscaping areas shall be installed in accordance with the approved landscaping plan. All landscaping areas shall be maintained thereafter to the satisfaction of the City.
7. Prior to the submission of an occupancy permit application, a public art concept for the subject development, or elsewhere in the Canning Bridge Activity Centre, with a minimum value of 1.0% of the total capital cost of development, be submitted to the City for endorsement. The approved public art concept shall be implemented to the satisfaction of the City.

8. Prior to the submission of a building permit application, the applicant shall supply certification confirming the design of all car parks and vehicle accessways are compliant with Australian Standards AS2890.1.
9. Prior to the submission of a building permit application, the applicant shall supply details of an adequate level hard stand area with sufficient space to accommodate all bins for collection, made available in the verge to the satisfaction of the City.
10. Prior to the submission of a building permit application, the applicant shall supply details of the access driveway and adjacent hard stand area which must be designed and constructed to accept vehicle loadings of not less than G.V.M. 33 tonnes to the satisfaction of the City.
11. Prior to the issuing of a Building Permit and/or Occupancy Permit, the landowner is to submit a letter to the City, acknowledging that any damage to the constructed crossover and adjacent hard stand area as a result of waste collection undertaken by the City on the verge for this site, are borne by the owners and future strata property owners, and which forthwith indemnifies the City from any claim by the owner/s, to rectification works as a result of that damage.
12. Prior to the submission of an occupancy permit application, the car parking bays and accessways shall be marked on site as indicated on the approved plans, and such marking shall be subsequently maintained so that the delineation of parking bays remains clearly visible at all times, to the satisfaction of the City.
13. Hard standing areas approved for the purpose of car parking or vehicle access shall be maintained in good condition at all times, free of potholes and dust and shall be adequately drained, to the satisfaction of the City.
14. Prior to submission of an occupancy permit application, the applicant shall supply certification confirming the constructed design of all car parks and vehicle accessways are compliant with Australian Standards AS2890.1 and the approved plans.
15. The development is to achieve a 5 Star Green Star rating or the equivalent under another formally recognised ecologically sustainable rating system. Prior to the submission of a building permit application, the applicant is to submit a sustainability report confirming the final green star strategy that will guide the construction stage of the development and beyond; this report shall clearly demonstrate that an equivalent sustainable design rating is to be achieved for the development. Where relevant, elements of the sustainability report and strategy should clearly be reflected in documentation and plans submitted with the building permit application.
16. The surface of the boundary wall(s) to the gatehouse visible from the street, on the northern side of the lot and the surface of the boundary wall to the refuse enclosure visible from the street on the southern side of the lot, shall be finished in a clean material to the same standard as the rest of the development, to the satisfaction of the City.

17. Prior to the issue of a building permit, details of the surface of the boundary wall to the foyer entry not visible from the street, on the northern side of the lot shall be provided. The finish of the boundary wall is to be compatible with the external walls of the neighbour's dwelling, to the satisfaction of the City.
18. The development shall be designed so as to discourage vandalism by use of materials such as non-sacrificial paint or architectural features to discourage inappropriate activity, in accordance with Requirement 9.5 of the Canning Bridge Activity Centre Plan, and to the satisfaction of the City.
19. All fencing and blank walls at ground level are to be treated with a non-sacrificial anti-graffiti coating to discourage potential graffiti and/or be decorated in such a way to reduce the effect of blank facades, in accordance with Requirements 15.1 and 16.1 of the Canning Bridge Activity Centre Plan. The anti-graffiti coating is to be reapplied in the event of any graffiti being removed to the satisfaction of the City.
20. Prior to the submission of an occupancy permit application, details of the proposed lighting to pathways and car parking areas shall be provided that is to the satisfaction of the City.
21. The development shall be designed to incorporate adequate lighting that enables safe use by occupants and visitors on site at night and limits dark shadows in open spaces on site and to the adjacent street, in accordance with Requirements 20.1 and 20.5 of the Canning Bridge Activity Centre Plan, and to the satisfaction of the City.
22. Prior to any works on the Council verge (Civil &/or Stormwater), approval of the proposed design is to be obtained from the City's Asset & Design Services.
23. Redundant crossovers shall be removed and the verge and kerbing shall be reinstated to the satisfaction of the City.
24. The height of any wall, fence or other structure, shall be no higher than 0.75 metres within 1.5 metres of where any driveway meets any public street, to the satisfaction of the City.
25. Prior to the submission of an occupancy permit application, the applicant shall install a wall mounted bicycle rack within the storerooms of each dwelling that meets the minimum 4sqm requirement, to the satisfaction of the City.
26. The approved Waste Management Plan prepared by Talis referenced TW19002 and dated January 2019 shall be implemented and adhered to at all times, unless otherwise approved by the City, to the satisfaction of the City.
27. All stormwater from the property shall be discharged into soak wells or sumps located on the site unless otherwise approved by the City.
28. External fixtures, such as air-conditioning infrastructure, shall be integrated into the design of the building so as to not be visually obtrusive when viewed from the street and to protect the visual amenity of residents in neighbouring properties, to the satisfaction of the City.

29. External clothes drying facilities shall be screened from view from the street or any other public place.
30. No street tree shall be removed, pruned or disturbed in any way, without prior approval from the City (Streetscapes).
31. Property line levels and footpath levels are to remain unaltered.
32. A separate application is to be submitted for any proposed signage that is not exempt from planning approval, to the satisfaction of the City.

Note: City officers will include relevant advice notes on the recommendation.

Background

The development site details are as follows:

Zoning	TPS6: Centre Activity Centre Plan: H4 (Residential Up to 4 Storeys) Q4 Davilak Quarter
Density coding	N.A.
Lot area	812 sq. metres
Building height limit	4 storeys and 16 metres
Development potential	Residential development up to 4 storeys
Plot ratio limit	N.A.

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



Figure 1: Location Plan

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

2. Major developments

- (b) Residential development which is 9.0 metres high or higher, or comprises 10 or more dwellings;

Comment**(a) Background**Development Application

In July 2017, the City received a pre-lodgement proposal for 14 Multiple Dwellings in a four (4) storey building on Lot 7 (No. 31) Baldwin Street, Como (the Site), for referral to the Canning Bridge Activity Centre Plan Design Review Panel. In January 2018, the City received an application for development approval. In response to referral comments and the City's assessment, the final revised plans were submitted in December 2018.

Canning Bridge Activity Centre Plan [CBACP]

The CBACP envisions that the properties surrounding the development site will remain as residential developments when redeveloped, but of greater scale and density than currently exists, generally up to four (4) storeys in height on the west side of Baldwin Street (H4). The east side of Baldwin Street has a density coding of R20 and those properties are not part of the Canning Bridge Activity Centre Plan Area.

The CBACP became fully operative when TPS6 Amendment No. 47 was gazetted in February 2017. This amendment and the CBACP replaced most of the previous development controls applicable within this activity centre.

The Canning Bridge Activity Centre is located less than 8km from the Perth CBD, with direct road, public transport, walking and cycling access.

The CBACP has been prepared to provide a guide to development of this centre, an area recognised as an 'activity centre' under the Western Australian Planning Commission's State Planning Policy 4.2 'Activity Centres for Perth and Peel'. The area is generally considered to be within a convenient walkable distance from the Canning Bridge bus and rail interchange which is located at the junction of the Canning Highway and Kwinana Freeway.

It is proposed that the CBACP area will comprise a mix of residential, civic, office, retail and entertainment uses against the backdrop of the Swan and Canning Rivers and the adjacent open space. The CBACP area comprises land within both the City of Melville and the City of South Perth and includes a substantial area of the river.

The CBACP establishes a foundation for the future of the area including objectives and goals for its ongoing development, guidelines for the style of built form which is expected, and an implementation framework for orderly improvements to infrastructure over time.

The CBACP was prepared by the Western Australian Planning Commission, Department of Planning, City of Melville, City of South Perth, Department of Transport, Public Transport Authority and Main Roads WA as a joint initiative to progress long term planning for the Canning Bridge Activity Centre.

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

The existing development on the Site is a single-storey (with undercroft parking) Single House, as depicted in the site photographs at **Attachment (c)**.

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

The Site has a frontage to Baldwin Street to the east. The neighbouring properties currently consist of single or two storey Single Houses or Grouped Dwelling developments in line with the former Residential zoning of R20 and R30 density codings and a 7.0 metre building height limit that was applicable to this area prior to the gazettal of TPS6 Amendment No. 47 in February 2017, as seen in Figure 2 below:

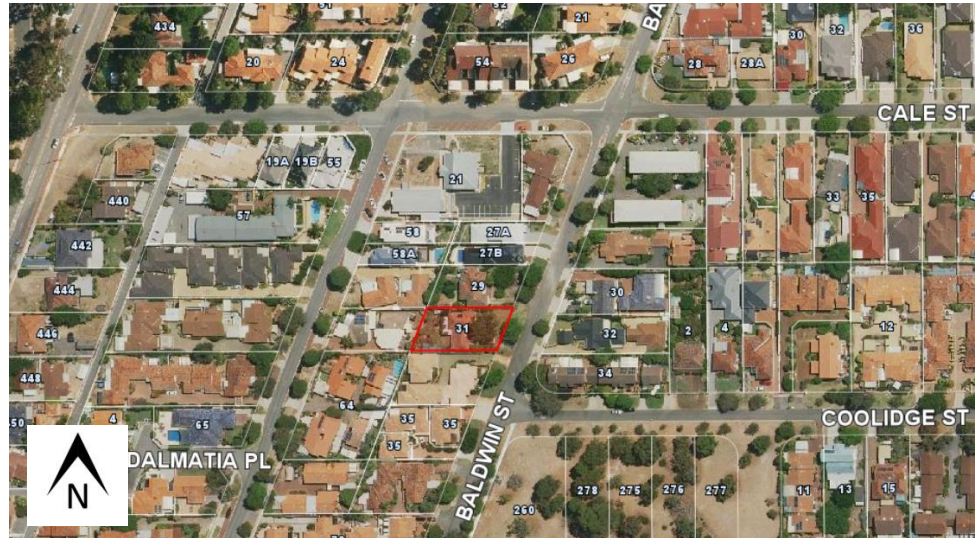


Figure 2: Surrounding Locality – Aerial Photograph

(d) **Description of the Proposal**

The proposal involves the demolition of the existing development and the construction of 14 x Multiple Dwellings in a four (4) storey building on the Site which is described as follows:

- Basement Level – 16 Car Bays, store rooms, stairwell and lift.
- Ground level – 3x2 and 1x1 Bedroom Dwellings;
- First and Second Floor Level – 3 x 2 and 1x1 Bedroom Dwellings;
- Third Floor Level – 2 x 3 Bedroom Dwellings; and
- Fourth Level – Roof Top Terrace (with entertaining roof deck and alfresco BBQ terrace).

The layout is depicted in the submitted plans at **Attachment (a)**. The applicant's reports on the proposal are contained in **Attachment (b)**. Furthermore, the site photographs at **Attachment (c)** and the three dimensional building model images at **Attachment (a)** show the relationship of the Site and the proposed development with the surrounding built environment.

The following planning aspects of the development require the exercise of discretion under the Canning Bridge Activity Centre Plan (CBACP) and Town Planning Scheme No. 6 (TPS6) and are discussed in further detail in the report below:

- Street Setbacks (Element 4.5 of Element 4 - CBACP);
- Side Setbacks (Requirement 5.6 of Element 5 - CBACP);
- Facades (Element 9.7 – CBACP);
- Open Space and Landscaping (Element 10.7 – CBACP); and
- Utilities & Facilities (TPS6 cl. 4.3(p) and R-Codes 6.4.5).

(e)

Planning AssessmentLocal Planning Scheme: TPS6

Requirement	Proposal
Effect on Vehicle Movement: cl. 6.3(6)	
Vehicular movement for waste collection truck and effect in the adjacent street.	Discretion sought. Waste proposed to be collected via the crossover as opposed to the street.
Minimum Car Parking Dimensions: cl. 6.3(8)	
As per the Australian Standards AS2890.1 (User Class 1A: 2.4m bay width, 5.4m bay depth, 5.8m access way width).	Car Bays – Compliant. Access way – Compliant.
Minimum and Maximum Floor and Grounds: cl. 6.9 & cl. 6.10	
<ul style="list-style-type: none"> • Min. 1.70-2.30m AHD. • Finished levels to achieve 'equal cut and fill'. • Maximum driveway gradients. 	Compliant.

Activity Centre Plan: CBACP

The CBACP became fully operative when TPS6 Amendment No. 47 was gazetted in February 2017. In accordance with Schedule 2, clause 43(1) of the Planning and Development (Local Planning Schemes) Regulations 2015, the Council is to have due regard to, but is not bound by, the activity centre plan when deciding this application for development approval.

Requirement	Proposal
Land Use: Req. 1.8.3	
Preferred land uses.	Multiple Dwellings – Preferred land use.
Dwelling Diversity: Req. 1.13	
Minimum of 20% and a maximum of 50% of the dwellings shall be provided as one (1) bedroom dwellings, and a minimum of 40% of the dwellings provided as two (2) bedroom dwellings.	Complies: <ul style="list-style-type: none"> • Minimum of 2 x 1 bedroom dwellings required and 3 x 1 bedroom dwellings provided. • Minimum of 6 x 2 bedroom dwellings required and 9 x 2 and 2 x 3 bedroom dwellings provided.
Roof Top Active Uses: Req. 2.5	
Active uses on roof top spaces that are accessible to the public are encouraged.	A private communal roof terrace is provided. This CBACP requirement appears to have been written with an intention to only apply to M10 and M15 zone developments.
Building Height: Req. 3.1, 3.5, TPS6 cl. 6.1A(11)	
Max. 4 storeys and 16 metres.	Compliant.

Street Setbacks: Req. 4.5, 4.8	
<ul style="list-style-type: none"> Min. 4m and Max. 6m. Street setback area landscaped. 	<ul style="list-style-type: none"> Street setback – Discretion sought (gatehouse and bin enclosure located in setback area). Gatehouse – 0.65m-1.75m setback. Bin enclosure - 2.0m setback. Street setback area landscaping – Compliant.
Side and Rear Setbacks: Req. 5.6	
Min. 4m.	<p>Rear setback – Compliant</p> <p>North and South Sides – Discretion sought as follows:</p> <ul style="list-style-type: none"> Roof and wall at main foyer entry (north side) with nil setback (brick boundary wall at 3.5m high); Gatehouse at street entry (north side) with nil side setback (brick boundary wall at 3.0m high); Bin enclosure including roof setback at nil (boundary wall at similar height to boundary fence height); and Main Building - Sawtooth design of building sees portions of the development encroaching into setback to minimum of 3.0m.
Facades: Element 9	
<ul style="list-style-type: none"> Developments sympathetic to the surrounding environment Substantial glazing and semi-active frontages Provision of windows and balconies into building design. Balconies: Min. 2.4m depth & 10m² area. Development designed to discourage vandalism. Floor Level: Max. 0.5m above footpath. Development which fronts a street with differing levels should consider innovate design to meet this requirement. 	<p>Compliant.</p> <p>Compliant.</p> <p>Compliant.</p> <p>Compliant.</p> <p>Floor Level – Discretion sought. Floor level between 0.7m and 1.36m above footpath.</p>
Open Space and Landscaping: Element 10	
<ul style="list-style-type: none"> Min. 324.66m² (40%) landscaping. Landscape design Max. 1.2m height – landscaping and fencing. 	Compliant.

Sustainability: Req. 11.5	
Designed to maximise passive solar principles & 5 star Green Star level of performance.	Compliant. Applicant has provided sustainability statement of compliance, prepared by Full Circle Design Services, February 2018. Condition to be applied as part of recommendation to ensure compliance and achieve green star rating or equivalent of 5 stars.
Universal Access: Req. 15.2	
Universal access to be provided.	Compliant.
Street Fencing: Req. 16.1 & 15.1	
Fencing treated to discourage graffiti & is of high quality.	Planning condition required to ensure compliance.
Public Art: Element 17	
1% contribution	Planning condition required to ensure compliance.
Parking: Req. 18.3, 18.8	
Min. 14 car bays and Min. 14 bicycle bays (can be comprised within storage areas or in shared parking areas or both).	Compliant – 16 car bays provided. Storage rooms will cater to required bicycle parking however some racks are provided in the basement at the bottom of the ramp within the basement parking area.
Storage Area: Req. 19.5	
Provision of a compliant storage area for each dwelling.	Compliant.
Safety: Element 20	
Access, visibility, graffiti resistant and lighting design requirements.	Planning condition required to ensure compliance.

R-Codes

In accordance with TPS6 cl. 4.3(1)(p), for any dwellings within the Canning Bridge Activity Centre, the applicable development requirements are contained within the Canning Bridge Activity Centre Plan and provisions of the R-Codes do not apply, other than provisions relating to:

- (i) Utilities and facilities; and
- (ii) Sight lines at vehicle access points and street corners.

Requirement	Proposal
Utilities and Facilities: cl. 6.4.6	
<ul style="list-style-type: none"> • Provision of a compliant storage area for each dwelling. • Provision of a compliant bin area accessible by service vehicles. • Clothes drying screened from view. 	<ul style="list-style-type: none"> • Storage area – satisfies the deemed-to-comply requirement. • Rubbish – Not Compliant as bins are collected from the verge requiring refuse truck to reverse from the street onto the crossover to collect from the rear of the vehicle in close proximity to the property street boundary. Planning conditions required to satisfy Design Principle P5.3 and TPS6 Clause 6.3(6). • Clothes drying – planning condition required to satisfy the deemed-to-comply requirement.
Sight Lines: cl. 6.2.3	
Maximum 0.75m height within 1.5m of where the driveway meets the street boundary.	Planning condition required to ensure the deemed-to-comply requirement is satisfied.

Local Planning Policies

Requirement	Proposal
Boundary Wall Surface Finish: P350.02	
Walls visible from the street - Surface finish being to the same standard as the rest of the development.	Planning condition required for gatehouse wall to comply. Wall of refuse enclosure will be a similar height of the side boundary fencing however will need to be the same standard as the rest of the development as per the gatehouse wall.
Walls not visible from the street – Surface finish being compatible with the external finish of the neighbours dwelling.	Planning condition required for wall of foyer entry to comply.
Trees on the Development Site: P350.09	
Existing trees on the site should be retained where possible. The payment of a fee or planting a replacement tree is required on site, for the proposed removal of an existing tree.	Removed trees to be replaced with new trees on site. Details of advanced plantings will be included with a landscape plan that will be approved by the City.

(f) **Street Setbacks**

CBACP Requirement 4.5 specifies a minimum 4.0 metres and a maximum 6.0 metre street setback.

Element	Requirement	Proposed
Element 4 – Street Setbacks	4 metres minimum front setback	1.8m minimum front setback to gatehouse 2.0m minimum front setback to refuse enclosure

Desired Outcomes 4

To ensure that the setback to buildings contributes to a distinct street character and that the form of multi-level development is sensitive to pedestrian scale.

Podiums will provide an opportunity for creating a diversity of scale and form at lower levels, whilst taller elements are encouraged with setbacks comprising rooftop terraces and gardens at varying levels throughout development.

Alternative means to reduce bulk and scale such as green walls and façade articulation are also encouraged.

New buildings that are setback from the street boundary should not adversely affect the vibrancy and activity required to support the expected outcomes of the CBACP by creating unnecessary breaks in active frontages as per Figure 7.

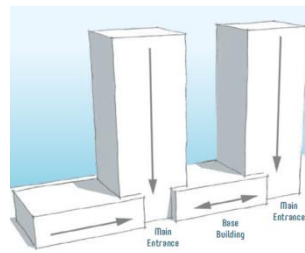


Figure 7
Creating a consistency of street frontage with entrances and street corners articulated at ground level

The proposed minimum street setback is less than the minimum 4.0m street setback requirement, with those elements highlighted in Figure 3 below:



Figure 3: Street Setback Variations (Highlighted in Orange)

Specifically, the gatehouse and refuse enclosure (a minimum of 0.65m-1.75 metres setback proposed for the gatehouse on the northern side of the development site) and the refuse enclosure (a minimum of 2.0 metres setback proposed for the refuse enclosure on the southern side of the development site – a 2.0 metre variation) encroaching into the 4.0 metre setback area.

The refuse enclosure within the 4.0 metre setback area consists of the floor slab/roof, walls and a gate facing the street. The setback of the refuse enclosure is seen to pose minimal streetscape impact as the roof will sit at the same height as the dividing fence.

In respect to the gatehouse setback at between 0.65 metres and 1.75 metres, the Design Review Panel was generally supportive of the streetscape presentation of the development which includes this structure. This setback is also seen to pose minimal streetscape impacts and is considered to be consistent with the objectives and desired outcomes.

The front setback is well articulated and provides interest and relief on the streetscape, while the gatehouse provides a clear definable entry point for visitors to the site.

Accordingly, these setback variations are considered to be suitable for approval as proposed on the development plans.

(g) Side and Rear Setbacks

CBACP Requirement 5.6 specifies a minimum 4 metre setback to side boundaries.

Element	Requirement	Proposed
Element 5 – Side and Rear Setbacks	4 metres minimum side setback	<p><u>South Side:</u> GF: 0.4m setback to communal bin store GF, 1st and 2nd: up to 3.0m setback to Pop Out Walls and Balconies 3rd Floor: up to 3.0m to Pop Out Walls</p> <p><u>North Side:</u> GF: Nil setback to foyer entry roof and wall GF: Nil setback to gatehouse GF, 1st and 2nd: up to 3.0m setback to pop out walls and balconies 3rd Floor: up to 3.0m to pop out walls and balconies</p>
<p><i>DO 5</i> To provide a continuity of frontage at ground and podium levels to encourage activity whilst providing interest. To allow opportunities for tower elements to access sunlight, ventilation and view corridors throughout the area from and between multi-level developments. To ensure that development opportunities throughout the precinct are maximised. Developers should minimise overlooking and overshadowing of adjacent and adjoining properties through appropriate design response, supported by the setback provisions of this Element.</p>		

The proposed minimum side setbacks of the building are less than the minimum 4.0m setback requirement, with the main building highlighted in red Figure 4 and 5 below:



Figure 4: Side Setback Variations (North and South) – Ground, First and Second Floor (Highlighted in Red)



Figure 5: Side Setback Variations (North and South) – Third Floor (Highlighted in Red)

While the City would not ordinarily recommend support for setback variations in the CBACP, particularly due to the omission of requirements relating to visual privacy and overshadowing, the City considers the side, rear setback variations and portions of boundary walls to the south and north in this application to be supportable for the following reasons:

Communal Bin Store (south side)

The proposed communal bin store wall is located on the southern side of the development site, setback 2.0 metres from the Baldwin Street front boundary, is 2.0 metres in height and offset 0.4 metres from the side boundary.

In relation to the objectives and desired outcomes, the south side setback variation at 0.4 metres is not seen to pose adverse impacts to sunlight access, ventilation access, view corridors or privacy to the southern property for the following reasons:

- The existing units located to the southern side of the development (as seen in Figure 7 below) are separated from this bin store by a communal driveway with the closest grouped dwelling being single storey with a 1.8 metre fence surrounding its front yard and side of the dwelling:



Figure 7: Street view of southern neighbour (No. 29 Baldwin Street)

- The height of the wall of the enclosure being at approximately the same height as a dividing fence, would pose no further impacts on overshadowing particularly as the shadow cast will fall only to the neighbour's communal driveway;
- As the prevailing breeze comes from the south-west, there will be no loss of ventilation as a result of the location of the enclosure;
- The view corridors will not be affected due to the single level nature of the closest grouped dwelling; and
- The enclosure is non-habitable therefore privacy to that neighbour will be protected.

Accordingly, this setback variation is considered to be suitable for approval as proposed on the development plans.

Foyer Entry Roof and Wall (north side)

The proposed entry roof area to the main entry lobby includes a solid boundary wall up to 3.5 metres in height and 4.3 metres in length located on the northern side of the development site setback 18.8 metres from the Baldwin Street front boundary with the roof setback further at 20.5 metres.

In relation to the objectives and desired outcomes, the north side setback variation (nil for the wall and roof in lieu of 4.0 metres) is not seen to pose adverse impacts to sunlight access, ventilation access, view corridors or privacy to the northern property for the following reasons:

- The existing dwelling on northern property at that location does not include any major openings or outdoor living areas looking directly at the wall;
- Neighbour being on the northern side will not be impacted in terms of overshadowing as shadow provisions only apply to the southern side of developments;
- The limited section of wall/roof in the setback would not exceed the impacts that a four storey building setback at 4.0 metres would impose in terms of sunlight and ventilation access; and
- The structure is used as an entryway cover and hence will be a non-habitable area, therefore there will be no impacts on visual privacy.

Accordingly, this setback variation is considered to be suitable for approval as proposed on the development plans.

Gatehouse (north side)

The proposed Gatehouse includes a solid boundary wall up to 3.0 metres in height and 2.0 metres wide, located on the northern side of the development site setback 1.75 metres from the Baldwin Street front boundary.

In relation to the objectives and desired outcomes, the north side setback variation (nil for the gatehouse in lieu of 4.0 metres) is not seen to pose adverse impacts to sunlight access, ventilation access, view corridors or privacy to the northern property for the following reasons:

- The northern side neighbour will not be impacted in terms of overshadowing as those provisions only apply to the southern side of developments;
- The limited section of wall/gatehouse in the setback would not exceed the impacts that a four storey building setback at 4.0 metres would impose in terms of sunlight and ventilation access;
- The existing dwelling on the northern neighbour's site at that location includes a driveway access to the garage, therefore the view corridor will not be impacted; and
- The structure is used as an entry point from the street for wayfinding to the main lobby and hence will be a non-habitable area, therefore there will be no impacts on visual privacy.

The final review of the development plans by the Design Review Panel was generally supportive of the streetscape presentation of the development which includes this wall. Accordingly, this setback variation is considered to be suitable for approval as proposed on the development plans.

'Pop-Out' Walls and balconies, ground, first and second floors (south side)

The development includes four 'pop-out' walls to the south side (two bedrooms, one living room, two balconies and a communal stairwell), which have a reduced 3.0 metre setback in lieu of the required 4.0 metre setback.

These walls are located adjacent to the neighbouring grouped dwellings which are separated by their communal driveway with the exception of the rear grouped dwelling which does not include any habitable rooms to the north at ground level and only one major opening to the first floor of which this window does not have a direct line of sight from the development site, particularly as the windows within the 4.0 metre setback on the development site are provided as highlight windows.

In relation to the objectives and desired outcomes, these setback variations are not seen to pose adverse impacts to sunlight access, ventilation access, view corridors or privacy to this property for the following reasons:

- In terms of sunlight, ventilation access and view corridors, these walls pose no greater impact than the compliant component of the building particularly as these walls have been offset by portions of walls with a greater setback; and
- In terms of visual privacy, the highlight windows to the bedrooms and living rooms within the setback area on this elevation limit direct overlooking of the neighbouring property. Additionally, the balconies on the first and second floors are spaces that are expected to be used for extended periods and to increase the effective visual privacy setback, the portions of those balconies encroaching into the setback include permanent screens angled in a manner that would allow natural light and ventilation to those areas however will restrict viewing to the southern lot boundary.

Accordingly, these setback variations are considered to be suitable for approval as proposed on the development plans.

'Pop-Out' Walls and balconies, ground, first and second floors (north side)

The development includes four 'pop-out' walls to the south side (one bedroom, two living rooms and two balconies), which have a reduced 3.0 metre setback in lieu of the required 4.0 metre setback. These walls are located adjacent to the neighbouring dwelling (of which this dwelling, on their south side, includes an elevated habitable room with major openings) and their rear garden.

In relation to the objectives and desired outcomes, these setback variations are not seen to pose adverse impacts to sunlight access, ventilation access, view corridors or privacy to the property for the following reasons:

- The northern side neighbour will not be impacted in terms of overshadowing as those provisions only apply to the southern side of developments;
- In terms of sunlight and ventilation access and view corridors, these walls pose no greater impact than the compliant component of the building particularly as these walls have been offset by portions of walls with a greater setback; and

- In terms of visual privacy, the highlight windows to the bedrooms and living rooms within the setback area on this elevation limit direct overlooking of the neighbouring property. Additionally, the balconies on the first and second floors are spaces that are expected to be used for extended periods and to increase the effective visual privacy setback, the portions of those balconies encroaching into the setback include permanent screens angled in a manner that would allow natural light and ventilation to those areas however will restrict viewing to the northern lot boundary.

Accordingly, these setback variations are considered to be suitable for approval as proposed on the development plans.

‘Pop-Out’ Walls third floor (south side)

The development includes four (4) ‘pop-out’ walls to the south side (two (2) bedrooms, one (1) living room and the communal stairwell), which have a reduced 3.0 metre setback in lieu of the required 4.0 metre setback. These walls are located adjacent to the neighbouring grouped dwellings separated by their communal driveway with exception to the rear grouped dwelling (refer preceding Figure 8 regarding first and second floor south side setback relative to the rear grouped dwelling).

In relation to the objectives and desired outcomes, these setback variations are not seen to pose adverse impacts to sunlight access, ventilation access, view corridors or privacy to the property for the following reasons:

- In terms of sunlight and ventilation access and view corridors, these walls pose no greater impact than the compliant component of the building particularly as these walls have been offset by portions of walls with a greater setback; and
- In terms of visual privacy, the inclusion of highlight windows to the bedrooms and living room on this elevation limit direct overlooking of the neighbouring property.

Accordingly, these setback variations are considered to be suitable for approval as proposed on the development plans.

‘Pop-Out’ Walls and balconies third floor (north side)

The development includes one (1) ‘pop-out’ wall and two balconies to the north side (one (1) bedroom and minor portions of two balconies) which have a reduced 3.0 metre setback in lieu of the required 4.0 metre setback. These walls are located adjacent to the neighbouring dwelling (of which this dwelling, on its south side, includes a habitable room elevated with major openings) and their rear garden.

In relation to the objectives and desired outcomes, these setback variations are not seen to pose adverse impacts to sunlight access, ventilation access, view corridors or privacy to either property for the following reasons:

- In terms of sunlight and ventilation access and view corridors, these walls pose no greater impact than the compliant component of the building particularly as these walls have been offset by portions of walls with a greater setback; and
- In terms of visual privacy, the inclusion of highlight windows to the bedroom on this elevation limits direct overlooking of the neighbouring property. The balcony incursions include landscaping that prevents usage of the balcony within the incursion area and hence will not impose on visual privacy to the northern neighbour.

Accordingly, these setback variations are considered to be suitable for approval as proposed on the development plans.

(h) Facades

CBACP Requirement 9.7 specifies a maximum internal floor level no greater than 500mm above the verge.

Element	Requirement	Proposed
Element 9 - Facades	Internal floor level - No greater than 500mm above adjoining footpath level	Internal floor level - 700mm-1360mm above adjoining footpath level
<p><i>DO 9</i></p> <p>Development should be pleasing to the eye, be interactive, and provide definition between public and private spaces. Maintaining a strong urban edge with the built form and providing a variety of high quality architectural forms and feature will attract people to the centre and establish a sense of place.</p>		

The floor level of the development was reduced from the originally submitted proposal by 1.0 metre from RL 11.50 to RL 10.50 and although the levels do not meet this requirement, the final review of the development plans by the Design Review Panel was generally supportive of the streetscape presentation of the development with respect to this lowered floor level. The Panel's support of the proposed changes confirmed that innovative design has been implemented to support this requirement.

Accordingly, the finished floor level relative to the street verge levels are considered to be suitable for approval as proposed on the development plans.

(i) Open Space and Landscaping

CBACP Requirement 10.7 specifies a maximum 1.2m height for landscaping and fencing on property boundaries. It is interpreted that this requirement is referring to the street boundary.

Element	Requirement	Proposal
Element 10 - Open Space and Landscaping	Maximum height of fencing - 1.2m	Height of wall - up to 3.0m
<p><i>DO 10</i></p> <p>... Ground floor level open space should comprise trees and other vegetation to contribute to the overall leafy nature of the CBACP area.</p>		

The proposal conflicts with the fence height requirement as a 3.0m high wall to be constructed as part of the gatehouse is proposed in front of the building (as depicted in Figure 8 below). The final review of the development plans by the Design Review Panel was generally supportive of the streetscape presentation of the development which includes this wall.



Figure 8: Image of Side Property Boundary Wall showing extent of Gatehouse.

In addition to CBACP Element 10, the objective and desired outcomes of Element 20 (Safety) is relevant to this street fencing:

Objective	Desired Outcomes
<p>Safety and Security</p> <p><i>To ensure a well-integrated urban form that provides a safe environment for all users by maximising visibility and surveillance, increasing pedestrian activity and maximising connections between Quarters, and clearly defining private and public space responsibilities</i></p>	<p>DO 20</p> <p><i>Crime Prevention Through Environmental Design or CPTED uses the built environment to reduce the opportunity for crime, increase the perception of safety perceived by authorised users of a space, while increasing the perception of risk by unauthorised users of a space.</i></p> <p><i>Development should promote the safety and security of the public environment. Buildings should overlook streets and other public spaces to promote natural supervision. Blank walls onto streets, or large distances between the footpath and openings are discouraged.</i></p> <p><i>In addition, access to daylight should be maximised and a high level of lighting should be provided in all public areas.</i></p>

This wall is seen to be consistent with the objectives and desired outcomes applicable to Elements 10 and 20 as surveillance to the street and visa-versa will not be obstructed.

Accordingly, the height of this wall is considered to be suitable for approval as proposed on the development plans.

(j) **Utilities & Facilities**

The CBACP has no specified waste management criteria for developments with H4 Zoning. As such, waste can be collected from the street rather than within the development.

In respect to refuse collection, TPS6 cl. 4.3(p) requires that this aspect must meet with the requirements of Clause 6.4.5 of the R-Codes in respect to developments within the CBACP which requires the following:

Element	Requirement	Proposed
R-Codes Clause 6.4.5 – Waste Collection Area.	Where rubbish bins are not collected from the street immediately adjoining a dwelling, there shall be provision of a communal pick-up area or areas which are: (i) Conveniently located for rubbish and recycling pick-up.	Rubbish bins collected via the crossover adjacent the street boundary of the subject site in lieu of the street.
<p><i>P5.3</i> <i>External location of storeroom, rubbish collection/bin areas, and clothes drying areas where these are:</i></p> <ul style="list-style-type: none"> • <i>Convenient for residents;</i> • <i>Rubbish collection area which can be accessed by service vehicles;</i> • <i>Screened from view; and</i> • <i>Able to be secured and managed.</i> 		

Review of the proposal by City's officers with regard to waste collection revealed that waste could not be collected from the street immediately adjoining the dwellings and cannot not be serviced and accessed by City waste vehicles within the development site for the following reasons:

- Residential development of the size proposed can only be serviced by the City (as required by the City's 'Waste Management Guidelines' and the 'Waste Avoidance and Resource Recovery Act 2007' (WARR Act)) which requires collection from the street and is not permitted for collection within a development site and/or by a private contractor (private contractor and collection within the development site only permitted for developments proposed on sites with a Zoning of H8 and above as referenced in Element 19.3 'Servicing and Functionality' of the CBACP);

- Due to the slope of the street and the requirement to use the City's rear lift truck for collection of 660L bins, refuse cannot be accessed directly off the street by the City's waste truck as only side lift trucks are able to do so. As a result of this requirement, waste cannot be collected at a location that can be easily accessed by the City's vehicles to the same standard as the rest of the street and precinct; and
- Movements (or swept paths) required by the City's waste truck to collect waste via the crossover requires there to be no vehicles parked on the street directly in front of the subject site.

It is noted that the City will need to review the on-street parking that occurs along Baldwin Street and restrict parking outside this property in order to guarantee access for a waste collection truck. For this reason the City's Engineer has requested that cash in lieu be paid by the applicant to compensate for the loss of two car bays on the street in accordance with Clause 6.3(6)(b) of TPS6, whereby:

'The local government shall have regard to, and may impose conditions which address:

The effect the location of the bays and accessways is likely to have on pedestrian and vehicular movement both on the development site and in the adjacent street'.

In relation to cash in lieu payments under Clause 6.3A of TPS6, payment for loss of street parking cannot be requested for this development as this requirement only relates to deficit parking of on-site car parking.

Furthermore, there are no provisions in TPS6 that permits the City to collect headworks contributions relating to the loss of street parking nor are there any nearby City owned parking stations that can accommodate the loss of these car parks. In light of this, the requested cash in lieu payment by City Engineers cannot be enforced for this development.

As a result of the collection arrangement, the City will require that the crossover is constructed to a standard that it can withstand the weight of a 33 Tonne size truck and costs incurred from any damage as a result of the truck collecting via the crossover will be borne by the owners and future strata owner's.

Accordingly, conditions are recommended that deal with the above requirements in order to satisfy compliance with the Design Principle of Clause 6.4.5 of the Residential Design Codes of WA and Clause 4.3(p) of Town Planning Scheme No. 6.

Design WA

While not currently in effect, consideration is given to the provisions of Draft State Planning Policy 7 – Design of the Built Environment (Apartment Design Policy) in reviewing the proposed Multiple Dwelling (apartment) building.

A detailed assessment has not been conducted, given the limited statutory weight that is applied to the draft planning instrument (ref. Nicholls and Western Australian Planning Commission [2005] WASAT 40), however the proposal is considered to address the provisions of the Apartment Design Policy in the following ways:

- The entrance to the building from Baldwin Street is clearly demarcated. A condition of approval will require the installation of suitable lighting for visibility at night.
- All bedrooms and habitable rooms for the apartments are externalised.
- The floor to ceiling heights in the apartments are a minimum of 3.0 metres, which assists in achieving improved sunlight access and a sense of spaciousness.
- A communal area is provided in the form of a roof terrace which includes outdoor BBQ facilities and seating.
- Adequate storage units are provided for each apartment.
- The development achieves an appropriate mix of apartment sizes, in accordance with the CBACP.
- Planting and landscaping is proposed on the ground floor and roof terrace. A detailed landscaping plan will be endorsed by the City.
- The building will be required to achieve compliance with a 5 star green star rating or equivalent.

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

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

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

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

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

In considering an application for development approval the local government is to have due regard to 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 the proposal, and the City's response to each consideration, are outlined in the table below:

Matters	Officer's Comment
<i>(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;</i>	The proposed development is considered to be consistent with the scheme objectives (TPS6 clause 1.6) and the objectives of the CBACP.
<i>(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</i>	While not reflective of or consistent with existing surrounding development, it should be acknowledged that the Canning Bridge Activity Centre is a redevelopment area and the development is considered appropriate in consideration of the objectives of the CBACP and the intended built form as part of this planning framework. The building height is consistent with the future vision of the Canning Bridge Activity Centre.
<i>(n) the amenity of the locality including the following – (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development;</i>	The existing amenity of the locality will change as a result of this development; however the development largely satisfies the planning requirements of CBACP which have been developed to address amenity concerns taking into consideration development of a scale and intensity as proposed. Specific objection to overshadowing has been raised by adjoining property owners. The CBACP specifically states that provisions of solar access and overshadowing do not apply within the CBACP. The CBACP puts in place specific side and rear setback requirements between adjoining properties in order to provide a satisfactory level of amenity for neighbouring properties.

	<p>It is recognised variations to the setback requirements are proposed to the side boundaries and this is discussed further in Section (g) of the 'Officers Comments' section of this report.</p> <p>As the Canning Bridge Activity Centre develops, the amenity of the area will transition from its existing low-medium density suburban character to a medium-high density vibrant centre surrounding the Canning Bridge transport node.</p>
<i>(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;</i>	The subject land is considered to be suitable for residential development. The basement has been located above the water table therefore minimising any need for dewatering activities.
<i>(s) the adequacy of – (i) the proposed means of access to and egress from the site; and (ii) arrangements for the loading, unloading, manoeuvring and parking of vehicles;</i>	Waste management for the development and access for waste were considered by the City's Engineer, Waste Management Officer and Health Services Officer as not being ideal, however would be acceptable subject to the inclusion of relevant conditions relating to the design and construction of the crossover to withstand the weight of the truck size required for collection, acknowledgement by the owner/s that any damages to the crossover as a result of waste collection by the City will be borne by the owner's and a requirement for cash-in-lieu payment due to the loss of two on-street car bays. This is discussed in further detail in Section (j) of the 'Officers Comments' section of this report and Section (o) of the 'Consultation' section of this report.
<i>(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;</i>	The Traffic Impact Statement prepared by Port Consulting Engineers provided by the applicant and reviewed by the City demonstrates that the surrounding road network can accommodate the extra vehicles resulting from the proposed development. The City's Network Operations Coordinator also concurred with the findings of the report.

Consultation**(m) Design Advisory Consultants' Comments**

The application was presented to the Canning Bridge Activity Centre Plan Design Review Panel (DRP) on two occasions, the first in July 2017 (pre-lodgement proposal) and the second in February 2018 (development application proposal).

The DRP generally supported the design. The plans were revised by the applicant since the DRP meetings in response to these comments and the final plans referred back for review in April 2018.

The final review of the plans provided by the DRP was generally positive and the overall consensus was that the proposal was a well-considered scheme. The comments are summarised as follows:

"The proponent of 31 Baldwin St has adequately responded to design items requiring improvement. Importantly they have reduced the height of the ground floor level by 1 metre to create a more comfortable relationship with the public domain. In addition to this they have introduced fenestration and balconies to the bedrooms that face the street creating a sense of engagement with the public realm.

As a consequence of lowering the ground floor and positioning the front door to the north the building entry is now visible from the street aiding legibility and way finding.

A set back from the west boundary now allows for deep soil planting and the additional planter detail at the roof level illustrates a satisfactory provision for planting."

Based on the above, the amended plans have addressed the suggestions by the DRP and subsequently the proposal is recommended for approval.


(n) Neighbour Consultation

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 'Community Engagement in Planning Proposals'. Individual property owners and occupiers within 'Area 1' were invited in January 2018 to inspect the plans and to submit comments during a minimum 14-day period.

During the advertising period, a total of 138 consultation notices were sent and 14 submissions were received, all against the proposal. The main comments of the submitters, together with officer responses are summarised below.

Issues Raised	Officer's Responses
<p>Traffic and Car Parking The provision of parking is insufficient for the expected demand based on the number and size of dwellings.</p> <p>There is an existing problem with street parking on Baldwin Street and this would only exacerbate it creating further traffic and safety issues.</p> <p>The ideas that the residents will use public transport is a possibility but will of course still want and own a car for other trips around the city when not just going to work.</p>	<p>The City's Network Operations Coordinator concurred with the findings of the applicant's traffic impact statement. The density of the development and the resultant traffic impacts is consistent with the objectives of the CBACP, which is to encourage the use of public transport in close proximity to the Canning Bridge train station and minimise car travel.</p> <p>It should also be recognised that there is no maximum residential parking requirement in the Q3, Q4 and Q5 precincts of the CBACP. Similarly there is no requirement contained in the CBACP to provide for visitor car parking.</p> <p>While there are no dedicated visitor bays proposed (or required) the overall number of car bays provided (16) exceeds the minimum requirements and provides those residents allocated more than one car bay to allow their visitors to park in one of their surplus allocated bays.</p> <p>The comments are NOTED.</p>
<p>Noise, Dust and Asbestos Concerns There will be an increase noise pollution. The development, complete with rooftop terrace and balconies to surrounding properties will dramatically increase noise in the peaceful street.</p> <p>The A/C condensers will constantly hum and create excessive noise throughout the day and night.</p> <p>Noise and dust from construction will exacerbate health problems, particularly some of the elderly with health issues.</p> <p>The existing dwelling on the site is likely to contain asbestos which will become airborne in demolition, threatening surrounding homes and health.</p>	<p>An advice note is included on any development approval issued by the City relating to residential development, informing the applicant of their obligation to achieve compliance with legislation relating to noise levels in residential areas.</p> <p>Dust from construction is not a planning consideration. The building has an obligation to achieve compliance with the legislation relating to dust from development sites.</p> <p>Removal of asbestos is not a planning consideration. The builder/demolition company have an obligation to achieve compliance with legislation relating to asbestos removal.</p> <p>The comments are NOTED.</p>

<p>Overshadowing The building will overshadow surrounding houses, sensitive outdoor living areas and clothes drying spaces.</p>	<p>As noted in Element 5 of the CBACP, provisions of overshadowing do not apply within the CBACP area. This is explained further in Section (g) of the 'Officers Comments' section of this report relating to setbacks from side boundaries.</p> <p>The comment is NOTED.</p>
<p>Visual Privacy The development will pose privacy issues, with the minimal setbacks will allow for overlooking of outdoor living areas and bedrooms of surrounding houses.</p> <p>The rooftop area will allow for overlooking of all surrounding properties.</p>	<p>The minor setback encroachments will pose no further impact to privacy to neighbouring properties living areas and bedrooms than a fully consistent development setback of 4.0 metres. Where portions of the building encroach into the setbacks, any windows and balconies to habitable areas have been provided with screening devices to prevent overlooking to neighbours properties. This has been explained in more detail in Section (g) of the 'Officers Comments' section of the report relating to setbacks from side boundaries.</p> <p>The useable rooftop area is setback the required distance of 4.0 metres from side and rear boundaries. As noted in Element 5 of the CBACP, provisions of privacy do not apply within the CBACP area.</p> <p>The comment is NOTED.</p>
<p>Building Bulk This proposed development exceeds the Storey limit imposed in H4 zones in the CBACP and should be redesigned with fewer Storeys to be granted approval.</p> <p>Height is the distance measured from the mean natural level of that part of the land to the highest point of any part of the building (excluding certain items including lift plant not exceeding 3m in height).</p> <p>Height of development not in keeping with our one level suburb.</p> <p>The scale of the building will impose a sense of enclosure and bulk on the surrounding properties.</p>	<p>The proposed development is of a height and bulk considered to be consistent with the planning framework set out for the 'H4' zoning, in the CBACP.</p> <p>The mean natural level on the site has been determined at RL 9.75 which permits the development to a height of RL 25.75. The height of the building measured to the highest point above the mean natural level is RL 23.70. The lift plant to its maximum height is measured at RL 27.5 which is 1.75m above the permitted height (i.e. does not exceed 3.0m in height above the permitted RL and therefore can be excluded from the building height measurement) and therefore the building height is consistent with Requirement 3.5 of Element 3 of the CBACP. The blue line in the diagram below represents the 16m height limit (i.e. RL 25.75).</p>

<p>The apartments will be an unsightly view and completely out of context and will impact heavily on the single houses around it.</p>	 <p>The comments are NOTED.</p>
<p>Setbacks</p> <p>Although the CBACP removes the need to meet R-Code provisions for privacy, solar access and overshadowing, this does not supersede or negate the need to meet DO 5's requirements to minimise overlooking and overshadowing of adjacent and adjoining properties through an appropriate design response.</p> <p>It does not appear that the proposed development meets this condition as evident by extensive overshadowing and reduction in privacy for adjacent western properties. There is limited evidence of attempts to minimise overlooking and overshadowing of adjacent properties such as through the design of the rear windows or the lack of privacy screens on the roof garden.</p>	<p>Where any of the walls encroach into the 4.0 metre setback, screening by way of fixed louvres to balconies and highlight windows to habitable rooms has been included to minimise overlooking.</p> <p>The Design Review Panel considered the design was appropriate having regard to Desired Outcome 5 of Element 5 of the CBACP.</p> <p>Setbacks to the western boundary are consistent at 4.0 metres and overshadowing to the west is not a planning consideration.</p> <p>The roof garden setbacks are consistent on both side and rear boundaries as the areas that will be frequented by tenants are separated by landscaping around the perimeter of the terrace. The useable area of the rooftop terrace is setback 4.0 metres from the side and rear boundaries.</p> <p>The comments are NOTED.</p>
<p>Landscaping</p> <p>Three large trees in the front of the development must remain in place given the amenity the trees bring to the street.</p> <p>This development will result in the loss of some significant and very old trees.</p> <p>The garden landscaping will be for aesthetics and have no value to Indigenous fauna.</p> <p>The historic gardens and mature trees are being bulldozed.</p>	<p>There are two street trees that will remain on the verge. The existing large tree in the setback area will be removed as a result of this development. A replacement tree will be required to compensate for the loss as permitted by Policy P350.03.</p> <p>The proposal relating to landscaping has been given consideration by the City's Landscape Architect in accordance with Element 10 of the CBACP and subject to appropriate conditions; the development will include landscaping which will incorporate water sensitive design and include advanced size plantings. A final landscape design must be approved by the City and that approved landscaping implemented and maintained in perpetuity to the satisfaction of the City.</p> <p>The comments are NOTED.</p>

<p>External fixtures, utilities and facilities</p> <p>The development will have air-conditioners on the balconies and constantly be drying clothes which is unsightly.</p>	<p>Conditions of Development Approval will be included to ensure that air-conditioners are screened and integrated into the design of the building as well as clothes drying areas being screened from view.</p> <p>The comment is NOTED.</p>
<p>Waste Management</p> <p>A total of 28 refuse bins will be on the verge and likely not fit, encroaching onto other properties.</p>	<p>The proposal was amended to include a refuse bin area to house 5 x 660L bins which will be collected via the crossover. There will not be any bins lined up on the verge nor will they encroach onto other properties.</p> <p>The comment is NOTED.</p>
<p>Heritage Value of Properties</p> <p>The persons who will buy into the new development have no account of the past heritage.</p> <p>Historical/heritage first homes of the city are being bull-dozed. The new rezoning has no regulation to save our historical first homes.</p>	<p>The area does not contain properties that are listed in the heritage inventory; therefore protection of those original homes cannot be a planning consideration. Only when a home is listed in the inventory can it be protected to prevent the home being bull dozed.</p> <p>The comments are NOTED.</p>
<p>General Comments</p> <p>Existing housing values will be heavily impacted; no one is going to wish to buy a single house next to a large apartment building with overshadowing and privacy issues.</p> <p>The persons who will buy into the new development have no account of the destructive cost and emotional turmoil a long term neighbour has to witness.</p>	<p>Housing values, destructive cost and emotional turmoil are not a planning consideration.</p> <p>As noted in Requirement 5.7 of Element 5 of the CBACP, provisions of privacy and solar access and overshadowing do not apply within the CBACP area.</p> <p>The comments are NOTED.</p>

The public comments with the applicant's responses are contained in **Attachment (d)**.

(o) **Consultation with Internal/External Agencies**

Engineering Infrastructure / Network Operations

The application was referred to the City's Engineering Infrastructure Department. Comments were received in respect to traffic, vehicle access, crossover location, drainage, car parking and vehicle access for waste trucks.

Further comments were received from this department after a review of the amended development plans as one of the main concerns previously related to the inability of the City to provide a collection service directly from the street or on the development site.

The City's Engineer confirmed that the changes noted in the amended plans (received December 2018) addressed previous concerns and that the swept paths provided by the applicant demonstrated that the access arrangement for a waste truck was now acceptable to service the property via the crossover as opposed to the street. The Engineer also confirmed that the crossover would need to be designed and constructed to accept vehicle loadings of not less than G.V.M. 33 tonnes to limit any damage to the crossover and that if damage did occur as a result of collection by the City's waste vehicle, any damages would need to be borne by the owner and future strata owners of the development site.

The City Engineer acknowledged that while collection on the crossover was not ideal, on-street collection was not always possible due to a number of site/street constraints such as topography, slope of street, etc. The City's Engineer in this instance, accepted and acknowledged that the waste truck could reverse onto the verge via the southern side crossover to service collection of waste from the crossover. It was also acknowledged that the depth of the crossover/verge can accommodate the majority of the waste truck within the verge area with a slight encroachment into the street as this would occur for a limited amount of time, and as there would always be another officer of the City in addition to the driver acting as a spotter during collection, this would ensure that safety of pedestrian and vehicle traffic would be maintained at all times during collection. The waste truck would then exit in forward gear onto Baldwin Street.

Given this access arrangement for the waste truck, the City will have to restrict parking outside the property in order to guarantee access for a waste collection truck is not impeded. This access arrangement results in the permanent removal of two (2) car bays on the street and for this reason the City's Engineer has requested that a cash-in-lieu payment be made by the developer to compensate for the loss of those bays. It is acknowledged that on-street parking does appear to occur on a frequent basis, as evidenced during site inspections and taking into account comments received from surrounding neighbours.

As noted in section j. of the 'Officer Comments' section of this report, the requested cash in lieu payment by City Engineers cannot be enforced for this development as there are no mechanisms within TPS6 or any policies to enable the City to collect the payment. Accordingly, planning conditions (with exception to this request) and important notes are recommended to deal with issues raised.

Environmental Health / Waste Management

The application was referred to the City's Environmental Health and Waste officers for comment. Comments have been received regarding waste management, noise and car park ventilation.

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

Landscape Architect/City Environment

The application was referred to the City's Landscape Officer regarding the landscape design. The Landscape Officer supported the proposed design in principle, however a more detailed plan would be required for assessment and a condition of approval would require a suitable plan prior to submission of a building permit.

The City Landscapes Officer, City Environment section provided comments with respect to construction of the crossover in close proximity of the existing street tree. The Landscapes Officer confirmed that the location was acceptable subject to associated costs for pruning the street being paid by the applicant.

Accordingly, planning conditions are recommended as appropriate to reflect these comments.

External Agencies

This application did not necessitate referral to any external agencies.

Policy and Legislative Implications

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

Financial Implications

This determination could have significant financial implications should the developer not be satisfied with Council's determination, in the event an appeal to the State Administrative Tribunal is lodged.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Environment (Built and Natural)
Aspiration:	Sustainable urban neighbourhoods
Outcome:	3.2 Sustainable built form
Strategy:	Promote and facilitate contemporary sustainable building and land use

Sustainability Implications

The applicant has supplied a report prepared by a Green Building Council of Australia qualified consultant stating that the development will achieve the equivalent of a 5 star Green Star level of performance, as required by CBACP Requirement 11.5.

Conclusion

The proposal is considered to satisfactorily meet the relevant requirements of the Scheme and the CBACP. The development of 14 Multiple Dwellings in a four (4) storey building within the Davilak Quarter meets the objectives of the CBACP which promotes the creation of a vibrant and rejuvenated area with housing catering to multiple users. Subject to the recommended conditions, it is considered that the application should be conditionally approved.

Attachments

- 10.3.3 (a): Supporting Reports
- 10.3.3 (b): Written Response by Applicant to Submissions
- 10.3.3 (c): Development Plans
- 10.3.3 (d): Site Photos

10.3.4 Proposed 2 x Two Storey Single Houses on Lot 802 (No. 42) Salter Point Parade, and Lot 803 (No. 49) Letchworth Centre Avenue, Salter Point

Location: Lot 802 (No. 42) Salter Point Parade, and Lot 803 (No. 49) Letchworth Centre Avenue, Salter Point

Ward: Manning Ward

Applicant: Capella Constructions Pty Ltd

File Reference: D-19-1791

DA Lodgement Date: 2 August 2018

Meeting Date: 19 February 2019

Author(s): Scott Price, Statutory Planning Officer

Reporting Officer(s): Vicki Lummer, Director Development and Community Services

Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods

Council Strategy: 3.2 Sustainable Built Form

Summary

On 27 November 2018, Council resolved to defer consideration of the application for 2 x Two Storey Single Houses on Lot 800 (No. 42) Salter Point Parade, Salter Point until the February 2019 Council meeting. The reasons for the deferral are as follows:

The applicant at the Agenda Briefing meeting suggested that they would be willing to consider making some amendments to the proposed plans. City officers have advised that any modifications to the plans would require further consultation with adjoining neighbours and a reassessment of the proposal against Scheme provisions in particular Clause 6.1A (9). As such it is recommended that the item be deferred to enable this to occur.

Following this deferral, the applicant submitted an amended set of development plans for Council's consideration. The City's Administration has carried out an assessment on these revised plans dated 4 January 2019.

In regards to the latest set of amended plans dated 4 January 2019, Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Building height restrictions in Precinct 13 'Salter Point'	TPS6 Clause 6.1A (9)
Minimum ground and floor levels	TPS6 Clause 6.9
Boundary wall (western boundary wall)	Clause 2 of Policy P350.2 & Design Principles of Clause 5.1.3 of R-Codes WA
Open space	Design Principles of Clause 5.1.4 of R-Codes
Overshadowing	Design Principles of Clause 5.4.2 of R-Codes

Officer Recommendation

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for planning approval for 2 x Two Storey Single Houses on Lot 802 (No. 42) Salter Point Parade, and Lot 803 (No. 49) Letchworth Centre Avenue, Salter Point **be approved** subject to:

1. The development shall be in accordance with the approved plans unless otherwise authorised by the City.
2. All stormwater from the property shall be discharged into soak wells or sumps located on the site unless otherwise approved by the City.
3. The surface of the boundary wall(s) to the Lot 803 Garage visible from the street, on the western side of the lot, shall be finished in a clean material to the same standard as the rest of the development, to the satisfaction of the City.
4. No street trees shall be removed, pruned or disturbed in any way, without prior approval from the City.
5. External clothes drying facilities shall be provided for each dwelling, and shall be screened from view from all streets or any other public place.
6. The alfresco to each dwelling is to remain unenclosed on a minimum of two sides.
7. At least one tree not less than 3.0 metres in height at the time of planting and of a species approved by the City shall be planted on each site (Lot 802 & Lot 803) within the street setback area or elsewhere on the site, prior to occupation of the dwelling. The tree(s) shall be maintained in good condition thereafter.
8. Prior to the submission of a building permit application, the owner shall prepare and submit documentation, to the to the satisfaction of the City of South Perth, which shows all measures undertaken in the development to address requirements in relation to subsoil water seepage, adequate water proofing and 100 year flood levels, in accordance with Clause 6.9(3) of Town Planning Scheme No. 6. The approved measures shall be implemented, unless otherwise approved by the City of South Perth.
9. In accordance with correspondence from Department of Biodiversity, Conservation and Attractions (DCBA), dated 29 August 2018 the following conditions are to be satisfied by the applicant:
 - i. The proponent is to ensure that appropriate on-site measures shall be implemented to prevent sediment from entering the stormwater system, and river during demolition and construction.
 - ii. Stormwater runoff from constructed impervious surfaces generated by small rainfall events (i.e. the first 15 mm of rainfall) must be retained and/or detained and treated (if required) at-source as much as practical and will not be permitted to enter the river untreated.

These conditions are to be met to the satisfaction of the City of South Perth on the advice of the DCBA.

Note: City officers will include relevant advice notes on the recommendation letter.

Background

The development site details are as follows:

Zoning	Residential
Density coding	R20
Lot area	803 sq. metres
Building height limit	3.5 metres
Development potential	Two dwellings (deposited plan for two lot survey strata recently approved by WAPC)
Plot ratio limit	N/A

The location of the development site is shown below:



Figure 1: Map of Development Site

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

3. ***Development involving the exercise of a discretionary power***
Applications in areas situated within Precinct 13 - Salter Point which
 - (i) *have been assigned Building Height Limits of 3.0 metres, 3.5 metres or 6.5 metres; and*

- (ii) *will result in any obstruction of views of the Canning River from any buildings on neighbouring land, having regard to the provisions of Clause 6.1A(9) of the Scheme.*

Comment

(a) Background

In August 2018, the City received an application for two Single Houses, both of which are two storeys, at proposed Lots 802 and 803 (No. 42) Salter Point Parade, Salter Point (the Site).

An amended set of plans were provided by the applicant in response to concerns raised by the assessing office, relating specifically to maximum building height. The amended plans reduced the wall height of the proposal to comply with the TPS6 requirement of 3.5 metres.

Two lots have been created at Lot 800, No. 42 Salter Point Parade as part of the conditional subdivision approval WAPC154232. It is noted that the subdivision application proposed a significant variation to the average site area requirement specified in the Residential Design Codes (R-Codes) and the City recommended refusal of the subdivision application on this basis. Notwithstanding the City's recommendation, the Western Australian Planning Commission (WAPC) elected to approve the subdivision application, resulting in the creation of two new lots, 802 and 803.

The application was considered by Council on 27 November 2018. Council resolved as follows:

'The applicant at the Agenda Briefing meeting suggested that they would be willing to consider making some amendments to the proposed plans. City officers have advised that any modifications to the plans would require further consultation with adjoining neighbours and a reassessment of the proposal against Scheme provisions in particular Clause 6.1A (9). As such it is recommended that the item be deferred to enable this to occur.'

On 12 December 2018, after the Council Agenda Briefing held 20 November 2018, the City met with the applicant to discuss further modifications to the plans in order to address issues raised.

Following the deferral resolution at the Council Meeting held 27 November 2018, the applicant then submitted amended plans for Councils consideration, taking into account advice provided by City Officers. The following changes have been made to the development plans:

- A reduction in footprint to the upper floors of both proposed dwellings, enabling a greater separation between upper floor walls (6.3 metres) in order to facilitate a viewing corridor for the rear property of No. 47 Letchworth Centre Avenue.

- The hip roof in the previous design has now been redesigned so that the upper floor roof ridges to both dwellings do not extend from the ground floor plate levels and are now cut to be separate to that of the ground floor roof elements;
- The single storey roof components of Lot 802 and Lot 803 have been amended to consist of either a reduced 15 degree pitch or a concealed roof;
- The amended plans limit the amount of building envelope of No. 42A Salter Point Parade located towards the southern internal boundary, thus reducing the overshadowing of the southern internal lot. Additionally, the roof line is retracted to allow greater sunlight into the proposed southern adjoining courtyard of No. 42 Salter Point Parade.

(b) Existing Development on the Subject Site

A single storey dwelling was recently demolished. The site is currently vacant.

(c) Description of the Surrounding Locality

The Site is a corner lot with frontages to Letchworth Centre Avenue to the north and Salter Point Parade to the east, as seen in Figure 2 below:



Figure 2: Aerial image of subject site

(d) Description of the Proposal

The proposal involves two Single Houses, each of which is proposed at two storeys, as depicted in the submitted plans at **Attachment (a)**. One dwelling is located on each lot (Lot 802 and 803). The proposed two, two storey Single Houses includes the following:

Lot 802 (depicted as No. 42 Salter Point Parade)

- Four bedrooms;
- Two bathrooms;
- Two car garage;
- Kitchen;

- Family room;
- Meals room;
- Lounge room;
- Laundry;
- Courtyard;
- Terrace; and
- 25 degree roof pitch

Lot 803 (depicted as No. 49 Letchworth Centre Avenue)

- Four bedrooms;
- Two bathrooms;
- Two car garage;
- Kitchen;
- Family room;
- Meals room;
- Courtyard;
- Alfresco; and
- 25 Degree roof pitch.

Furthermore, the site photographs, as per the previous Council Meeting Minutes (27 November 2018) show the relationship of the Site with the surrounding built environment at **Attachment (a)**.

(e) Scheme and R-Code Provisions

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

- (i) Building height restrictions in Precinct 13 for 'Salter Point';
- (ii) Minimum ground and floor levels;
- (iii) Boundary wall (west);
- (iv) Open space;
- (v) Overshadowing.

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

(f) Building height restrictions

Clause 6.1A (9) of TPS6 stipulates specific building height restrictions on lots located within Salter Point, where building height limits of 3.0 metres, 3.5 metres or 6.5 metres apply. As per TPS6, a person shall not erect or add to a building on these specified lots, unless the Council is satisfied that views to the Canning River from any buildings on adjoining lots are not significantly obstructed. Additionally, Clause 6.1A (4) of TPS6 specifies the ability for Council to impose restrictions on roof height where the proposed roof pitch or height is considered to result in an adverse amenity impact on, or be out of character with, development on the development site or within the focus area, or contravene any adopted Local Planning Policy relating to the design of buildings, significant views, or maintenance of streetscape character.

The application was deferred at the previous Council Meeting, held 27 November 2018, in order to provide the applicant an opportunity to amend the plans, as the current proposal was deemed not to comply with Clause 6.1A (9). As identified in the previous Council Report, the neighbouring property to the west (No. 47 Letchworth Centre Avenue) obtains views of Sandon Park and the Canning River (significant view). Accordingly, the adjoining properties of the proposed development site were provided the opportunity to submit comments or concerns on the proposals potential impacts to their views, through the City's consultation process. A second consultation process was undertaken in early January 2019, allowing neighbouring landowners an opportunity to view and comment on the revised set of plans responding to Council's deferral.

Photos taken from the site visit to the western adjoining property are contained in **Attachment (b)**. The applicant has also provided a detailed justification with associated diagrams and attachments to illustrate the impact the amended development would have on views towards Canning River, as well as comparisons using the notional 15 degree roof pitch required as part of Draft Policy P320 – 'Assessment of Significant Obstruction of Views in Precinct 13 – 'Salter Point.' This element is discussed in further detail below.

In order to be satisfied that views of Canning River will not be significantly obstructed the impact of the development of views of the adjoining properties needs to be considered. As such, reference is made to the previously cited case of APP Corporation Pty Ltd and City of Perth [2008] WASAT 291 which considers a 'four - step assessment'. As the detail of the case has been discussed in previous assessments, the four – step assessment can be categorised as follows:

1. *Assessment of view(s) that are affected*
2. *What part of the property are views obtained*
3. *Assess the extent of impact on views*
4. *Assess the 'reasonableness' of the proposal*

The impact on the views towards Canning River as a result of the development is considered to be supportable for the following reasons:

In relation to step 1, the views from No. 47 Letchworth Centre Avenue are largely towards the east. The upper floor opening providing the view predominantly contains views of Sandon Park and glimpses of the Canning River towards a south easterly direction; however the view from the dwelling manages to encapsulate the transition between sky, river and greenery. An example of this view is included in the image below for Figure 3. It is, however, noted that the site is currently vacant and therefore views are uninterrupted. The previous dwelling on the site was a modest single storey dwelling with a relatively low pitched roof impeding some of the view shown below.



Figure 3: The current view from inside the upper floor of No. 47 Letchworth Centre Avenue (western adjoining lot to subject site) looking in an eastwards direction.

In regards to step 2, the views are obtained via an upper floor living room area of No. 47 Letchworth Centre Avenue. The space is understood to be used frequently for significant durations of time. In any case, the view towards the south east from No. 47 Letchworth Centre Avenue obtains views of the Canning River, albeit somewhat impeded by dense vegetation, as seen in Figure 3.

In relation to step 3, the applicant has provided multiple images depicting the impact to the current line of sight to the river from the upper floor of No. 47 Letchworth Centre Avenue of both the proposal and an imitation development adhering to the notional 15 degree roof pitch stipulated in Draft Policy P320.

The amended set of development plans have altered the roof form by separating the ground floor roof ridge from the upper floor component, in order to provide a greater viewing corridor between both dwellings, as demonstrated in Figure 4 below.

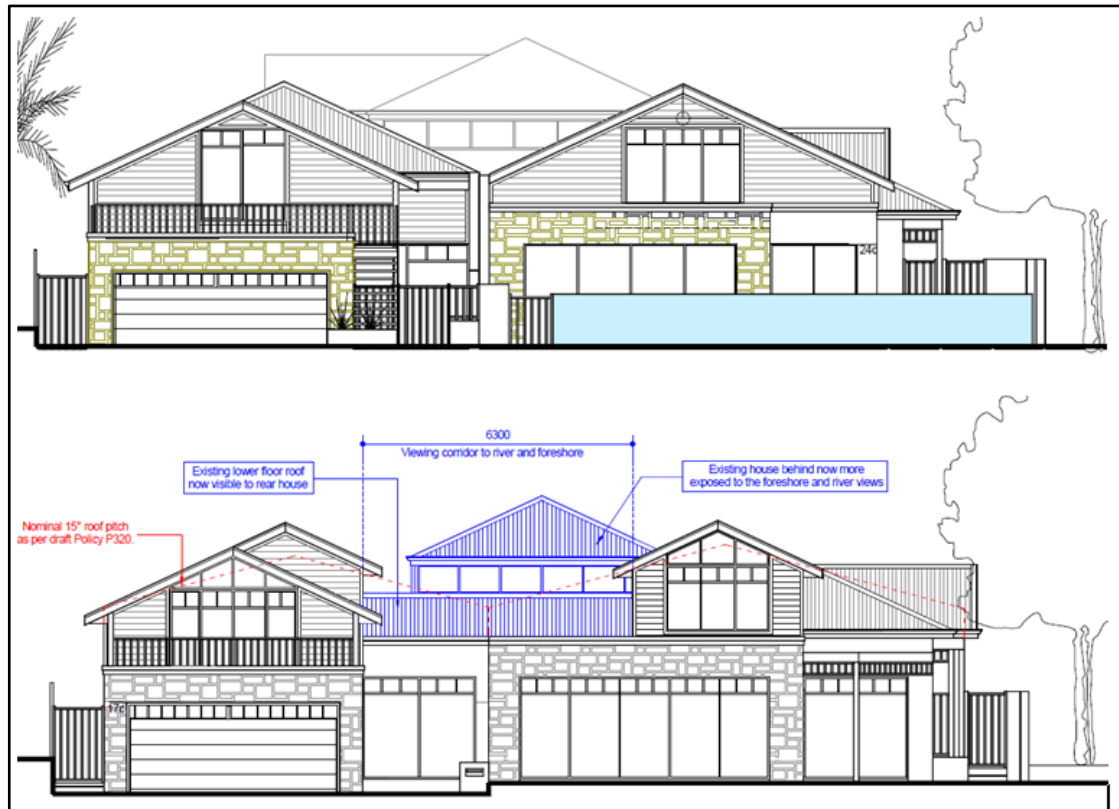


Figure 4: Changes to the proposed roof design from November Council Meeting Item (top picture). The figure superimposes the proposed dwellings on the subject site and demonstrates the newly revised viewing corridor for No. 47 Letchworth Centre Avenue.

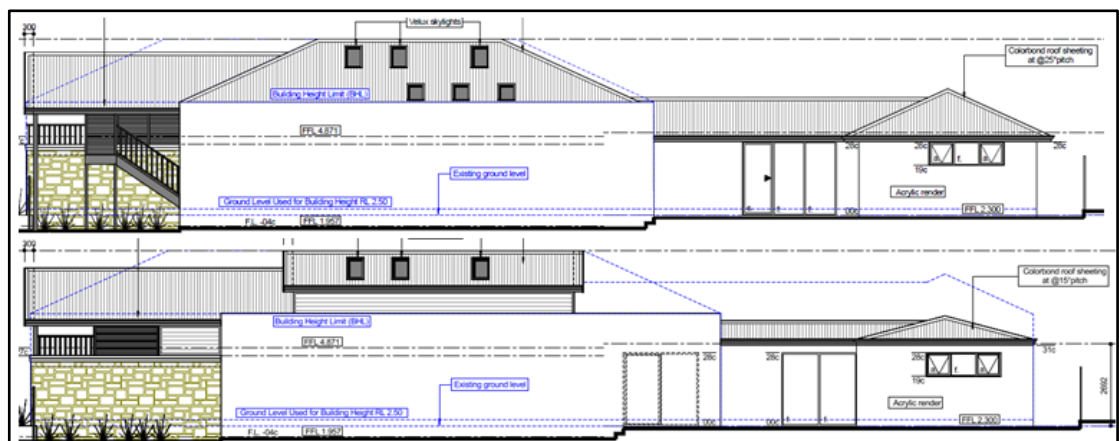


Figure 5: Additional images to demonstrate the change in roof form at the rear of Lot 802 from the November Council Meeting Item (top picture).

The amended design allows for a greater viewing corridor for No. 47 Letchworth Centre Avenue when looking towards the Canning River, sparing the partial views of the river due to existing vegetation in Sandon Park (Figure 3). By separating roof elements and proposing either a low pitch roof, or a concealed roof for the ground floor, the new design significantly benefits the view from the western adjoining dwelling. As the view of Canning River is significantly obstructed by existing vegetation, the views deemed to be existent from the upper floor of No. 47 Letchworth Centre Avenue are the glimpses to the right of the palm tree and centre to the view, as stipulated in

Figure 3. The new proposal which meets TPS6 provisions for building height, is not considered to impact these two specific glimpses highlighted as being considered a 'significant view,' based upon the below modelling in Figure 6.

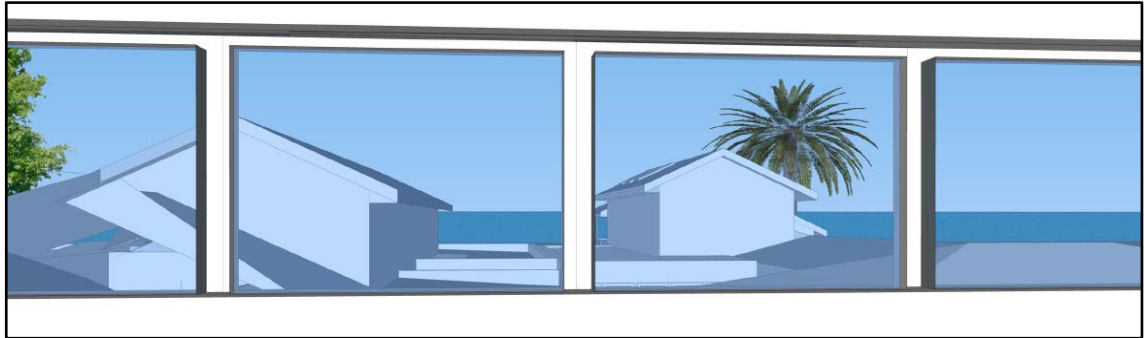


Figure 6: A superimposed image of the proposed viewing corridor from the upper floor of No. 47 Letchworth Centre Avenue.

In relation to step 4, the proposal at No. 42 Salter Point Parade is considered reasonable due to proposing no greater impact than that of a compliant development against Draft Policy P320, to that of the existing views obtained by the western adjoining dwelling at No. 47 Letchworth Centre Avenue. As per Figure 6, the applicant demonstrates two dwellings designed on Lot 802 and Lot 803 would maintain the glimpse of views identified in Figure 3 and therefore existing views from buildings on neighbouring land will not be significantly obstructed.

On the basis of the information provided, Council is required to consider whether the proposed buildings will cause significant obstruction on the existing views of Canning River.

The applicant amended the development plans multiple times on advice of the City Officer's in order to comply with maximum building height requirements. Furthermore, substantial changes have been proposed for the development in order to adhere to the advice in relation to 'significant views,' provided by City Officer's. Given the changes to the dwellings in ridge design to Lot 802 and 803, the potential veiling of views to Canning River from No. 47 Letchworth Centre Avenue has been considered largely addressed.

Overall, it is considered that the views of the Canning River from neighbouring land will be not be significantly obstructed by the dwellings proposed at Lot 802 and 803, No. 42 Salter Point Parade, thus adequately satisfying requirements of Clause 6.1A (9) (c).

Draft Policy P320 – 'Assessment of Significant Obstruction of Views in Precinct 13 – 'Salter Point'

At the Ordinary Council Meeting held 30 October 2018, Council resolved to advertise draft Local Planning Policy P320 – Assessment of Significant Obstruction of Views in Precinct 13 – Salter Point (P320). P320 applies to lots within Precinct 13 – Salter Point with a building height limit of 3.0 metres, 3.5 metres and 6.5 metres.

P320 seeks to provide objectives and criteria to guide the assessment of development under clause 6.1A (9) (c) of the Scheme. Clause 6.1A (9) (c) requires that a person shall not erect or make an addition to a building unless the local government is satisfied that views of the Canning River from any building on neighbouring land will not be 'significantly obstructed'. This includes situations where a development may be fully compliant with all other requirements of the Scheme. The Scheme provides no guidance on what forms of development constitute a 'significant obstruction'. The lack of guidance has led to uncertainty for both landowners applying to construct new buildings and neighbours seeking to retain/protect views of Canning River.

P320 was advertised and a number of submissions were received. A report summarising these submissions is included in this agenda. A number of modifications to the advertised version of P320 are proposed based on the submissions received. P320 provides that;

- A building (including any roof) wholly below the building height limit will not be considered to 'significantly obstruct' from an adjoining building; or
- A building proposing projections above the building height limit will only be supported if a number of quantitative and qualitative criteria are achieved.

The proposed development is not considered to meet clause 2.1(a), (b) and (d) of P320 (as modified). The proposed development proposes walls above the building height limit, a maximum roof pitch of 25 degrees and does not meet the deemed-to-comply criteria of the R-Codes in respect to lot boundary setbacks (western boundary), overshadowing and open space.

Having concluded advertising and the submissions considered, P320 (as amended) can be considered a 'seriously entertained' planning proposal for the purpose of the City's assessment of this application. Notwithstanding, a local planning policy does not bind the Council and the provisions of P320 do not supersede or replace any requirements of the Scheme. Irrespective of the level of consistency with P320, it remains open to the Council to determine a development application based on clause 6.1A (9) (c) alone.

(g) Minimum ground and floor levels

Element	Deemed-to-comply	Provided
Minimum level required to develop	Minimum 1.7 metres above Australian Height Datum	2.26 metres
Level of floors of habitable rooms	Minimum 2.3 metre above Australian Height Datum	1.94 metres
Level of floors of non-habitable rooms	Minimum 1.75 metres above Australian Height Datum	2.2 metres
Level of car parking space	Minimum 1.75 metres above Australian Height Datum	1.6 metres

Local government may permit land to be developed with lower levels than prescribed above in Clause 6.9 (2), providing the following requirements are satisfied:

- (a) Provisions are 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.

Comments provided by the City's Engineering service have strongly advised that the development will experience significant flooding issues, should the application be approved. Should the application be endorsed for approval by Council, the requirements above are to be incorporated into the approval in the form of relevant conditions.

(h) **Boundary wall (west)**

Element	Deemed-to-comply	Provided
Western boundary wall (Lot 803 garage)	1 metre	0 metres
<p><i>Design Principles:</i> <i>Buildings set back from lot boundaries so as to:</i></p> <ul style="list-style-type: none"> • <i>Reduce impacts of building bulk on adjoining properties;</i> • <i>Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> • <i>Minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</i> <p><i>Buildings built up to boundaries (other than the street boundary) where this:</i></p> <ul style="list-style-type: none"> • <i>makes more effective use of space for enhanced privacy for the occupant/s or outdoor living areas;</i> • <i>does not compromise the design principle contained in clause 5.1.3 P3.1;</i> • <i>does not have any adverse impact on the amenity of the adjoining property;</i> • <i>ensures direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and</i> • <i>positively contributes to the prevailing development context and Streetscape.</i> 		

The western boundary wall is considered to satisfy the Design Principles of the R-Codes and Policy P350.02 for the following reasons:

- Impacts of bulk and scale are minimal, given the wall is only 6.0 metres in length and is screened up to 1.8 metres by a dividing fence. Furthermore, the wall is not aligned to the neighbour's sole major outdoor entertaining area, thus reducing its visual intrusiveness;
- The boundary wall will have minimal impact on the site's ability to access northern sunlight. Additionally, the scale of the wall is not likely to significantly reduce the site's ventilation to open spaces;
- The boundary wall does not consist of openings and will not impact on the privacy of the western adjoining lot;
- The boundary wall makes effective use of a space by creating a buffer between the proposed dwelling and the neighbouring dwelling's front yard. Furthermore, the wall makes effective use of the space by providing for sheltered car parking;
- The adjoining property will not be impacted by shadow (as per R-Code measurement);
- The boundary wall is not deemed to be out of character with the streetscape, whilst having a negligible impact on the adjoining western dwelling's view from the front yard towards the street.

Overall, there is not considered to be a significant adverse impact on the amenity of the western adjoining property for the abovementioned reasons.

(i)

Open space

Element	Deemed-to-comply	Provided
Open Space – Lot 802	50% (200m ²)	49% (196m ²)
<p><i>Design Principles:</i> <i>Development incorporates suitable open space for its context to:</i></p> <ul style="list-style-type: none"> • <i>Reflect the existing and/or desired streetscape character or as outlined under the local planning framework;</i> • <i>Provide access to natural sunlight for the dwelling;</i> • <i>Reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework;</i> • <i>Provide an attractive setting for the buildings, landscape, vegetation and streetscape;</i> • <i>Provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and</i> • <i>Provide space for external fixtures and essential services.</i> 		

The proposed open space for Lot 802 is considered to be supportable against the Design Principles of the R-Codes for the following reasons:

- The shortfall of 4m² open space is a relatively minor departure from the Deemed-to-comply criteria and is not considered to significantly deviate from the desired open space within the streetscape and broader locality;
- The proposal offsets a majority of its open space towards the northern aspect of the lot, in order to utilise winter sunlight orientation;
- The bulk of the dwelling in relation to the general expectation of the locality is considered to be at an acceptable level, through complying

with setbacks reduce proximity of walls with neighbouring lots, as well as complying with a required building height limit of 3.5 metres (including permitted projections);

- The dwelling provides a compliant street setback area in order to allow the applicant the ability to enhance the streetscape through techniques such as landscaping and vegetation;
- The open space provided is clustered towards the northern aspect to allow for a functional space for purposes of outdoor recreation on the lot;
- The dwelling maintains setback corridors to be utilised for purposes of external fixtures and essentials services.

(j) **Overshadowing**

Element	Deemed-to-comply	Provided
Overshadowing of Lot 802	25% (100m ²)	26.25% (105m ²)
<p><i>Design Principles:</i> <i>Effective solar access for the proposed development and protection of the solar access. Development designed to protect solar access for neighbouring properties taking into account the potential to overshadow existing:</i></p> <ul style="list-style-type: none"> • <i>Outdoor living areas;</i> • <i>North facing major openings to habitable rooms, within 15 degrees of north in each direction; or</i> • <i>Roof mounted solar collectors.</i> 		

The overshadowing to Lot 802 resulting from development of Lot 803 is considered to satisfy the Design Principles of the R-Codes for the following reasons:

- The proposed southern boundary of lot 803 remains compliant with the R-Codes (C3.2 (iv) of Clause 5.1.2) as well as lowering the height of the wall adjacent to the courtyard of Lot 802 from 3.47m to 2.69m. This amendment result in a retraction of shadow projected from the wall into outdoor living areas of Lot 802. Furthermore, the proposed wall adjacent to the courtyard of Lot 802 has been amended to incorporate a concealed design, rather than hip roof;
- The north facing major opening to bed 2 of Lot 802 has now been modified to be a minor opening, thus meaning the projected shadow does not impact any north facing major opening's ability to access northern winter sunlight;
- The shadow projecting from the proposed dwelling on Lot 803 will at worst case scenario, being midday of the winter solstice, intersect with portions of Lot 802's wall rather than roof area. Whilst not existing, this enables the proposed dwelling at Lot 802 to install solar panels without potential impediment to sunlight.

As detailed above, the proposed variation is considered to meet the design principles as the proposal is considered to have an acceptable impact on the adjoining property to the south.

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

In considering an application for development approval the local government is to have due regard to 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 the proposal, and the City's response to each consideration, are outlined in the table below:

Matter	Officer's Comment
(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;	As outlined above, the proposal is considered to satisfy Clause 6.1A (9) of the Town Planning Scheme No. 6, in relation to Building Height Restrictions in Precinct 13.
(c) any approved State Planning Policy;	As outlined in the assessment above, the proposal is considered to satisfy the Residential Design Codes WA, as detailed in the report.
(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;	The height, bulk and scale of the development is considered to be of an acceptable level, as detailed in the report above.
(n) the amenity of the locality including the following – (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development;	The proposal is considered to have an acceptable impact on the amenity of the locality, as detailed in the report.
(y) any submissions received on the application;	The submissions received in the advertising period have been duly considered, as outlined in the 'Consultation' section of this report.

Consultation**(a) Neighbour Consultation**

A further Neighbour Consultation period for the amended set of development plans has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 'Consultation for Planning Proposals'.

Under the standard consultation method, individual property owners, occupiers and/or strata bodies at No. 41 Salter Point Parade, No. 45 and 47 Letchworth Centre Avenue, No. 42A Sulman Avenue and No. 190, No. 192 and No. 196 River Way, were invited to inspect the amended plans and to submit comments during a minimum 14-day period.

During the advertising period, a total of seven consultation notices were sent and one submission received, objecting to the proposal. The objection was received from a differing landowner to the submission received in the previous Council item. The comments of the submitter, together with officer response(s) are summarised below.

Submitters' Comments	Officer's Responses
The proposed height of the building is in excess of 2m to the maximum restriction of 3.5m building height limit.	The proposed design is considered to satisfy the 3.5m building height limit. All walls exceeding this figure are contained within the notional 25 degree roof pitch. This comment is Not Upheld .
The proposed height of the roof pitch is not within regulations of Policy P320.	The proposal is considered compliant against the requirements of TPS6. As discussed above, P320 (as amended) can be considered a 'seriously entertained' planning proposal for the purpose of the City's assessment of this application. Notwithstanding, a local planning policy does not bind the Council and the provisions of P320 do not supersede or replace any requirements of the Scheme. This comment is Noted .
The development will obstruct views obtained from No. 190 River Way, Salter Point.	The proposed location of both dwellings is in excess of 40m in distance from the dwelling of No. 190 River Way, Salter Point. Furthermore, The dwelling at No. 190 River Way is situated on contours lines of up to 4m higher than the subject site. This is considered to limit view downwards, meaning obstructions to views are mostly contained to vegetation on Sandon Park, rather than Canning River glimpses. TPS6 stipulates significant views specifically relating to the Canning River are not to be impeded, rather than vegetation. For these reasons, the proposed development. This comment is Noted .

(b) Internal Administration

Comments were invited from the Engineering Infrastructure section of the City's administration.

The City's Engineering Infrastructure section was invited to comment on a wide range of issues relating to vehicle movements, car parking, finished levels and drainage.

Specifically, concerns relating to the proposed levels of the development and were raised. Significant flooding to the garage and other floor levels below 1.7 metres Australian Height Datum may be experienced, as the proximity of the site in relation to the Canning River has resulted in particularly high water table levels.

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.

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.

(c) External Agencies

Comments were invited from the Swan River Trust with respect to the potential effect of the development upon the Swan and/or Canning Rivers. This agency raises no objections and provided relevant conditions, should the application be recommended for approval.

Policy and Legislative Implications

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

Financial Implications

Nil.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Environment (Built and Natural)
Aspiration:	Sustainable urban neighbourhoods
Outcome:	Sustainable built form
Strategy:	Promote and facilitate contemporary sustainable buildings and land use

Sustainability Implications

Nil.

Conclusion

It is considered that the proposal meets all of the relevant Scheme, R-Codes and/or Council Policy objectives and provisions, as it will not have a detrimental impact on adjoining residential neighbours and streetscape. It is noted in the report above that the applicant has provided an amended set of development plans to adequately address the initial concerns of City' Officers for potential loss of significant views of the Canning River from neighbouring properties.

By separating roof elements and proposing combination of a low pitch roof and a concealed roof for the ground floor for each dwelling, the proposal allows views of the Canning River from neighbouring properties to be maintained. The view corridor provided in the centre of the lots significantly benefits the view of the Canning River from the western adjoining dwelling.

Attachments

10.3.4 (a): Latest Amended Plans - 7/1/2019 - No. 42 Salter Point Parade,
Salter Point - 11.2018.282.1

10.3.4 (b): Site Photos - No. 42 Salter Point Parade - 16 October 2018

10.3.5 Proposed Fencing Addition to Private Institution (School Playing Grounds) - Lot 3 (No. 6) Elderfield Road, Manning

Location: Manning
Ward: Manning Ward
Applicant: Trinity College
File Reference: D-19-4876
DA Lodgement Date: 16 January 2019
Meeting Date: 19 February 2019
Author(s): Brendan Philipps, Statutory Planning Officer
Reporting Officer(s): Vicki Lummer, Director Development and Community Services
Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy: 3.2 Sustainable Built Form

Summary

To consider an application for development approval for a proposed fencing addition to Private Institution (School Playing Grounds) on Lot 3 (No.6) Elderfield Road, Manning. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Over-height fencing	TPS6 clause 6.7 (2)

Officer Recommendation

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for development approval for a proposed fencing addition to Private Institution (School Playing Grounds) on Lot 3 (No.6) Elderfield Road, Manning **be approved** subject to:

1. The development is to be in accordance with the approved plans unless otherwise authorised by the City.
2. The fencing hereby approved is to be fully contained on the subject site.

Note: City officers will include relevant advice notes on the determination notice.

Background

The development site details are as follows:

Zoning	Private Institution
Density coding	R20
Lot area	141,934m ²
Building height limit	7.0 metres
Development potential	N/A
Plot ratio limit	N/A

The location of the development site is shown below:

This item is referred to Council as the fencing height is outside of the officers delegation, being greater than 2m in height (Condition 1 (k) (B) of DC690).

Comment

(a) Background

In November 2018, the City received an application for a proposed fencing addition to Private Institution (School Playing Grounds) on Lot 3 (No.6) Elderfield Road, Manning (the Site).

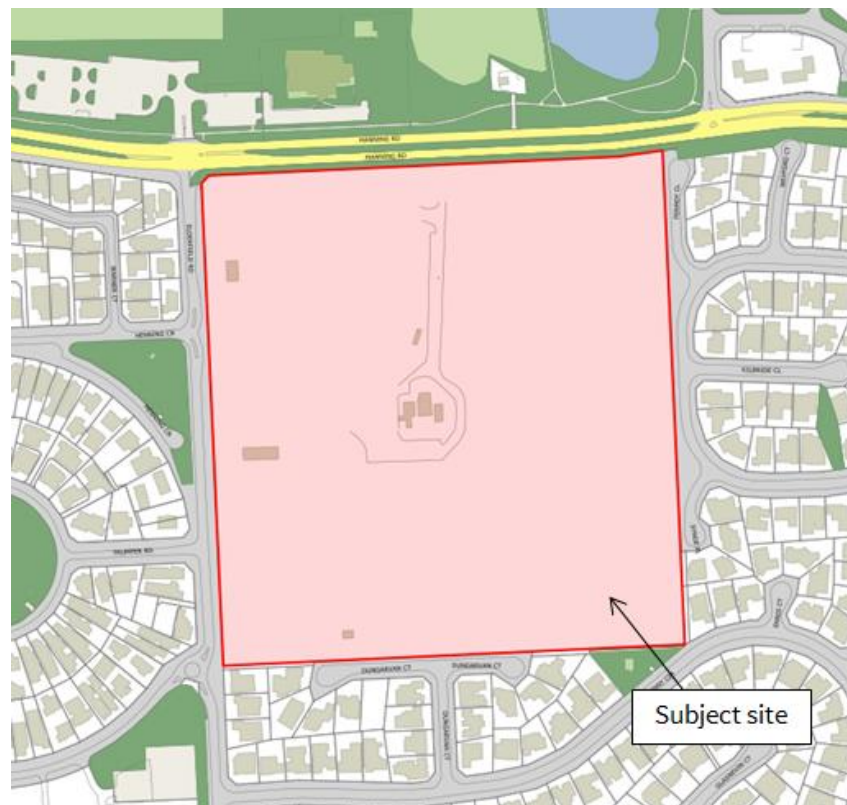


Figure 1: Map of subject site.

(b) Existing Development on the Subject Site

The existing development on the Site currently features school playing grounds, change-rooms, car parking facilities, and incidental buildings. The current fencing bordering the property is constructed of a wire mesh material and is 1.8m in height to the north, west, east and south.

(c) Description of the Surrounding Locality

The Site has a frontage to Manning Road to the north, Elderfield Road to the west, Fermoy Close to the east, and Dungarvan Court to the south, as seen in Figure 1 below:



Figure 2: Aerial image of subject site.

(d) Description of the Proposal

The proposal involves the removal of existing dividing fencing on the southern boundary and the construction of a proposed fencing addition to Private Institution (School Playing Grounds) as depicted in the submitted plans at **Attachment (a)**. It should be noted that the replacement fencing is only proposed on the southern boundary.

The fencing ranges in height from 1.8m – 8m in height. Furthermore, the site photographs show the relationship of the Site with the surrounding built environment at **Attachment (b)**.

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

(i) Fencing height.

Under clause 6.7 of the Scheme, development approval for the fence is required as it is greater than 1.8 metres in height. The proposal is considered to meet the relevant Design Principles or discretionary criteria of the Scheme and relevant Council policies. The various discretionary assessments are discussed in further detail below

(e) Fencing Height

The proposed boundary fencing height ranges from 1.8m – 8m. There are three sections of 8m high fencing proposed along Dungarvan Court. These portions of fencing are positioned behind various goal posts in order to prevent balls from entering Dungarvan Court.

The remainder of fencing is at 1.8m in height. While 8m high fencing may appear excessive, it is considered necessary to prevent the inconvenience of a ball entering the adjoining street and mitigating the potential of property damage (ie. vehicles or dwellings). This is considered to assist with the operation and running of the subject site, given that it is zoned 'Private Institution' and is used as playing fields for schools and sporting clubs. The type and scale of fencing is not considered to have an adverse amenity impact by way of overshadowing, restricting views or a building bulk impact. In particular, the mesh fencing proposed is consistent with the existing type of fencing bordering the property.

In regards to the 7 metre building height limit prescribed for the subject site, it is noted that a fence is not considered to be a building. For reference, the definition of a 'fence' as prescribed in TPS6 is as follows:

'fence' : means a structure or hedge situated on the common boundary between adjoining lands in different occupancies or within 3.0 metres of that common boundary, forming a barrier between those lands. The term 'fence' includes:

- a) subsequent extensions which increase the effective height of the original barrier, whether attached to or detached from the structure or hedge; and*
- b) a structure or hedge forming a barrier between a lot and a thoroughfare or reserve;*

but does not include any structural part of a building (additional emphasis added).

In this respect, the City can legally consider the proposed fencing height for the subject site as it is not deemed to be a building and, rather, it is classified as a structure.

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

In considering the application, the Council is required to have due regard to, and may impose conditions with respect to, matters listed in clause 1.6 of TPS6, which are, in the opinion of the Council, relevant to the proposed development. Of the 12 listed matters, the following are particularly relevant to the current application and require careful consideration (considered not to comply in bold):

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

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

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

In considering an application for development approval, the Local Government is to have due regard to the matters listed in Clause 67 of the Deemed Provisions to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application. An assessment of the proposal against Clause 67 is considered through the planning assessment above. The matters most relevant to the proposal, and the City's response to each consideration, are outlined in the table below:

Matter	Officer's Comment
<i>(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;</i>	The development is considered to be an incidental addition to assist with the functioning and usability of the playing grounds.
<i>(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</i>	As outlined above, the fencing addition is considered to be compatible with the style of fencing surrounding the playing grounds.
<i>(y) any submissions received on the application;</i>	One submission was received and it has been duly considered in regards to the fencing allowing views of the playing grounds to be maintained.

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

Consultation**(h) Neighbour Consultation**

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 'Consultation for Planning Proposals'. Under the standard consultation method, individual property owners, occupiers and/or strata bodies along Dungarvan Court were invited to inspect the plans and to submit comments during a minimum 14-day period.

During the advertising period, a total of 16 consultation notices were sent and one submission was received, which was generally a neutral response providing some feedback on potential concerns. The comments from the submitter, together with officer responses are summarised below:

Submitters' Comments	Officer's Responses
Restricting views Potential to block views towards the playing grounds	The mesh material of fencing proposed is the same as the existing style of fencing bordering the site today, and will allow for visibility toward the park to be maintained. The comment is NOTED .

Policy and Legislative Implications

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

Financial Implications

Nil.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Environment (Built and Natural)
Aspiration:	Sustainable urban neighbourhoods
Outcome:	Sustainable built form
Strategy:	Promote and facilitate contemporary sustainable buildings and land use

Sustainability Implications

Nil.

Conclusion

It is considered that the proposal meets all of the relevant Scheme and/or Council Policy objectives and provisions, as it will not have a detrimental impact on adjoining residential neighbours and streetscape. The fencing is also considered to allow for views to remain unrestricted for surrounding properties. On this basis, it is considered that the application should be conditionally approved.

Attachments

- 10.3.5 (a):** Development Plans - 6 Elderfield Road - Fencing additions to Private Institution (School Playing Grounds) - 11.2018.431.1
- 10.3.5 (b):** Site Visit Photos – 6 Elderfield Road – Fencing additions to Private Institution – 11.2018.431.1

10.3.6 Proposed Two-Storey Single House on Lot 56 (No. 25) Waverley Street, South Perth

Location: Lot 56 (No. 25) Waverley Street, South Perth
Ward: Mill Point
Applicant: Helen Marchesani/Bob Muirhead
File Reference: D-19-5821
DA Lodgement Date: 18 September 2018
Meeting Date: 19 February 2019
Author(s): Valerie Gillum, Statutory Planning Officer Development Services
Reporting Officer(s): Vicki Lummer, Director Development and Community Services
Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy: 3.2 Sustainable Built Form

Summary

To consider an application for development approval for a Two Storey Single House on Lot 56 (No. 25) Waverley Street, South Perth. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Boundary Walls (North and South – Ground Floor)	Policy P350.02 – Lot boundary setbacks (Boundary Walls) and Design Principles of Clause 5.1.3 of <i>R-Codes of WA</i>
Lot boundary setback (South – Ground Floor)	Design Principles of Clause 5.1.3 of <i>R-Codes of WA</i>
Lot boundary setback (North – Ground Floor)	Design Principles of Clause 5.1.3 of <i>R-Codes of WA</i>
Open Space	Design Principles of Clause 5.1.4 of <i>R-Codes of WA</i>
Solar access for adjoining sites	Design Principles of Clause 5.4.2 of <i>R-Codes of WA</i>

Officer Recommendation

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for development approval for a Two-Storey Single House on Lot 56 (No. 25) Waverley Street, South Perth **be approved** subject to:

1. The development shall be in accordance with the approved plans unless otherwise authorised by the City.
2. Prior to issue of a building permit, the applicant is required to pay a sum of \$5,245.68 as detailed on the tax invoice that will be issued by the City for the cost of removing and replacing an existing street tree that is in conflict with the proposed crossover. (Refer to related Advice Note)

3. Prior to the submission of a building permit application, details of the surface of the boundary wall to the Garage on the southern side of the lot shall be provided. The surface finish is to match the external walls of the neighbour's dwelling, unless the owner(s) of the adjoining property consent to another finish and their written agreement for the selected finish is supplied to the City, to the satisfaction of the City.
4. Prior to occupation of the dwelling, all visual privacy screens and obscure glazing to Major Openings and/or Outdoor Active Habitable Spaces shown on the approved plans shall prevent overlooking in accordance with the visual privacy requirements of the Residential Design Codes of WA. The structure(s) shall be installed and remain in place permanently, to the satisfaction of the City.
5. The proposed fence within the primary street setback area shall be constructed in accordance with the approved plans of which the open aspect steel sections are to be 80% visually permeable as prescribed in Table 1 of Council Policy *P350.07 "Fencing and Retaining Walls"*.
6. The alfresco is to remain unenclosed on a minimum of two sides.
7. The height of any wall, fence or other structure, shall be no higher than 0.75 metres within 1.5 metres of where any driveway meets any public street unless otherwise noted in Condition (5) above, to the satisfaction of the City.
8. Prior to occupation of the dwelling the applicant shall construct a crossover between the road and right of way and the property boundary in accordance with the approved plans, to the satisfaction of the City. (Refer to related Advice Note)
9. All stormwater from the property shall be discharged into soak wells or sumps located on the site unless otherwise approved by the City.
10. Prior to occupation of the dwelling a minimum of one tree not less than 3.0 metres in height at the time of planting and of a species approved by the City shall be planted within the street setback area or elsewhere on the site. The tree/s shall be maintained in good condition thereafter.
11. External clothes drying facilities shall be provided for each dwelling, and shall be screened from view from all streets or any other public place.

Note: City officers will include relevant advice notes on the recommendation letter.

Background

The development site details are as follows:

Zoning	Residential
Density coding	R15
Lot area	412.32 sq. metres
Building height limit	7.0 metres
Development potential	One (1) Single Dwelling
Plot ratio limit	Not Applicable

The location of the development site is shown below:

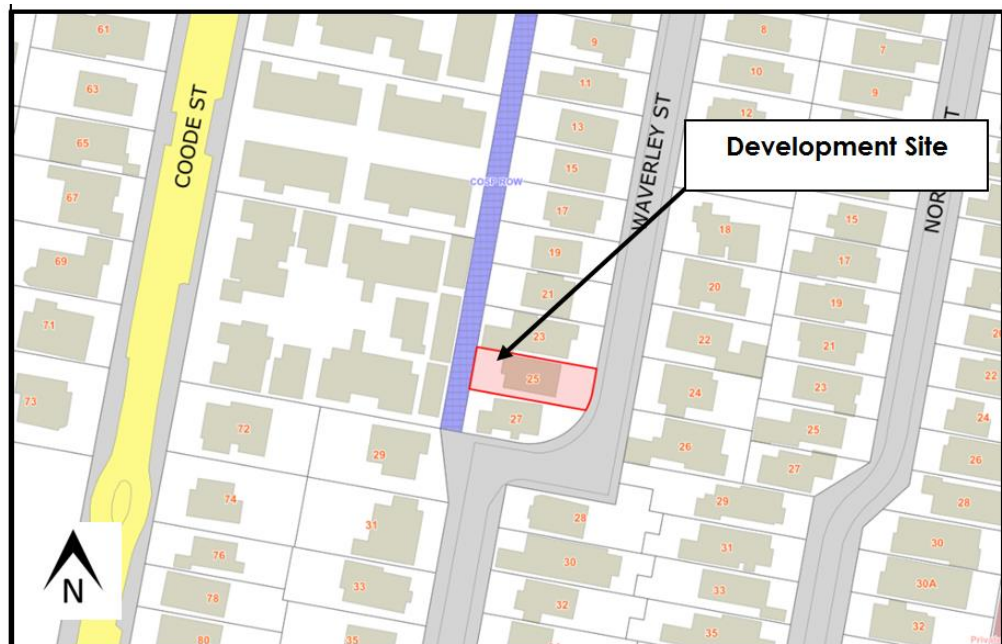


Figure 1: Development site

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

3. Developments involving the exercise of a discretionary power

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

(a) Background

In September 2018, the City received an application for a Two Storey Single House on Lot 56 (No. 25) Waverley Street, South Perth (the Site).

An amended set of plans was provided by the applicant in response to concerns raised by the City and those raised during the neighbour consultation period, specifically regarding the lot boundary setbacks to the south, overlooking to the south from the first floor as well as to the north from the ground floor outdoor living area and overshadowing.

The amended plans included the following changes:

- lowering the finished floor level of the dwelling by 0.1m;
- removing major openings on the ground floor to the south;
- the provision of screening to the upper floor bedroom (east elevation) to prevent overlooking to the southern boundary; and
- front bedroom window moved back 250mm to assist street setback averaging.

The amendments made addressed some of the concerns raised however, the changes did not significantly reduce the amount of overshadowing proposed. Justification was provided by the applicant for any outstanding variation and is included in **Attachment (b)**.

(b) Existing Development on the Subject Site

The subject site is located at Lot 56 (No. 25) Waverley Street, South Perth. The Site currently contains a single storey single house. The site and surrounding area can be seen in the Site Photos at **Attachment (c)**.

(c) Description of the Surrounding Locality

The Site has a frontage to Waverley Street to the east, with Angelo to the north, Coode Street to the west and Carr Street to the South, as seen in **Figure 2** below:

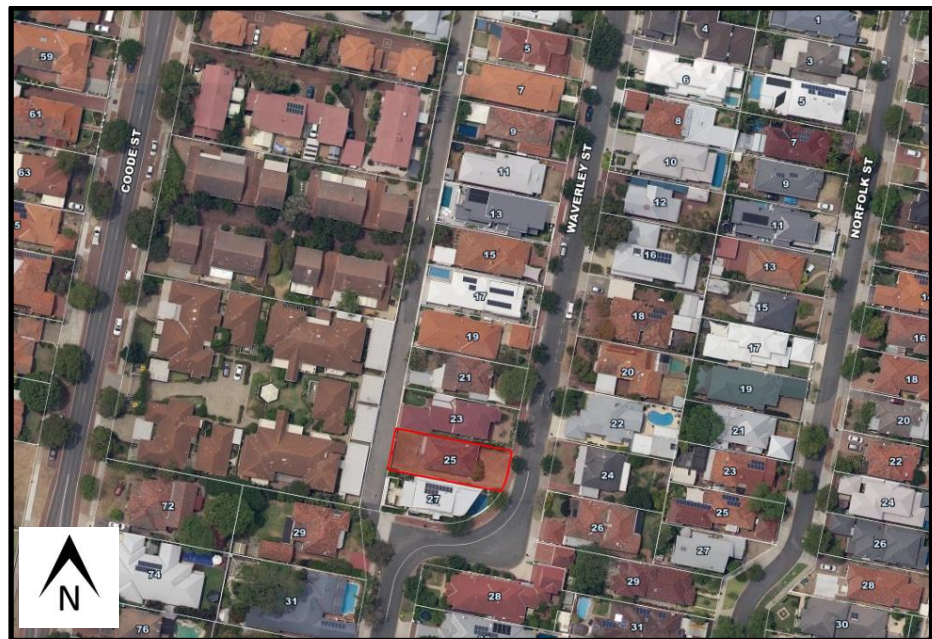


Figure 2: Aerial image of the subject site

(d) Description of the Proposal

The proposal involves the construction of a Two Storey Single House on the Site, as depicted in the submitted plans at **Attachment (a)**. The proposed Single House includes the following:

- Three bedrooms;
- Two bathrooms;
- Scullery;
- Kitchen, dining and living room;
- Double garage;
- Study;
- Upper floor sitting room;
- Laundry; and
- Alfresco.

(e) Scheme and R-Codes Provisions

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

- (i) Boundary wall (south);
- (ii) Lot boundary setback (north and south – ground level);
- (iii) Open Space; and
- (iv) Overshadowing.

The Applicant has provided justification with respect to the proposal at **Attachment (b)**.

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

(f) Boundary Wall (south)

Element	Deemed-to-comply	Provided
Southern boundary wall (garage)	1.0 metre setback from boundary	Nil setback
<p><i>Design Principles:</i></p> <p>(a) <i>Streetscape character;</i></p> <p>(b) <i>Outlook from:</i></p> <p style="padding-left: 40px;">(i) <i>the front of an adjoining dwelling or its front garden, if the proposed boundary wall is located forward of that adjoining dwelling; or</i></p> <p style="padding-left: 40px;">(ii) <i>any habitable room window of an adjoining dwelling;</i></p> <p>(c) <i>Visual impact of building bulk where the proposed boundary wall is situated alongside an outdoor living area on an adjoining lot; and</i></p> <p>(d) <i>Amount of overshadowing of a habitable room window or outdoor living area on an adjoining lot. The amenity impact of the boundary wall will be deemed to be acceptable where the overshadowing caused by the boundary wall does not exceed the overshadowing caused by a wall that conforms to the Residential Design Codes 'deemed-to-comply' setback.</i></p>		

Southern boundary wall (Garage)

There is one boundary wall proposed to the southern lot boundary, the wall being the garage. The length for this wall is 4.3 metres and 2.4 metres in height. As the site is coded R15 there are no deemed to comply requirements that apply for a boundary wall and therefore it must be assessed against the above noted design principles.

The proposed garage boundary wall is considered to meet the Design Principles of the R-Codes and Policy P350.02 – Lot boundary setbacks (Boundary Walls) for the following reasons:

- The boundary wall will not be adjacent to an outdoor living area or major openings to habitable rooms and instead abuts the neighbouring property's brick fence which is constructed to the same height (approved to a height of 2.45m in 2012, refer Figure 4). As such there will be no overshadowing or visual bulk as a result of this wall. Photos below (Figure 3) show the rear right of way fence at 1.8 metres relative to the side boundary brick fence.



Figure 3: Images of Side Boundary Fence between subject site and No. 27 Waverley Street and Right-of-Way fence

- The length of this section of building is not considered to be excessive to the extent that it would result in a significant sense of confinement. It is noted that the overall length of the southern boundary is 33.37 metres. As such, this garage boundary wall accounts for only 12.8% of the overall length of the southern lot boundary. Taking into account this context of the site, it is considered that there would be adequate sunlight and ventilation afforded to the adjoining property.
- This garage boundary wall is at the rear of the site and is setback 1.0 metre from the right of way and therefore will not have an impact on the streetscape character.
- Overall, there is not considered to be a significant adverse impact on the amenity of the southern adjoining property for the abovementioned reasons.

(g) Lot boundary setbacks

Element	Deemed-to-comply	Provided
GF South – Living to Garage	1.5 metres	Minimum of 1.0 metre
GF North – Dining to Outdoor Living	1.5 metres	Minimum of 1.0 metre
<p><i>Design Principles:</i></p> <p><i>P3.1: Buildings set back from lot boundaries so as to:</i></p> <ul style="list-style-type: none"> <i>Reduce impacts of building bulk on adjoining properties;</i> <i>Provide adequate direct sun and ventilation to the building and open spaces on the site and adjoining properties; and</i> <i>Minimise the extent of overlooking and resultant loss of privacy on adjoining properties.</i> 		

The proposed southern lot boundary setbacks are considered to meet the Design Principles of the R-Codes for the following reasons:

Southern Ground Floor Setback

- The ground floor southern lot boundary setback from the living room to garage elevation is considered to be a sufficient distance so as to reduce building bulk impacts on the southern adjoining property. The height and length of this section of the ground floor of the building, being 3.2 metres and 10 metres, respectively, are not considered to result in an adverse building bulk impact. This part of the dwelling abuts the neighbouring property's rear stairwell, bedroom and bathroom of which their boundary brick wall at approximately 2.4 metres high would pose more of an impact than the wall on the subject site setback a further 1.0 metre in terms of overshadowing (see Figure 4 below).

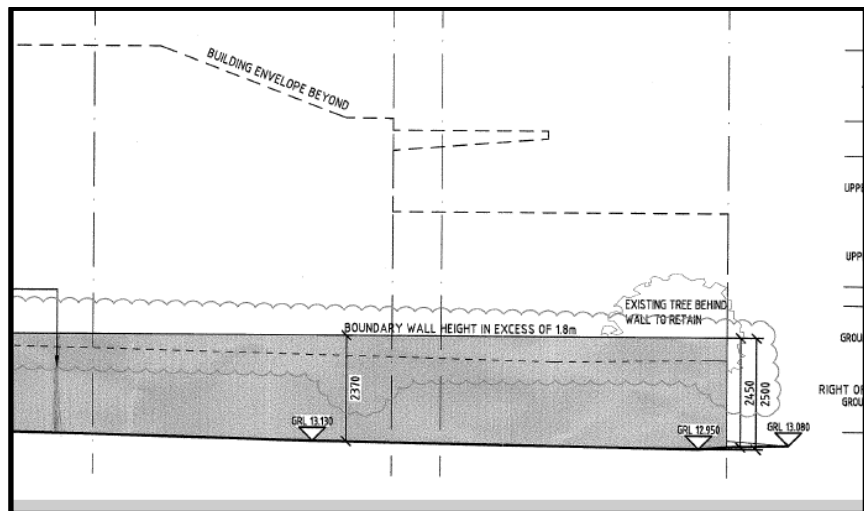


Figure 4: Neighbour's approved over-height fence

- There is no overlooking as a result of this reduced lot boundary setback as there are no major openings in this portion of wall length.
- While the proposed shadow cast does not satisfy the deemed-to-comply requirements, which is discussed in further detail later on in this report, overall, there is not considered to be a significant adverse impact on the amenity of the southern adjoining property as a result of this ground floor lot boundary setback variation.

Northern Ground Floor Setback

- The northern lot boundary setback of 1.0 metre in lieu of 1.5 metres from the dining room to outdoor living elevation is considered to be a sufficient distance so as to ensure there is no perceived building bulk impact on the northern adjoining property, particularly with half of this length being an open outdoor living area. The height and length of this section of the building on the northern elevation, being 3.2 metres and 9.6 metres, respectively, are not considered to result in an adverse building bulk impact.

Furthermore, the property to the north includes a boundary wall adjacent the rear 2.0 metres of this length of wall, therefore any view from the neighbouring property to this wall is limited to 7.6 metres.

- The minimum 1.0 metre setback is considered to be a reasonable setback to facilitate the infiltration of adequate sunlight and ventilation to the subject site particularly with a further separation of the outdoor living area to the nearest wall of 3.5 metres.
- There will be no loss of privacy to the adjoining property to the north as a result of this proposed lot boundary setback variation particularly with the lowering of the ground storey finished floor level by 100mm.
- Due to the sites orientation, there will be no shadow cast to the adjoining property to the north.
- For the above reasons there is not considered to be an adverse impact on the amenity of the northern adjoining property as a result of this ground floor lot boundary setback variation.

(h) **Open Space**

Element	Deemed-to-comply	Provided
Provision of Open Space on the Development Site.	50% (206m ²)	46.6% (192m ²)
<p><i>Design Principles:</i> <i>P2.2 Development incorporates suitable open space for its context to:</i></p> <ul style="list-style-type: none"> • <i>reflect the existing and/or desired streetscape character or as outlined under the local planning framework;</i> • <i>provide access to natural sunlight for the dwelling;</i> • <i>reduce building bulk on the site, consistent with the expectations of the applicable density code and/or as outlined in the local planning framework;</i> • <i>provide an attractive setting for the buildings, landscape, vegetation and streetscape;</i> • <i>provide opportunities for residents to use space external to the dwelling for outdoor pursuits and access within/around the site; and</i> • <i>provide space for external fixtures and essential facilities.</i> 		

The proposed open space at 46.6% in lieu of 50% is considered to meet the Design Principles of the R-Codes for the following reasons:

- The level of open space is considered to reflect a comparable provision to the existing streetscape character, taking into account the setbacks of 4.5 metres and 7.4 metres from Waverley Street.
- The open space provision is considered to allow for the infiltration of sunlight into the dwelling. In particular, the larger windows facing the northern aspect and the outdoor living area facing the northern/western aspects to allow winter sun to enter the building.
- The extent of open space provided is considered to provide an attractive setting for the buildings, landscape, vegetation and streetscape. There is a reasonable degree of space in the primary street setback area which will be used for landscaping and planting of vegetation.

- There is sufficient space external to the dwelling which could readily be used for outdoor pursuits, while also facilitating access within and around the site, particularly as there is an outdoor living area of 65 square metres provided on the development site.
- The open space allocation allows for space to install external fixtures and essential facilities such as a clothes drying area.

(i) **Solar Access for adjoining sites**

Element	Deemed-to-comply	Provided
Overshadowing (onto No. 27 Waverley Street)	25% (89.125m ²)	35.7% (133.25m ²)
<p><i>Design Principles:</i> P2.2 Development design to protect solar access for neighbouring properties taking account the potential overshadow existing:</p> <ul style="list-style-type: none"> • Outdoor living areas; • North facing major openings to habitable rooms, within 15 degrees of north in each direction; or • Roof mounted solar collectors. 		

Amended plans were provided by the applicant that included lowering the finished floor level of the dwelling by 0.1m which resulted in a minor reduction of overshadowing from 39.2% to 35.7% however the resultant amount still remains as a variation of 10.7% (44.125 square metres) above the permitted overshadowing.

While the proposed shadow cast may seem excessive, it is noted that the adjoining lot is quite narrow in width (12.4m) and has a much smaller lot size than the rest of the street due to the corner truncation being excluded from the lot area. It must be further noted that if this lot were to follow the same street alignment as the rest of the street and include the truncation (see Figure 5 below), the total area of the lot would be 425.8m² which would result in a total shadow cast of 31.3%.

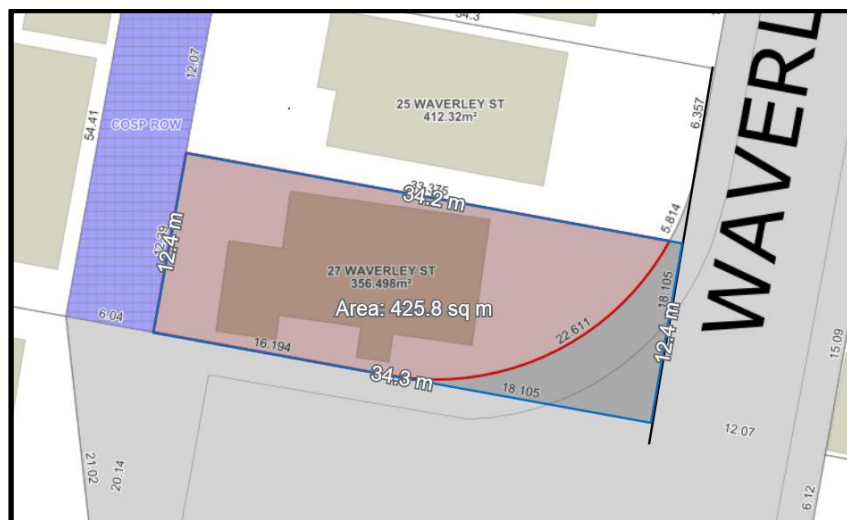


Figure 5: Southern Lot with Truncation included

Given the narrowness of the site and orientation of the property it is considered reasonable that a development on the subject site would seek a variation to this requirement. The following note from the Explanatory Guidelines for Residential Design Codes WA is referred to in assessing overshadowing, particularly in the context of development applications proposed on narrow lots:

“In such cases, even a relatively low building may cast mid-winter shadow over a greater proportion of the site than allowed under deemed-to-comply provisions... It is possible, however, that some overshadowing is unavoidable. In these cases, careful consideration as to what is being overshadowed, rather than the extent of overshadowing, should be judged on merit and the design principle applied. (Explanatory Guidelines for Residential Design Codes WA, pp 66-67)”

As identified above, an assessment of overshadowing should not be simply focused on the fact that the shadow cast is above the deemed-to-comply requirement; instead, a thorough examination of the spaces impacted by shadow should be conducted.

The proposed overshadowing is considered to satisfy the Design Principles of the R-Codes for the following reasons:

- As can be seen from the ‘Overshadowing Plan 1’ 3D Image (indicative as at midday on 21 June) submitted by the applicants and shown below in Figure 6, the furthest shadow cast is from the first floor falling onto the front portion of the neighbouring property’s swimming pool area and the lower half of the major opening to their family room. This family room being adjacent to the pool area is also afforded access to sunlight from the east of which glazing spans across the full width of the room at that frontage (see elevations depicted in Figure 7 and 8).

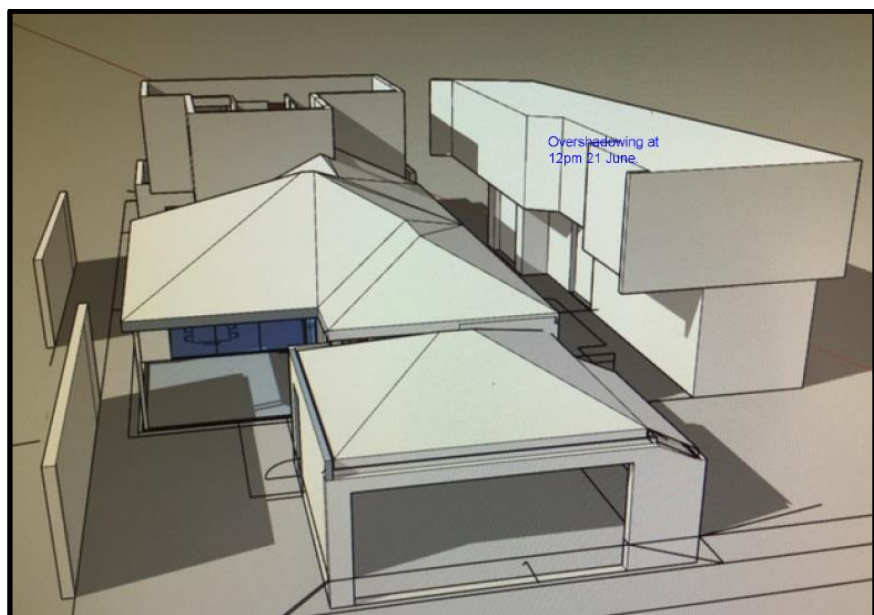


Figure 6: ‘Overshadowing Plan 1’ 3D Image

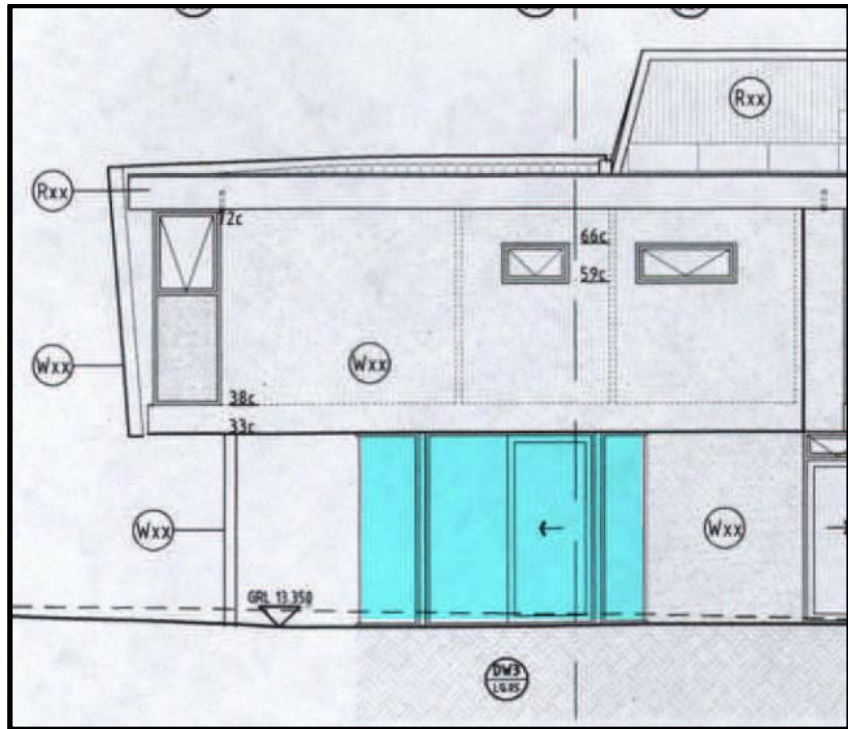


Figure 7: South elevation of the Family Room major opening at 27 Waverley Street (major opening highlighted blue)

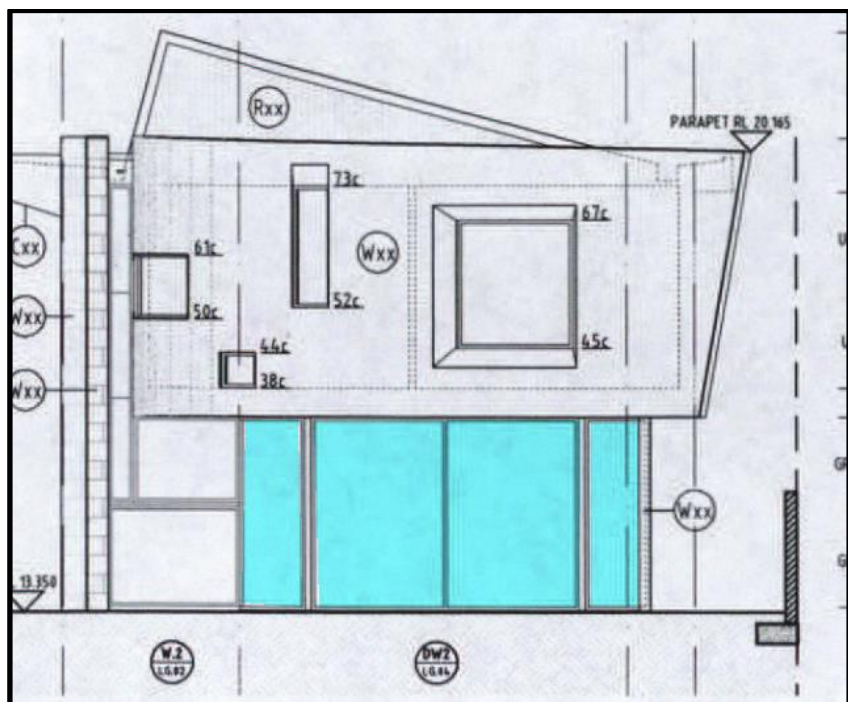


Figure 8: East Elevation of the Family Room at No. 27 Waverley Street (major opening highlighted blue)

- The applicants have also submitted an overshadowing section showing the angle of how the shadow falls to the south (as depicted in Figure 9). The shadow highlighted in this diagram is indicative of the shadow that extends from the stairwell/sitting room wall beyond to the most affected north facing major opening of the neighbouring property, being the family room.

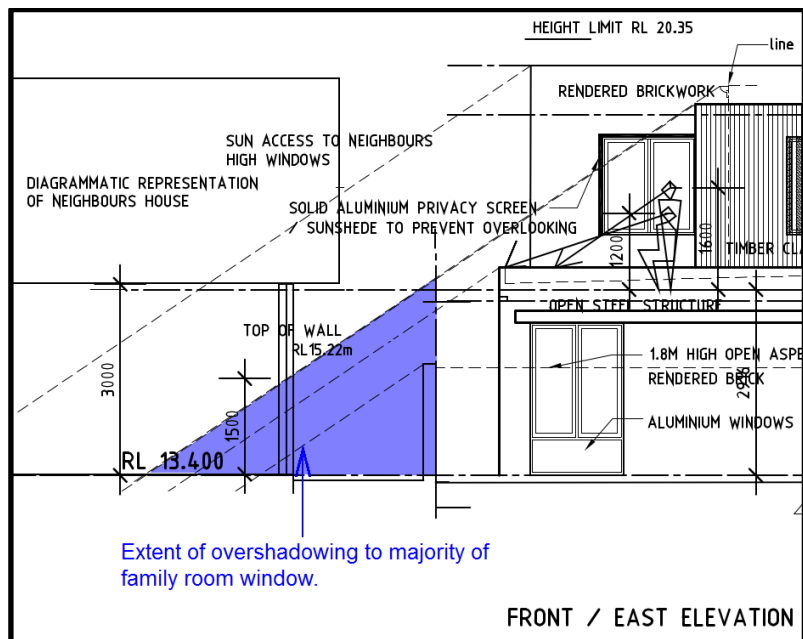


Figure 9: Overshadowing Section to the major opening to the southern adjoining site (27 Waverley Street)

- There are two other north facing major openings (at ground level) overshadowed to the south which are bedrooms of which the windows of those rooms are already overshadowed by the existing over height brick boundary fence.
- While the neighbour's swimming pool area is proposed to be overshadowed, this is reflective of shadow cast at midday on 21 June when it is considered the swimming pool would not be in peak use by the occupants of the dwelling.
- As can be seen from the 'Overshadowing Plan 2' 3D Image (indicative as at 2pm on 21 June) submitted by the applicants and as shown in Figure 10 below, the shadow cast at this time demonstrates that the affected major openings would benefit from the afternoon sun when it is further west.

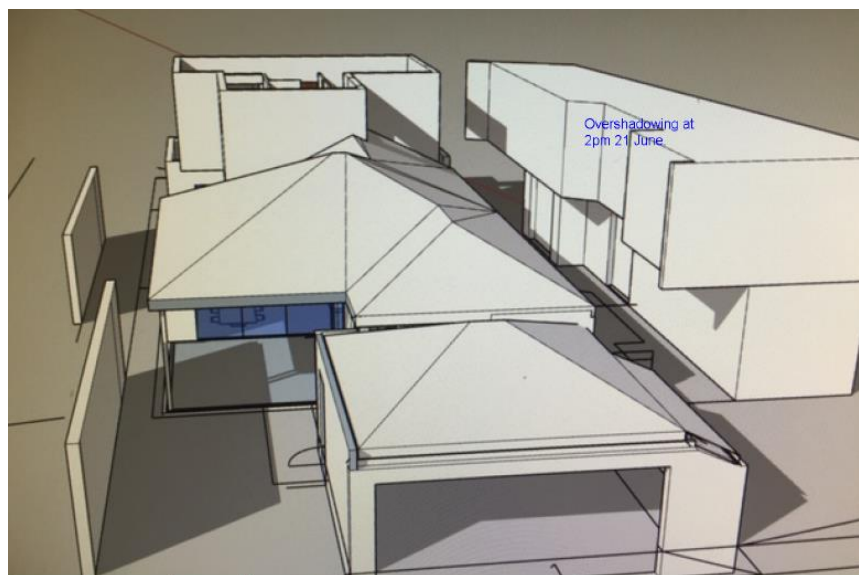


Figure 10: 'Overshadowing Plan 2' 3D Image

- As detailed above, the proposed variation is considered to meet the design principles as the proposal is considered to have an acceptable impact on the adjoining property to the south.

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

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

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

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

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

In considering an application for development approval the local government is to have due regard to 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 the proposal, and the City's response to each consideration, are outlined in the table below:

Matter	Officer's Comment
<i>(c) any approved State Planning Policy;</i>	Two design elements of the proposal are considered to satisfy the Design Principles of clause 5.1.3 and 5.4.2 of the Residential Design Codes WA, which is a State Planning Policy incorporated into the City's Town Planning Scheme No.6.
<i>(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</i>	The height, bulk and scale of the development is considered to be consistent within the focus area in which there are many examples of two storey development and most noticeably the adjoining property to the south, who's two storey development is of a much larger scale to the subject site. Therefore the proposal is not deemed to adversely impact the streetscape.

<p><i>(n) the amenity of the locality including the following –</i></p> <p><i>(i) environmental impacts of the development;</i></p> <p><i>(ii) the character of the locality;</i></p> <p><i>(iii) social impacts of the development;</i></p>	<p>The proposal is considered to have an acceptable impact on the amenity of the locality by virtue of an adverse overshadowing impact, as detailed in the report.</p>
<p><i>(y) any submissions received on the application;</i></p>	<p>The submissions received in the advertising period have been duly considered, as outlined in the 'Consultation' section of this report.</p>

Consultation

(l) Neighbour Consultation

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 'Consultation for Planning Proposals'. Under the standard consultation method, individual property owners, occupiers and/or strata bodies at Nos 23 and 27 Waverley Street were invited to inspect the plans and to submit comments during a minimum 14-day period.

During the advertising period, a total of two consultation notices were sent and two submissions were received objecting to the proposal. The comments of the submitters, together with officer responses are summarised below.

Submitters' Comments (summarised)	Officer's Responses
<p>SOUTH SIDE</p> <p>Setback of living/laundry wall at 1.0m in lieu of 1.5m - we are only concerned in respect of this point insofar as they affect overshadowing. If they would make a difference to the extent of overshadowing, then we would want them to comply with the Residential Design Code (Code).</p> <p>Overshadowing - this is the issue of greatest concern for us. We note the proposed overshadowing has been reduced minimally. The proposed overshadowing exceeded the deemed to comply allowance remains a significant breach of the Code. If a percentage breach of that magnitude were deemed permissible, then one would have to wonder what the purpose is of having a Code in the first place. In our view, the amendment to the plans made only a token effort to</p>	<p>The setback proposed, if it was to meet the deemed to comply setbacks would not significantly result in reducing overshadowing particularly as the over height fence up to 2.45 metres already casts a similar shadow to the major openings of the two bedrooms.</p> <p>The comment is NOTED.</p> <p>The proposed shadow cast is considered to be supportable against the design principles of the R-Codes. Refer to the 'Overshadowing' section of this report for further detail.</p> <p>This comment is NOTED</p>

<p>improve the situation with respect to overshadowing.</p> <p>Bedroom screen - if the proposed screen is a fixture which is not removable, and which will appropriately block vision into our lot, then we are satisfied with that outcome.</p>	<p>A condition of approval will require the screening to be in place permanently prior to occupation of the dwelling.</p> <p>The comment is NOTED.</p>
<p>NORTH SIDE Setback of Dining/Outdoor Living Wall at 1.0m in lieu of 1.5m - Location of proposed reduced setback sits adjacent to our downstairs lounge and upstairs bedroom, both being sensitive areas as far as being vulnerable to noise and overlooking as a result of the reduced setback.</p> <p>Noise from air-conditioner units – are there to be external air-conditioners. If these are to be positioned in the reduced setback then there will likely be impact on the amenity of our property.</p> <p>Visual Privacy – We are concerned with regard to overlooking from Bedroom 3 on the first floor of the development.</p>	<p>Finished floor level (FFL) of the dwelling was lowered on submission of amended plans which resulted in the FFL of the dining room and outdoor living area length of the building (north side) being less than 0.5 metres above natural ground level (NGL). As a result of this change there are no concerns in relation to overlooking as the length of the building seeking a variation does not include any major openings to habitable rooms or an active outdoor area greater than 0.5 metres above NGL.</p> <p>Noise from residential living areas is not a planning consideration.</p> <p>The comments are NOTED.</p> <p>Issues relating to noise from air-conditioners on residential properties are regulated under the <i>Environmental Protection (Noise) Regulations 1997</i>.</p> <p>The comment is NOTED.</p> <p>This neighbour was not consulted in relation to the upper floor bedroom wall setback as this wall was consistent with the deemed-to-comply requirement of the <i>Residential Design Codes of WA</i>. The window of this bedroom facing the street will not overlook any sensitive areas behind the street setback of the northern neighbour's property.</p> <p>The comment is NOT UPHELD.</p>

(m) **Other City Departments**

The City Landscapes Officer, City Environment section provided comments with respect to removal of the existing street tree which is required to be undertaken to accommodate the new crossover off Waverley Street. The associated costs are to be paid by the applicant. Accordingly, a planning condition is recommended as appropriate to reflect these comments.

The City Engineer, Engineering Infrastructure Services provided comments with respect to sight lines for the visitor car park and access off Waverley Street in addition to ROW access. In relation to the sight lines, the engineer advised that fencing would need to be 80% permeable inside the 1x1m truncations. Amended plans provided details to show that fencing would be 80% permeable inside the 1x1m truncation. Accordingly, a planning condition is recommended as appropriate to reflect these comments.

Policy and Legislative Implications

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

Financial Implications

This determination has no financial implications.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Environment (Built and Natural)
Aspiration:	Sustainable urban neighbourhoods
Outcome:	3.2 Sustainable built form
Strategy:	Promote and facilitate contemporary sustainable buildings and land use

Sustainability Implications

Noting the constraints posed by the development site with respect to the width of the lot frontage, a smaller lot size than what would normally be afforded to an R15 coded site as well as not a very favourable orientation of the lot; the officers observe that the outdoor living area at the ground level has been provided sufficient access to winter sun. Accordingly, the proposed development is seen to achieve an outcome that has regard to the sustainable design principles.

Conclusion

It is considered that the proposal meets all of the relevant Scheme, R-Codes and/or Council Policy objectives and provisions, as it is not considered to have a detrimental impact on adjoining residential property or the streetscape. In particular, it is considered that the amendments made to the development plans would result in an acceptable impact on the southern property, as the boundary wall, building setbacks, open space and proposed shadow cast to the south are all considered to satisfy the relevant design principles. Accordingly, it is considered that the application should be approved subject to appropriate conditions.

Attachments

10.3.6 (a):	Development Plans
10.3.6 (b):	Applicant's Justification Letter
10.3.6 (c):	Site Photos

10.3.7 Proposed Additions and Alterations to Single House at Lot 32 (No. 4) The Pines Road, Como

Location: Lot 32 (No. 4) The Pines Road, Como
Ward: Como Ward
Applicant: Summit Home Improvements
File Reference: D-19-5840
DA Lodgement Date: 24 October 2018
Meeting Date: 19 February 2019
Author(s): Kevin Tang, Statutory Planning Officer
Reporting Officer(s): Vicki Lummer, Director Development and Community Services
Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy: 3.2 Sustainable Built Form

Summary

To consider an application for development approval for Additions and Alterations to Single House on Lot 32 (No.4) The Pines Road, Como. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Boundary walls	R-Codes clause 5.1.3 and Council Policy P350.2

Officer Recommendation

That pursuant to the provisions of the City of South Perth Town Planning Scheme No. 6 and the Metropolitan Region Scheme, this application for development approval for Additions and Alterations to Single House on Lot 32 (No. 4) The Pines Road, Como, **be approved** subject to the following conditions:

1. Prior to the submission of a building permit application, details of the surface of the boundary wall to the Bedroom 1 and Ensuite not visible from the street, on the eastern side of the lot shall be provided. The finish of the boundary wall is to be compatible with the external walls of the neighbour's dwelling, to the satisfaction of the City.
2. Prior to the submission of a building permit application, details of the proposed colour finishes and materials of the proposed additions shall be provided and such colour finishes and materials shall match with those of the existing building, to the satisfaction of the City.
3. External fixtures, such as air-conditioning infrastructure, shall be integrated into the design of the building so as to not be visually obtrusive when viewed from the street and to protect the visual amenity of residents in neighbouring properties, to the satisfaction of the City.
4. All stormwater from the property shall be discharged into soak wells or sumps located on the site unless otherwise approved by the City.

5. The development shall be in accordance with the approved plans at all times unless otherwise authorised by the City.

Note: City officers will include relevant advice notes on the approval letter.

Background

The development site details are as follows:

Zoning	Residential
Density coding	R30
Lot area	369m ²
Building height limit	7 metres
Development potential	One Single House
Plot ratio limit	N/A – open space requirements apply

The location of the development site is shown below:

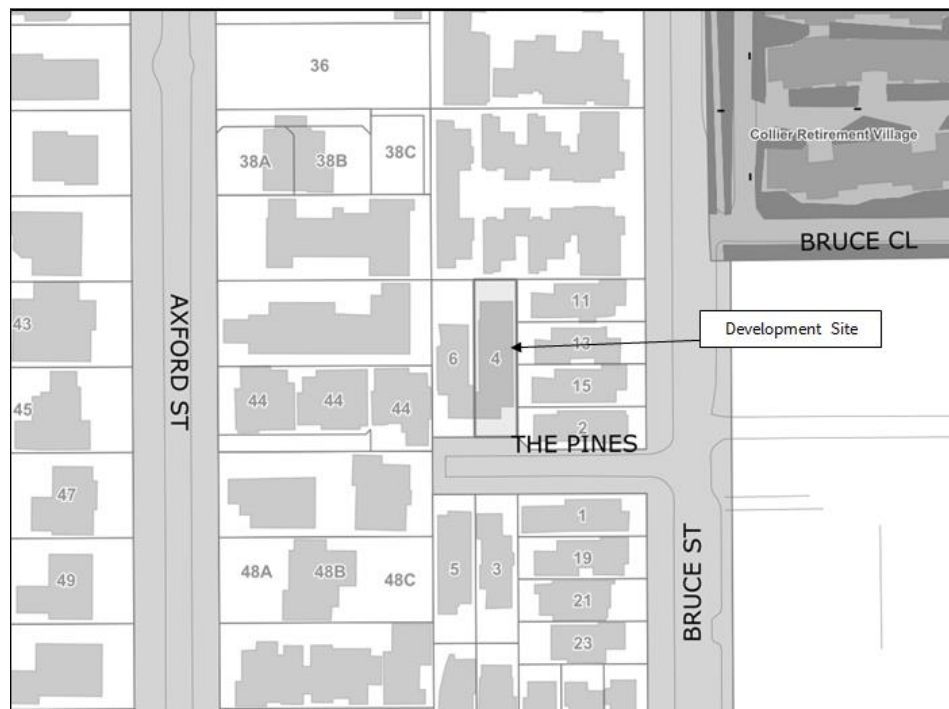


Figure 1: Location map of subject site.

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

6. Amenity impact

In considering any application for planning approval, the delegated officer shall take into consideration the impact of the proposal on the general amenity of the area. If, in the opinion of the delegated officer, any significant doubt exists, the application shall be referred to Council for determination.

Comment**(a) Background**

In October 2018, the City received an application for Additions and Alterations to Single House in a single storey building on Lot 32 (No. 4) The Pines Road, Como. (the Site)

(b) Existing Development on the Subject Site

The existing development on the Site currently features a three bedroom single-storey Single House that was built in early 2000.

(c) Description of the Surrounding Locality

The Site has a frontage to The Pines Road to the south and is located adjacent to residential properties to both side and rear boundaries. It is noted that the eastern boundary of the Site abuts the rear boundaries of four east-west orientated properties (11, 13 and 15 Bruce Street and 2 The Pines Road), as seen in Figure 2 below:



Figure 2: Aerial image of the subject site.

(d) Description of the Proposal

The proposal involves the construction of single storey additions and alterations to a Single House. Specifically, the works can be described as follows:

- internal alterations to create a larger Family room area and scullery;
- converting an existing small bedroom into a Master Bedroom with Ensuite by extending the building to the eastern boundary, effectively creating a boundary wall of 7.91m in length and 2.761m in maximum height with a 0.1m setback.

The following components of the proposed development do not satisfy the City of South Perth Town Planning Scheme No. 6 (**Scheme; TPS6**) the Residential Design Codes of WA 2018 (**R-Codes**) and/or Council Policy requirements:

- (i) Lot boundary setback (boundary wall)

The Applicant's cover letter and development plans, provided at **Attachment (a)**, describes the proposal in more detail.

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

(e) **Lot boundary setback (boundary wall)**

Element	Deemed-to-comply	Proposed
Boundary wall (Bedroom 1 and Ensuite)	Maximum height – 3.5 metres Average height – 3.0 metres Maximum length – 17.7 metres Street Setback – 4.0 metres One side boundary only	Maximum height – 2.761metres Average height – 2.677 metres Maximum length – 7.91 metres Street Setback – 10.143 metres Two side boundaries (Note: existing garage boundary wall on the western boundary)

Design Principles

Residential Design Codes – Clause 5.1.3

P3.2 buildings built up to boundaries (other than the street boundary) where this:

- Makes more effective use of space for enhanced privacy for the occupants or outdoor living areas;
- Does not compromise the design principle contained in clause 5.1.3 P3.1;
- Does not have any adverse impact on the amenity of the adjoining property (further explained by clause 2 of Local Policy P350.2 below);
- Ensure direct sun to major openings to habitable rooms and outdoor living areas for adjoining properties is not restricted; and
- Positively contributes to the prevailing or future development context and streetscape as outlined in the local planning framework.

P350.2 – Lot Boundary Setbacks (Boundary Walls) Clause 2 relevant amenity considerations

- Streetscape character;
- Outlook from any habitable room window of an adjoining dwelling;
- Visual impact of building bulk where the proposed boundary wall is situated alongside an outdoor living area on an adjoining lot; and
- Amount of overshadowing of a habitable room window or outdoor living area on an adjoining lot. The amenity impact of the boundary wall will be deemed to be acceptable where the overshadowing caused by the boundary wall does not exceed the overshadowing caused by a wall that conforms to the R-Codes deemed to comply setback.

The only variation that the proposal is seeking under the deemed-to-comply provisions of R-Codes is that a boundary wall is proposed to two side boundaries. There is an existing garage boundary wall on the western boundary of the Site.

The remaining aspects of the proposal comply with the deemed-to-comply provisions of the R-Codes in terms of the permitted maximum and average wall height as well as wall length.

Notwithstanding, the variation is considered to satisfy the design principles of the R-Codes for the following reasons:

- The height and length of this boundary wall, being a maximum height of 2.761m, with an average height of 3m, and length of 7.91m, are compliant with the deemed-to-comply standards of R-Codes.
- There would be no visual privacy concerns as there is no major opening being proposed on the boundary wall;
- The proposed boundary wall is set back 10.14m away from the street boundary in lieu of 6m required under the deemed-to-comply standards of R-Codes;
- It is noted that due to the sites orientation, the adjoining property would not be impacted by shadow which is cast on 21 June at 12 pm. This boundary wall is therefore compliant with solar access requirements of the R-Codes;
- As there is a minimum of 3m setback between the proposed boundary wall and neighbouring buildings, there is considered to be sufficient open space on the eastern boundary to allow for ventilation to the these buildings;
- In relation to building bulk impact, it is noted that the proposed boundary wall complies with maximum and average wall height and wall length permitted under the deemed-to-comply standards of R-Codes. Hence, it does not create an unexpected building bulk impact on the adjoining land. Additionally, the R-Codes Explanatory Guidelines advises “*single storey walls are not usually problematic in terms of impact on adjoining properties*”. It is therefore considered that the building bulk impact would be acceptable.
- The outlook from a habitable room window is not considered to be further restricted. The neighbouring property to the east (No. 15 Bruce Street) includes two Family Room windows facing the proposed boundary wall to the west. The existing outlook from the north Family Room window is provided in the photo below:



Figure 3: Outlook from a neighbouring room window.

It is considered that the outlook from this window would not be substantially affected given the proposed boundary wall would be lower than the existing wall and would not further restrict the outlook to the sky. The proposed boundary wall would have a negligible impact on the outlook of the south Family Room window as it does not affect the window directly. This is demonstrated on a lighttable diagram, provided at **Attachment (b)** (two Family Room windows are marked blue).

- It is considered that the proposal would have a minimal impact on the other eastern adjoining property (No. 13 Bruce Street).
- In relation to direct sun access, the proposed boundary wall contains a design that continues along the existing roof line, resulting in lower height than the existing wall and minimal impact on the direct sun access. The applicant has also provided a video to demonstrate that the two family room windows would still have direct sun access between 1pm and 4pm on 21 June (winter).
- The boundary wall is not deemed to be out of character with the streetscape, noting a number of other boundary walls being visible from the street in close proximity to the subject site.

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

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

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

The proposed development is considered satisfactory in relation to the above item given the proposal is considered to comply with the design principles of R-Codes.

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

In considering an application for development approval the local government is to have due regards to the following matters to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application. The matters relevant to the proposal, and the City's response to each consideration, are outlined in the table below:

Matters	Officer's Responses
(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;	For reasons outlined in the report, the development is considered to be consistent with the aims and provisions of the Scheme, particularly the following: <i>Clause 1.6 (f): Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development.</i>
(c) any approved State Planning Policy;	For reasons outlined in the report, the development is considered to meet the relevant design principles within the R-Codes, being a State Planning Policy of the state.
(g) any local planning policy for the Scheme area;	For reasons outlined in the report, the development is considered to address the City's Local Planning Policy P350.02 – Lot Boundary Setbacks (Walls to Lot Boundaries).
(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;	The height, bulk and scale of the development is considered to be consistent within the focus area in which there are many examples of walls being located on the boundaries. Therefore the proposal is not deemed to adversely impact the streetscape.
(n) the amenity of the locality including the following – (i) environmental impacts of the development; (ii) the character of the locality; (iii) social impacts of the development;	The subject site and its surrounds are zoned R30, which is a medium density area. 15 Bruce St adjoins the subject site on the eastern boundary and contains an alfresco area already affected by a boundary wall abutting to the north side. The proposed development would have the most impact on 15 Bruce St which would have two boundary walls on the northern and western lot boundaries.

	Notwithstanding, the proposed boundary wall is seeking a minor variation and should be assessed on its own planning merits. The variation is supportable under the design principle assessment for reasons mentioned in the report. The proposed development is not considered to have a significant amenity impact on the adjoining properties and is in keeping with the residential character of the locality.
(y) any submissions received on the application.	As discussed further in the Consultation section below, the concerns raised by surrounding neighbour(s) have been taken into account as part of the assessment of the development application.

Consultation

(k) Neighbour Consultation

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 'Community Engagement in Planning Proposals'. Under the standard consultation method, individual property owners and occupiers at Nos 13 and 15 Bruce Street were invited to inspect the plans and to submit comments during a minimum 14-day period.

During the advertising period, a total of three consultation notices were sent and one submission was received against the proposal. A copy of the full submission is provided at **Attachment (c)**. The comment of the submitters, together with officer responses are summarised below.

Submitters' Comments	Officer's Responses
Overall development context Neighbouring homes are very close on small blocks and light and sunshine is restricted... the last thing we could ever have imagined was more building in the already confined space.	For reasons mentioned in the report, the proposal should be assessed on its own planning merits and is found to be consistent with the general development context of the area. The comment is NOTED .
Building bulk The small outdoor area attached to our living room is also enclosed, as the neighbouring property at 13 Bruce Street was constructed directly on that boundary. It comprises a full brick parapet wall. Should an additional boundary wall be constructed at 4 The Pines, we would be enclosed on either side and the resulting 'shoe box' effect would be oppressive.	The proposal contains a single storey extension with a maximum wall height of 2.7m. For reasons mentioned in the report, it is considered that the proposal does not present an unacceptable building bulk impact on the adjoining properties. The comment is NOTED .

Overshadowing	<p>Due to the orientation of the subject site, the proposed boundary wall will be built on the western boundary of the submitter's site. The proposal would have no overshadowing impact in relation to the R-Codes requirements.</p> <p>The comment is NOT UPHELD.</p>
Potential impact from two exhausts from the proposed ensuite shower and toilet creating a less than pleasant environment.	<p>Planning regulations have no control over odour emitted from the exhausts of shower and toilet.</p> <p>Noise is controlled under the Environmental Protection (Noise) Regulations 1987.</p> <p>The comment is NOTED.</p>
Major interruption, noise nuisance, pollution and likely damage to our property from related construction activities	<p>It is primarily builder's responsibility to ensure that construction activities have minimal impact on the adjoining land. Should the proposed building works adversely affect any neighbouring land, a BA20 or BA20A form under the Building Act would be required as part of the Building Permit application.</p> <p>The comment is NOTED.</p>

Policy and Legislative Implications

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

Financial Implications

This determination has no financial implications.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Environment (Built and Natural)
Aspiration:	Sustainable urban neighbourhoods
Outcome:	Sustainable built form
Strategy:	Promote and facilitate contemporary sustainable buildings and land use

Sustainability Implications

The proposed development is not expected to pose any substantive sustainability implications to the development site or neighbouring properties.

Conclusion

The proposed additions to the existing dwelling are largely consistent with the deemed-to-comply requirements applicable to this development. The only technical variation is that a boundary wall is proposed to both side boundaries. The proposed boundary wall component demonstrates compliance with the corresponding design principles. In forming the recommendation for approval, the City has had regard to the affected neighbour's comments in their submission and made during an on-site inspection of their property.

It is acknowledged that the property at No. 15 Bruce Street will have boundary walls to both its northern boundary (existing) and western boundary (now proposed). Notwithstanding, when determining this application, the City is required to consider this proposal based on its own planning merits and that the development of the subject site should not be adversely affected by the impacts of other existing developments on neighbouring properties.

It is considered that the proposal meets all of the relevant Scheme, R-Codes and policy objectives and provisions and is suitable for approval having regard to all of the relevant matters to be considered by a local government. Accordingly, the application has been recommended for approval subject to conditions.

Attachments

- 10.3.7 (a): Applicant's Cover Letter and Development Plans - 4 The Pines Road - 11.2018.392.1-1
- 10.3.7 (b): Lighttable Diagram - 15 Bruce St house plans superimposed
(*Confidential*)
- 10.3.7 (c): Neighbour Submission - Additions and Alterations to Single House for 4 The Pines Como - 11.2018.392.1

10.4 STRATEGIC DIRECTION 4: LEADERSHIP

10.4.1 WALGA Preferred model for Third Party Appeal Rights for decisions made by Development Assessment Panels

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	City of South Perth
File Ref:	D-19-3015
Meeting Date:	19 February 2019
Author(s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

Summary

This report seeks Council's support for WALGA's suggested preferred model for Third Party Appeal Rights in Planning – specifically in relation to decisions made by Development Assessment Panels.

Officer Recommendation

That Council endorse without changes, the proposed WALGA Third Party Appeal Rights in Planning model for decisions made by the Development Assessment Panels and advise WALGA accordingly.

Background

In the first half of 2017, the Western Australia Local Government Association (WALGA) released a discussion paper titled "Third Party Appeal Rights in Planning". Feedback on the views of local governments on this matter was sought by 14 July 2017. At the June 2017 Ordinary Council meeting, (Item 10.6.5) Council considered the matter. The resolution and reasons given by Council supported the ability to have a Third Party Appeal for Development Assessment Panel applications and also included recommending wider Third Party Appeal rights.

In December 2017 WALGA advised the City that the feedback from Council, along with other feedback received had been considered by WALGA State Council at its 8 September 2017 meeting where it was resolved that further consultation be undertaken on the matter, including workshops, to determine a preferred model.

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

Based on the outcomes of the workshops, WALGA then requested that member Councils consider the preferred model as the introduction of Third Party Appeal Rights for Decisions made by Development Assessment Panels. Council considered this in February 2018 (Item 10.4.5) and supported the preferred model.

The matter was referred back to WALGA State Council in May 2018 where it was resolved to amend the policy position to support the introduction of Third Party Appeal Rights for decisions made by Development Assessment Panels (DAPs).

State Council also resolved to further consult with members to provide more clarity on the exact details of the criteria that need to be established, before any system is implemented by the State Government.

The attached preferred more detailed model was prepared at a workshop with members, and is now circulated for further comment from the sector.

Comments on this draft are sought before 21 February 2019.

The final preferred model will then be presented to the WALGA Zones and State Council for endorsement at the 26 March 2019 meeting.

WALGA has confirmed that an extension to 27 February to accommodate Council's meeting schedule is acceptable.

Comment

WALGA's detailed preferred model for Third Party Appeals can be found at **Attachment (a)**. The attachment provides WALGA's list of proposed benefits of the model, some of which are discussed below. It also describes the process, costs and timeframes of the proposed model.

Benefits

Some of the listed benefits are considered likely and beneficial such as improved transparency and the addressing of community concerns. Some are not considered an issue and have never been a problem for the City, in particular :

- *Provides the ability to challenge any new information being presented at the DAP meeting without the responsible authority being able to undertake any assessment of the new information (unassessed revised plans are currently being lodged and approved at meetings).*

This has not been an issue for the City as the Metro Central JDAP Chairs have been experienced Town Planners.

- *Able to appeal the 'Deferral' process being over utilised, i.e. DAPs are tending to defer applications multiple times rather than making a decision to approve or refuse the proposal.*

This has not been the City's experience.

- *Can give the Local Government more confidence that the developer will provide a fully complete application and discuss the application with the Local Government first, rather than relying on the DAP to condition the proposal requiring additional critical information.*

The City's process for accepting applications, prelodgement discussions and focus on facilitating good development outcomes means that this is not a problem that has been experienced at South Perth.

Notwithstanding these comments, it is considered that this model for the introduction of third party appeal rights in Western Australia is robust enough to form the WALGA policy position for lobbying change at the State government level. Given Council's previous support for the Third Party Appeals, this model should be endorsed without change.

Consultation

There is no consultation required for this decision.

Policy and Legislative Implications

There are no policy or legislative implications for this decision. Support for the WALGA model is a step towards the changes to legislation that would be required should the State government introduce third party appeals in planning.

Financial Implications

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

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

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

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Leadership
Aspiration:	A visionary and influential local government
Outcome:	Good governance
Strategy:	Empower effective and quality decision-making and governance

Attachments

- 10.4.1 (a): WALGA Third Party Appeals model - Development Assessment Panels

10.4.2 Annual Electors Meeting 2018

Location:	Not Applicable
Ward:	All
Applicant:	Not Applicable
File Ref:	D-19-2523
Meeting Date:	19 February 2019
Author(s):	Bernadine Tucker, Manager Governance
Reporting Officer(s):	Geoff Glass, Chief Executive Officer
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

Summary

This report allows Council to consider the outcome of the Annual Electors' Meeting held Monday 10 December 2018

Officer Recommendation

That the Minutes of the Annual Electors' meeting 2018, held 10 December 2018 **be received.**

Background

The Annual Electors' Meeting was held at 7.00pm on Monday 10 December 2018 at the City of South Perth Council Chamber. There were 28 people in attendance together with Councillors, employees and members of the gallery.

Comment

In accordance with Section 5.33 of the *Local Government Act 1995*, Council is required to consider any decisions that result from the meeting. There was one motion as follows:-

"Moved: Ms Cecilia Brooke of South Perth

Seconded: Mr Warwick Boardman of Salter Point.

That the City of South Perth Annual Report for the year 2017/18 and the 2017/18 Annual Financial Statements and the 2017/18 Auditor's Report, be ACCEPTED.

CARRIED"

Consultation

In accordance with Section 5.29 of the *Local Government Act 1995*, an advertisement was placed in the Southern Gazette on 20 November 2018, on the City's website and on all notice boards in the City's Administration Centre and Libraries.

Policy and Legislative Implications

Section 5.27 of the *Local Government Act 1995* states that a general meeting of electors is to be held once every financial year to consider the contents of the annual report for the previous year, and consider other general business. Section 5.29 of the *Local Government Act 1995* states that local public notice must be given. Section 5.33 of the *Local Government Act 1995* states that all decisions made at an electors' meeting are to be considered at a Council meeting.

Financial Implications

Nil.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Leadership
Aspiration:	A visionary and influential local government
Outcome:	Good governance
Strategy:	Empower effective and quality decision-making and governance

Attachments

10.4.2 (a): Annual Electors' Meeting Minutes

10.4.3 Local Government Act Review - Submission to WALGA

Location:	Not Applicable
Ward:	All
Applicant:	Not Applicable
File Ref:	D-19-9552
Meeting Date:	19 February 2019
Author(s):	Bernadine Tucker, Manager Governance
Reporting Officer(s):	Geoff Glass, Chief Executive Officer
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.2 Advocacy

Summary

This report considers the City's response to the Western Australian Local Government Association (WALGA) Phase 2 discussion paper regarding the review of the *Local Government Act 1995*.

Officer Recommendation

That Council supports the Western Australian Local Government Associations discussion paper as contained in **Attachment (a)**.

Background

In August 2018, the Minister for Local Government announced the consultation for Phase 2 of the *Local Government Act 1995* review. The review consisted of 11 themes arranged under three headings: Agile; Smart; and Inclusive.

The Western Australian Local Government Association (WALGA) have developed a discussion paper on Phase 2 and have requested local governments to consider WALGA's position and provide a submission on what is being proposed. This will help to formulate a sector wide position to be presented to the WALGA Zone meeting leading up to the 6 March WALGA State Council Meeting.

Individual Councillors and community members are able to make a submission directly to the Department of Local Government, Sport and Cultural Industries (Department) on Phase 2 of the *Local Government Act 1995* review.

Comment

The City believes commenting on the WALGA discussion paper is an effective means of communicating to the Department. It is recommended that Council supports the WALGA discussion paper for Phase 2 of the *Local Government Act 1995* review.

Consultation

The WALGA discussion paper was distributed to all Councillors, the Executive and Management teams.

Policy and Legislative Implications

Nil.

Financial Implications

Nil.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Leadership
Aspiration:	A visionary and influential local government
Outcome:	Good governance
Strategy:	Empower effective and quality decision-making and governance

Attachments

10.4.3 (a): WALGA Phase 2 Discussion Paper

10.4.4 Inner City Memorandum of Understanding

Location:	Not Applicable
Ward:	All
Applicant:	Not Applicable
File Ref:	D-19-4292
Meeting Date:	19 February 2019
Author(s):	Bernadine Tucker, Manager Governance
Reporting Officer(s):	Geoff Glass, Chief Executive Officer
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.2 Advocacy

Summary

This report seeks Councils endorsement of a Memorandum of Understanding between the City and four other local governments for possible collaboration opportunities on strategic issues impacting on local government.

Officer Recommendation

That Council endorse the Inner City Memorandum of Understanding in Attachment (a).

Background

Five local governments, consisting of the City of South Perth, City of Perth, City of Subiaco, City of Vincent and the Town of Victoria Park, have been in discussion on how to further their brand, objectives and strategic outcomes. Discussions also included how to create appealing destinations for local community and industry as well as interstate and international visitors and the provision of future investment opportunities. The five local governments determined the best approach would be to establish a co-operative relationship between the five local governments.

The proposed Memorandum of Understanding formalises this collaboration and provides the following objectives:-

- Coordinate joint approaches to State and Federal Governments on shared issues;
- Agree to an effective forum including executive staff for identifying the mutual strategic priorities of each organisation on an annual basis;
- Share strategic information in relation to areas of expertise and possible collaboration and engagement with industry in respect of economic development, tourism initiatives, planning policies, transport integration, place based activation and any other key areas to be determined from time to time;
- Develop strategies to improve community participation and access to education and cultural opportunities and facilities;
- Work together to develop events and community activities that benefit local business and rate payers and promotes Central Perth as a year round national arts and culture destination;

- Develop strategies and process for continually identifying joint research and development projects which will benefit the participating local governments;
- Develop strategies and implementation plans to improve community understanding and participation in the recreational and social opportunities offered by the respective local governments;
- Develop strategies and projects that deliver operational efficiencies and sustainability in areas such as waste management, biodiversity protection and economic development;
- Develop a Central Perth regional strategy that positions the region as being a leader in offering formal and informal recreation and wellness opportunities for the benefit of the region and Perth more broadly;
- Share facilities and resources where appropriate.

Comment

The Memorandum of Understanding outlines a framework for a formalised working relationship between the five local governments and provides a collaborative approach to capitalise on potential opportunities and proposals.

Consultation

Consultation has been undertaken with the City of Perth, City of Subiaco, City of Vincent and the Town of Victoria Park.

Policy and Legislative Implications

Nil.

Financial Implications

Nil.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Leadership
Aspiration:	A visionary and influential local government
Outcome:	Good governance
Strategy:	Empower effective and quality decision-making and governance

Attachments

10.4.4 (a): Inner City Memorandum of Understanding

10.4.5 Listing of Payments - December 2018

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-19-11036
Meeting Date:	19 February 2019
Author(s):	Andre Brandis, Manager Finance
Reporting Officer(s):	Colin Cameron, Director Corporate Services
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

Summary

This report presents to Council a list of accounts paid under delegated authority between 1 December 2018 and 30 December 2018 for information. During the reporting period, the City made the following payments:

EFT Payments to Creditors	(399)	\$5,055,084.33
Cheque Payment to Creditors	(13)	\$17,426.70
Total Monthly Payments to Creditors	(412)	\$5,072,511.03
Cheque Payments to Non-Creditors	(115)	\$263,953.25
Total EFT & Cheque Payments	(527)	\$5,336,464.28
Credit Card Payments (December 2018)	(7)	\$12,913.37
Total December Payments	(534)	\$5,349,377.65

Officer Recommendation

That the Council receive the Listing of Payments for the month of December 2018 as detailed in **Attachment (a)**.

Background

Regulation 11 of the Local Government (Financial Management) Regulations 1996 requires the development of procedures to ensure the approval and authorisation of accounts for payment. These controls are documented Policy P605 - Purchasing and Invoice Approval and Delegation DM605 sets the authorised purchasing approval limits.

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

Comment

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

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

The report records payments classified as:

- **Creditor Payments**
These include payments by both Cheque and EFT that are regular suppliers with whom the City transacts business. Cheque payments show both the unique Cheque Number assigned to each one and the assigned Creditor Number. EFT payments show both the EFT Batch Number in which the payment was made and also the assigned Creditor Number.
- **Non Creditor Payments**
The payments are one-off payments to individuals / suppliers who are not listed as regular suppliers. These payment listing reflects only the unique Cheque Number and the Payee Name - as there is no permanent creditor address / business details held.
- **Credit Card Payments**
Credit Card Payments are not processed in Authority Finance System as a Creditor Payment or Non-Creditor Payment per above. The direct debiting of the bank account results in Credit Card Payment being excluded from the Payment Listing provided.

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

Consultation

Nil.

Policy and Legislative Implications

Regulation 11 of the Local Government (Financial Management) Regulations 1996.
Policy P605 - Purchasing and Invoice Approval and Delegation DM605.

Financial Implications

The payment of authorised amounts is within existing budget provisions.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Leadership
Aspiration:	A visionary and influential local government
Outcome:	Good governance
Strategy:	Empower effective and quality decision-making and governance

Attachments

10.4.5 (a): Listing of Payments - December 2018

10.4.6 Listing of Payments - January 2019

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-19-3154
Meeting Date:	19 February 2019
Author(s):	Andre Brandis, Manager Finance
Reporting Officer(s):	Colin Cameron, Director Corporate Services
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

Summary

This report presents to Council a list of accounts paid under delegated authority between 1 January 2019 and 31 January 2019 for information. During the reporting period, the City made the following payments:

EFT Payments to Creditors	(533)	\$5,653,533.49
Cheque Payment to Creditors	(29)	\$44,015.96
Total Monthly Payments to Creditors	(562)	\$5,697,549.45
Cheque Payments to Non-Creditors	(78)	\$220,118.15
Total EFT & Cheque Payments	(640)	\$5,917,667.60
Credit Card Payments (January 2018)	(6)	\$11,243.26
Total January Payments	(646)	\$5,928,910.86

Officer Recommendation

That the Council receive the Listing of Payments for the month of January 2019 as detailed in **Attachment (a)**.

Background

Regulation 11 of the Local Government (Financial Management) Regulations 1996 requires the development of procedures to ensure the approval and authorisation of accounts for payment. These controls are documented Policy P605 - Purchasing and Invoice Approval and Delegation DM605 sets the authorised purchasing approval limits.

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

Comment

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

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

The report records payments classified as:

- **Creditor Payments**
These include payments by both Cheque and EFT that are regular suppliers with whom the City transacts business. Cheque payments show both the unique Cheque Number assigned to each one and the assigned Creditor Number. EFT payments show both the EFT Batch Number in which the payment was made and also the assigned Creditor Number.
- **Non Creditor Payments**
The payments are one-off payments to individuals / suppliers who are not listed as regular suppliers. These payment listing reflects only the unique Cheque Number and the Payee Name - as there is no permanent creditor address / business details held.
- **Credit Card Payments**
Credit Card Payments are not processed in Authority Finance System as a Creditor Payment or Non-Creditor Payment per above. The direct debiting of the bank account results in Credit Card Payment being excluded from the Payment Listing provided.

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

Consultation

Nil.

Policy and Legislative Implications

Regulation 11 of the Local Government (Financial Management) Regulations 1996.
Policy P605 - Purchasing and Invoice Approval and Delegation DM605.

Financial Implications

The payment of authorised amounts is within existing budget provisions.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Leadership
Aspiration:	A visionary and influential local government
Outcome:	Good governance
Strategy:	Empower effective and quality decision-making and governance

Attachments

10.4.6 (a): Listing of Payments - January 2019

10.4.7 Monthly Financial Statements - December 2018

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-19-3158
Meeting Date:	19 February 2019
Author(s):	Andre Brandis, Manager Finance
Reporting Officer(s):	Colin Cameron, Director Corporate Services
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

Summary

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

Officer Recommendation

That Council note the Financial Statements and Report for the month ended 31 December 2018.

Background

Regulation 34(1) of the Local Government (Financial Management) Regulations 1996, requires each Local Government to present a Statement of Financial Activity reporting on income and expenditure as set out in the annual budget. In addition, Regulation 34(5) requires a Local Government to adopt a percentage or value to report on material variances between budgeted and actual results. The 2018/19 Budget, adopted on 26 June 2018, adopts a variance analysis for significant amount of \$10,000 or 10% for the 2018/19 financial year.

Each Financial Management Report contains the Original Budget and the Annual Budget, allowing a quick comparison between the adopted budget and any budget adjustments approved by Council.

Comment

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

Actual income from operating activities for December year-to-date (YTD) is \$51.1m in comparison to budget of \$50.8m. Actual expenditure from operating activities for December is \$29.76m in comparison to budget of \$29.78m. The December operating net position was \$0.285m favourable due to marginally higher revenue of \$0.27m than planned.

Actual Capital Revenue YTD is \$0.738m in comparison to the budget of \$0.711m. Actual Capital Expenditure YTD is \$5.483m in comparison to the budget of \$7.159m.

Cash and Investments balance is \$67.793m. Traditionally December Cash is a higher balance following the Rates Revenue collection commencing in August.

The City holds a portion of its funds in financial institutions that do not invest in fossil fuels. Investment in this market segment is contingent upon all of the other investment criteria of Policy P603 being met. Currently the City holds 57.2% of its investments in institutions that do not provide fossil fuel lending. The Summary of Cash Investments, **Attachment (h)**, illustrates the percentage invested in each of the Non-Fossil Fuel institutions and the Short-Term Credit Ratings.

Consultation

No external consultation is undertaken.

Policy and Legislative Implications

This report is in accordance with the requirements of the Section 6.4 of the *Local Government Act 1995* and regulation 34 and 35 of the Local Government (Financial Management) Regulations 1996.

Financial Implications

The preparation of the monthly Financial Reports occurs from the resources provided in the Annual Budget.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Leadership
Aspiration:	A visionary and influential local government
Outcome:	Good governance
Strategy:	Empower effective and quality decision-making and governance

Attachments

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

10.4.8 Monthly Financial Statements - January 2019

Location: City of South Perth
Ward: Not Applicable
Applicant: Council
File Ref: D-19-10956
Meeting Date: 19 February 2019
Author(s): Andre Brandis, Manager Finance
Reporting Officer(s): Colin Cameron, Director Corporate Services
Strategic Direction: Leadership: A visionary and influential local government
Council Strategy: 4.3 Good Governance

Summary

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

Officer Recommendation

That Council note the Financial Statements and Report for the month ended 31 January 2019.

Background

Regulation 34(1) of the Local Government (Financial Management) Regulations 1996, requires each Local Government to present a Statement of Financial Activity reporting on income and expenditure as set out in the annual budget. In addition, Regulation 34(5) requires a Local Government to adopt a percentage or value to report on material variances between budgeted and actual results. The 2018/19 Budget, adopted on 26 June 2018, adopts a variance analysis for significant amount of \$10,000 or 10% for the 2018/19 financial year.

Each Financial Management Report contains the Original Budget and the Annual Budget, allowing a quick comparison between the adopted budget and any budget adjustments approved by Council.

Comment

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

Actual income from operating activities for January year-to-date (YTD) is \$52.20m in comparison to budget of \$52.41m. Actual expenditure from operating activities for January is \$35.07m in comparison to budget of \$35.59m. The January net operating position was \$0.31m favourable with lower actual expenditure against budget of \$0.523m partially offset against lower revenue of \$0.21m than planned.

Actual Capital Revenue YTD is \$0.864m in comparison to the budget of \$0.735m. Actual Capital Expenditure YTD is \$5.958m in comparison to the budget of \$8.987m.

Cash and Investments balance is \$64.618m. January Cash is a high following the collection of Rates Revenue commencing in August for the year.

The City holds a portion of its funds in financial institutions that do not invest in fossil fuels. Investment in this market segment is contingent upon all of the other investment criteria of Policy P603 being met. Currently the City holds 58.16% of its investments in institutions that do not provide fossil fuel lending. The Summary of Cash Investments, **Attachment (h)**, illustrates the percentage invested in each of the Non-Fossil Fuel institutions and the Short Term Credit Rating for each of the institutions.

Consultation

No external consultation is undertaken.

Policy and Legislative Implications

This report is in accordance with the requirements of the Section 6.4 of the *Local Government Act 1995* and regulation 34 and 35 of the Local Government (Financial Management) Regulations 1996.

Financial Implications

The preparation of the monthly Financial Reports occurs from the resources provided in the Annual Budget.

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2017-2027](#):

Strategic Direction:	Leadership
Aspiration:	A visionary and influential local government
Outcome:	Good governance
Strategy:	Empower effective and quality decision-making and governance

Attachments

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

10.4.9 Budget Review for the Period ended 31 December 2018

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	City of South Perth
File Ref:	D-19-6146
Meeting Date:	19 February 2019
Author(s):	Andre Brandis, Manager Finance
Reporting Officer(s):	Colin Cameron, Director Corporate Services
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

Summary

A comprehensive review of the 2018/2019 Adopted Budget for the period to 31 December 2018 has been undertaken. Comment on the identified variances and suggested funding options are included. In a similar theme to the last few years, the WA economy has impacted negatively on revenue and therefore adjustments have been required to improve the overall position of the City.

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

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

Officer Recommendation

That Council adopt the Budget changes as detailed in **Attachments (a) and (b)** to this Agenda:

ABSOLUTE MAJORITY VOTE REQUIRED

Background

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

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

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

- Amendments identified from normal operations in the 31 December 2018 Budget Review (**Attachment (a)**)

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

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

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

These items reflect transfers back to the Municipal Fund of monies previously quarantined in Cash-Backed Reserves or planned transfers to Reserves. Where monies have previously been provided for projects scheduled in the current year, and a review has identified internal capacity or contractors are unavailable, the unused funds are returned to a Reserve for use in a future year.

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

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

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

The projected Budget Opening Position for 2018/2019 (and extension, the Closing Position) was necessarily adjusted to reflect the actual figure achieved at year end rather than the 'estimated' figure that was used in formulating the budget. This matter is discussed further in the Financial Implications section of this report.

Consultation

No external consultation has occurred.

Policy and Legislative Implications

Local Government Act 1995 and Regulations.

Financial Implications

There are number of budget movements within individual areas of the City's budget, with the overall estimated Operating Budget forecast deficit to decrease in the current year by \$632,817, to an aggregate closing current Operating Budget deficit of \$1,169,647. The overall impact of the decline to the initial estimated Net Closing Operating Position at budget adoption date of \$844,650 to the 31 December 2018 revised estimate Net Operating Position of \$443,389. The Operating Surplus has improved, illustrated in both the Operating Surplus Ratio and the Current Ratio as a result of an improved cash position. As the projected revised Closing Position contributes to a weaker position, the estimated Budget Closing Position will be closely monitored during the remainder of the year.

Significant Operating Budget adjustments during the half year were with respect to:

- Footpath Maintenance, saving \$100k.
- Parks and maintenance costs, savings \$140k.
- Staff and associated costs net increase, \$131k.
- Plant Nursery Operations, increase \$100k.
- Unbudgeted Precinct Studies (relating to Council Resolutions), \$209k
- Amortisation and Depreciation alignment across all Cost Centres to actual along with additional foreshore assets recognised, resulted in a net increase of \$1,114k.
- Collier Park Controller's Fees, increased by \$245k.
- Collier Park Golf Course, revenue increased of \$350k.
- Planning Application Fees, increased revenue by \$100k.
- Interim Rates Assessment, increased revenue, \$320k.
- Parking and Infringement revenue lower, \$520k.

Significant Capital Budget adjustments during the half year budget review forecasts planned savings of \$1,737k, with the significant amendments for the following cost deferments and capital expenditure reductions (savings):

- Connect South Project, \$1,096k.
- Karawara Masterplan - Stage 2 - Western Diamonds, \$300k.
- Transfer Station Wash Down Shed, \$179k
- Kwinana Freeway / South Terrace – Rehabilitation, \$150k.
- Council Owned Street Light Upgrade, \$150k.

Material increase in the Capital Budget adjustment for the half year budget are with respect to the EJ Oval Precinct Redevelopment for \$714k, from Reserves.

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

Sustainability Implications

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

Strategic Implications

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

Attachments

- 10.4.9 (a):** Amendments identified from normal operations in the 31 December 2018 Budget Review
- 10.4.9 (b):** Items funded by transfers to or from Reserves
- 10.4.9 (c):** Budgeted Statement of Financial Activity
- 10.4.9 (d):** Financial Ratios