

# AGENDA.

## Ordinary Council Meeting

27 August 2019

### Notice of Meeting

Mayor and Councillors

The next Ordinary Council Meeting of the City of South Perth Council will be held on Tuesday 27 August 2019 in the the City of South Perth Council Chamber, Cnr Sandgate Street and South Terrace, South Perth commencing at 7.00pm.



GEOFF GLASS  
CHIEF EXECUTIVE OFFICER

23 August 2019

# Acknowledgement of 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 and present.

## 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.

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# Ordinary Council Meeting - Agenda

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS
2. DISCLAIMER
3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER
4. ATTENDANCE
  - 4.1 APOLOGIES
  - 4.2 APPROVED LEAVE OF ABSENCE  
Councillor Cheryle Irons (15 August 2019 to 27 August 2019 inclusive)
5. DECLARATIONS OF INTEREST
6. PUBLIC QUESTION TIME
  - 6.1 RESPONSES TO PREVIOUS QUESTIONS TAKEN ON NOTICE
  - 6.2 PUBLIC QUESTION TIME: 27 AUGUST 2019
7. CONFIRMATION OF MINUTES NOTING BRIEFINGS AND OTHER MEETINGS
  - 7.1 MINUTES
    - 7.1.1 Ordinary Council Meeting Held: 23 July 2019

## Officer Recommendation

That the Minutes of the Ordinary Council Meeting held 23 July 2019 be taken as read and confirmed as a true and correct record.

### 7.1.2 Ordinary Council Meeting Held: 29 May 2018

#### Officer Recommendation

That the typographical error of the vote count for Item 10.3.13 Proposed Commercial Development within a Single Storey plus Basement Building. Lots 181, 803, 804, 805 & 806, Nos. 264-270 Canning Highway & Part Lot 182, No. 272 Canning Highway, Como in the Ordinary Council Meeting Minutes of 29 May 2018 which reads:

- a. LOST (1/8), be amended to LOST (1/7) for the Officer Recommendation and Council Decision;
- b. CARRIED (1/8), be amended to CARRIED (1/7) for the Alternative Recommendation and Council Decision; and
- c. Mayor Sue Doherty's name be removed from the Record of Voting in the Appendix.

## 7.2 CONCEPT BRIEFINGS

### 7.2.1 Council Agenda Briefing - 20 August 2019

Officers of the City presented background information and answered questions on Items to be considered at the 27 August 2019 Ordinary Council Meeting at the Council Agenda Briefing held 20 August 2019.

#### Attachments

7.2.1 (a): 20 August 2019 - Council Agenda Briefing Notes

### 7.2.2 Concept Briefings and Workshops

Officers of the City and/or Consultants provided Councillors with an overview of the following matters at Concept Briefings and Workshops:

Date	Subject
12 August 2019	WALGA Submission on Select Committee into Local Government Workshop
13 August 2019	Recreation and Aquatic Facility (RAF) Briefing

#### Officer Recommendation

That Council notes the following Council Briefings/Workshops were held:

- 7.2.1 Council Agenda Briefing - 20 August 2019
- 7.2.2 Concept Briefings and Workshops

## **8. PRESENTATIONS**

### **8.1 PETITIONS**

Nil

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

Nil

### **8.3 DEPUTATIONS**

*Deputations were heard at the Council Agenda Briefing held 20 August 2019.*

### **8.4 COUNCIL DELEGATES REPORTS**

### **8.5 CONFERENCE DELEGATES REPORTS**

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

## 10. REPORTS

### 10.1 STRATEGIC DIRECTION 1: COMMUNITY

#### 10.1.1 2019 Community Sporting Recreation Facility Fund (CSRFF) Small Grants

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	Not Applicable
File Ref:	D-19-73454
Meeting Date:	27 August 2019
Author(s):	Jennifer Hess, Recreation Development Coordinator
Reporting Officer(s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Community: A diverse, connected, safe and engaged community
Council Strategy:	1.1 Culture & Community

#### Summary

Each year the state government via the Department of Local Government, Sport and Cultural Industries calls for funding applications through its Community Sport and Recreation Facility Fund (CSRFF), to invite eligible community groups and local governments to apply for funding to assist with sport and recreation infrastructure projects.

CSRFF applications must initially be presented to the relevant local government to request its in-principle support of the project, including the financial contribution requested by the applicant under the CSRFF program.

The City has received one internal CSRFF application for this funding round to assist in undertaking a master plan for the City's Challenger Reserve in Manning.

#### Officer Recommendation

That the City's funding application for the Community Sport and Recreation Facilities Fund Small Grants Program 2019/20 be submitted to the Department of Local Government, Sport and Cultural Industries together with the comments from the Officer report and the following ranking and rating:

Applicant	Project	Ranking	Rating
City of South Perth	Challenger Reserve Masterplan	1	A



### Background

The Department of Local Government, Sport and Cultural Industries (DLGSCI) annually invites applications for financial assistance to help community groups and local governments to develop sustainable infrastructure for sport and recreation. The Community Sport and Recreation Facility Fund (CSRFF) program aims to increase participation in sport and recreation with an emphasis on physical activity, through rational development of good quality, well designed and well utilised facilities. Priority is given to projects that lead to facility sharing and rationalisation. Three CSRFF categories are offered (see table below for details).

Grant Category	Total Project Cost Range	Standard DSR Contribution	Frequency
Small Grants	\$7500 – \$ 300,000	\$2500 – \$100,000	Bi-Annual
Annual Grants	\$300,001 – \$500,000	\$100,000 – \$166,666	Annual
Forward Planning Grants	\$500,001 +	\$166,667 – \$2,000,000	Annual

The maximum grant awarded by DLGSCI will be no greater than one-third of the total cost of the project up to a maximum of \$2 million. The CSRFF grant must be at least matched by the applicant's own cash contribution equivalent to one third of the total project cost, with any remaining funds being sourced by the applicant. In some cases, funds provided by DLGSCI do not equate to one-third of the project costs and the applicants are advised that they are expected to fund any shortfall. The local government is not obliged to contribute funding to the projects. As stated in the CSRFF guidelines, small grants for this round of funding must be claimed in the financial year following the date of approval. Therefore grant applications in this round must be claimed by 15 June 2020.

CSRFF applications must initially be presented to the relevant local government to request its in-principle support of the project, including the financial contribution requested by the applicant under the CSRFF program.

### Comment

One project is being proposed by the City for the 2019/2020 CSRFF Small Grants Program, namely the City of South Perth Challenger Reserve Masterplan Project.

The estimated project cost, grant and City contribution are as follows:

CSRFF Grant sought	\$16,500 (ex GST)
City's Contribution	\$33,500 (ex GST)
Estimated Total Project Cost	\$50,000 (ex GST)

### CSRFF Assessment Guidelines

Under the CSRFF guidelines applications must initially be presented to the relevant local government to review and to request its in-principle support of the project, including the financial contribution requested by the applicant under the CSRFF program. For this reason, a panel comprising the Manager Community, Culture and Recreation; Recreation Development Co-ordinator; and Club Development Officer assessed and ranked the application against the criteria in the table below set by the Department of Local Government, Sport and Cultural Industries.

A	Well planned and needed by municipality
B	Well planned and needed by applicant
C	Needed by municipality, more planning required
D	Needed by applicant, more planning required
E	Idea has merit, more preliminary work required
F	Not recommended

#### City Assessment of CSRFF Application for Challenger Reserve Masterplan Project

On 24 July Council endorsed the City's Community Recreation Facilities Plan. A key recommendation of the Plan was that the City develop a master plan at Challenger Reserve to investigate co-location and amalgamation of facilities (not necessary clubs) to incorporate:

- Critical upgrade of sports floodlights at Challenger Reserve
- Possible demolition of Challenger Pavilion
- Installation of a synthetic cricket pitch and associated works to enable a relocation of South Perth Junior Cricket Club from Victoria Park to Challenger Reserve
- Redevelopment of multipurpose community building to accommodate exclusive use and shared spaces for the Manning Bowling Club, South Perth United Soccer Club, Manning Tennis Club and South Perth Junior Cricket Club.

The masterplan aims to accommodate the needs of relevant sports clubs, the local community and the City to produce a contemporary, functional, integrated and sustainable community standard facility within an acceptable scope, budget and timeframe. The study aims to fully explore and recommend opportunities for rationalisation co-location and amalgamation. The study will also incorporate development of unisex toilet facilities and home and away change rooms to enable female and junior participation.

In summary, the City recommends that the Challenger Reserve Masterplan Project receives a 'first/one' ranking; and an 'A' rating for the CSRFF Program due to:

- The proposed masterplan is consistent with the recommendations of the City's Community Recreation Facilities Plan, which was endorsed by Council in July 2019.
- It is a well-planned project that the City has previously identified as being required to be undertaken in order to provide strategic direction about the current and future usage of this Reserve.
- Funds are included in the City's 2019/20 Budget for the proposed Challenger Reserve Masterplan Project.
- No other applications were submitted for review this funding round.

The results are summarised in the table below.

## 2020/2021 CSRFF Small Grants

Applicant	Project	Ranking	Rating	City's Contribution	Total Project cost
City of South Perth	Challenger Reserve Masterplan	1	A	\$33,500	\$50,000
<b>TOTAL</b>				<b>\$33,500</b>	<b>\$50,000</b>

**Consultation**

The City advertised the CSRFF funding round by email notification to local clubs. No applications for this round were received by community sporting clubs.

The following main tenants/nearby clubs of Challenger Reserve have been informed about the proposed master plan project:

- South Perth United Football Club
- Manning Tennis Club
- Manning Bowling Club
- South Perth Junior Cricket (likely future tenant).

Further engagement will be conducted with the clubs once a suitable consultant has been appointed for the project. All clubs have expressed their willingness to participate and welcome the project.

**Policy and Legislative Implications**

- P110 Support of Community and Sporting Groups
- P609: Management of City Property
- P106: Use of City Reserves and Facilities

**Financial Implications**

Funds totalling \$50,000 have been allocated in the City's 2019/20 Budget for the proposed Challenger Reserve Masterplan Project. This report seeks Council's endorsement for the City to apply for a grant of \$16,500 (i.e. up to one-third of the total project cost) to reduce the City's overall financial contribution required for this project.

**Strategic Implications**

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

Strategic Direction: Community

Aspiration: A diverse, connected, safe and engaged community

Outcome: Community infrastructure

Strategy: Plan for and promote the development of recreation and aquatic facilities to service community needs

This matter also relates to the following key recommendation identified within the City's Community Recreation Facilities Plan 2019-2034: That the City develop a master plan at Challenger Reserve.

**Attachments**

Nil

### 10.1.2 Tender 03/2019 Provision of Ticket Machines and Parking Sensors

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	Not Applicable
File Reference:	D-19-73455
Meeting Date:	27 August 2019
Author(s):	Bernadine Tucker, Manager Governance
Reporting Officer(s):	Geoff Glass, Chief Executive Officer
Strategic Direction:	Community: A diverse, connected, safe and engaged community
Council Strategy:	1.2 Community Infrastructure

#### Summary

This report considers tenders received from the advertising of Tender 03/2019 for the Provision of Ticket Machines & Parking Sensors.

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

#### Officer Recommendation

That Council:

1. Accepts the tender submitted by Australian Parking and Revenue Control Pty Ltd trading as APARC for the Provision of Ticket Machines and Parking Sensors in accordance with Tender Number 3/2019 for an initial period of two years, with the option of three, additional two year periods at the sole discretion of the City;
2. At the tender price included in **Confidential Attachment (a)**; and
3. Notes that the tender price will be included in the Ordinary Council Meeting Minutes.

#### Background

A Request for Tender (RFT) 3/2019 for the Provision of Ticket Machines and Parking Sensors was advertised in The West Australian on Saturday 4 May 2019 and closed at 2.00pm on Tuesday 4 June 2019.

Tenders were invited as a Schedule of Rates for the supply, installation and maintenance services for ticket machines and parking sensors within the City over a two year period with the potential of three, two year extensions at the sole discretion of the City.

### Comment

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

TABLE A – Tender Submission

<b>Tender Submission</b>
Shiblon Pty Ltd trading as Shiblon Solution Excellence
Parkonsult Pty Ltd
Reino International Pty Ltd t/as Duncan Solutions Australia
Australian Parking and Revenue Control Pty Ltd trading as APARC

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

TABLE B - Qualitative Criteria

<b>Qualitative Criteria</b>	<b>Weighting %</b>
1. Resources	25%
2. Key Personnel, Skills and Resources	25%
3. Experience	25%
4. Demonstrated Understanding	10%
5. Price	15%
<b>Total</b>	<b>100%</b>

Based on the assessment of all submissions received for Tender 3/2019 Provision of Ticket Machines and Parking Sensors, it is recommended that the tender submission from Australian Parking and Revenue Control Pty Ltd trading as APARC be accepted by Council.

More detailed information about the assessment process can be found in the Evaluation Panel Members' report – **Confidential Attachment (a)**.

### Consultation

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

### Policy and Legislative Implications

Section 3.57 of the *Local Government Act 1995* requires a local government to call tenders when the expected value is likely to exceed \$150,000. Part 4 of the Local Government (Functions and General) Regulations 1996 sets regulations on how tenders must be called and accepted.

The following Council Policies also apply:

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

**Financial Implications**

The full cost of the works is included in the 2019/2020 budget.

**Strategic Implications**

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

Strategic Direction: Community

Aspiration: A diverse, connected, safe and engaged community

Outcome: Community Infrastructure

Strategy: Manage the use and development of the City's properties, assets and facilities

**Attachments**

10.1.2 (a): Evaluation Panel Report (*Confidential*)

## 10.2 STRATEGIC DIRECTION 2: ECONOMY

### 10.2.1 Disposition of property - 49-51 Angelo Street South Perth

Location:	South Perth
Ward:	Mill Point Ward
Applicant:	Not Applicable
File Ref:	D-19-73457
Meeting Date:	27 August 2019
Author(s):	Bernadine Tucker, Manager Governance
Reporting Officer(s):	Geoff Glass, Chief Executive Officer
Strategic Direction:	Economy: A thriving City activated by innovation, attractions and opportunities
Council Strategy:	2.2 Activated Places

#### Summary

This report provides an update on the progress regarding the disposal of 49-51 Angelo Street South Perth to Windsor Knight Pty Ltd.

#### Officer Recommendation

That Council:

1. Notes the public submissions received on the disposition of the property located at 49-51 Angelo Street South Perth as contained in **Confidential Attachment (a)**;
2. Authorises the Chief Executive Officer to finalise and execute the contract of sale for the property located at 49-51 Angelo Street South Perth to Windsor Knight Pty Ltd for \$3,220,000; and
3. Places the proceeds in the Reserve for Community Infrastructure, currently named the Major Community Infrastructure Reserve following the finalisation of the contract of sale.

**Absolute Majority required**

#### Background

In July 2017, the Property Committee received and considered preliminary concept plans prepared by Windsor Knight, the owners of the Coles development at 53-55 Angelo Street, for an expansion of that development onto City owned land at 49-51 Angelo Street. The Committee had previously agreed at its meeting on 27 March 2017 to consider such a concept.

The land is currently used as a carpark that services the local centre, with 60 car bays, two disabled parking bays and two motorcycle bays and generates approximately \$10,000 in parking revenue per year. The carpark has been constructed over an existing drainage basin (that must be retained) making any redevelopment of the land complicated.



At the Council Meeting held 18 February 2019, Council resolved that:

*The Chief Executive Officer be authorised to develop a Contract of Sale for Councils consideration for the property located at 49-51 Angelo Street South Perth incorporating the following conditions:*

- (a) Sale price to be not less than the valuation determined by a registered valuer appointed by the City.*
- (b) The enhancement of the stormwater drainage basin to be undertaken by the Purchaser in accordance with the requirements of and to the satisfaction of the City prior to any above ground development.*
- (c) The Purchaser to contribute \$50,000 towards streetscape enhancement in the vicinity, as designed by the City.*
- (d) Design and construction of an upper deck on any new development for parking.*

Registered property valuers Pember Wilson & Eftos were engaged by the City to undertake a valuation of the property in line with condition (a) above. The valuation considered the underground stormwater drainage basin, the preservation of public accessible parking, and a Western Power transformer located on the site. The valuation also included the retention of the Jacaranda tree at the front of the property.

The valuation report indicated the current market value for the property with development potential (including the possibility of an additional level being approved), would be \$2,900,000 to \$3,100,000 exclusive of GST. The valuation report also noted that:

*The adjoining owner would in our opinion would be prepared to pay a premium for the property as they can use the site more efficiently as they could tie the two sites together and maximise the sites potential. We believe this premium would equate broadly to a value of \$3,000,000 to \$3,500,000.*

City officers met with the adjoining owner, Windsor Knight, and discussed the conditions Council had endorsed. Windsor Knight have agreed to all the conditions, including the retention of the Jacaranda tree at the front of the property and to include an easement for access into the drainage basin.

On Monday 27 May 2019, Windsor Knight wrote to the City offering \$3,820,000 less the impingement charge of \$600,000 (the cost of retaining and expanding the drainage sump), therefore the net price being \$3,220,000 (ex GST).

### Comment

On 25 June 2019, Council resolved as follows:

*That Council authorise the Chief Executive Officer to:*

- a. give local public notice to dispose of the property at 49-51 Angelo Street, South Perth to Windsor Knight Pty Ltd in accordance with section 3.58 of the Local Government Act 1995;*
  - b. finalise the contract of sale on behalf of the City in the event the City does not receive any submissions; and*
  - c. place the proceeds in the Reserve for Community Infrastructure, currently named the Major Community Infrastructure Reserve following the finalisation of the contract of sale.*
- 2. That Council note that in the event the City does receive submission(s), the matter will be referred back to Council for consideration.*

In accordance with section 3.58 of the *Local Government Act 1995*, a Public Notice on the proposed sale of 49-51 Angelo Street was placed in the Southern Gazette on 11 July 2019 and also on the City's website. The Public Notice invited feedback on the proposed disposition until 12pm on Friday 26 July 2019.

At the close of the public submission period, six submissions were received all objecting to the sale and one telephone call requesting further information. The first submission objected on the grounds that a competitive process was not undertaken and the loss of public parking. The other submissions also objected to the sale on the basis that public parking was being removed with one submitter making a counter offer.

The counter offer was for \$3,550,000 with a condition of sale that the carpark be retained for only 2 years from the date of settlement. The City wrote back to this submitter explaining that the property was an old stormwater drainage basin that was still present underneath the carpark and needed to be retained in any new development. Additionally, there was no opportunity for any basement in any future development on the property that restricted what could be built above. This had an impact on the sale price of the property. In addition, the public parking needed to be retained on site indefinitely. Email correspondence regarding the offer can be found in **Confidential Attachment (a)**.

The City wrote to all submitters and advised them that the retention of public parking was a condition of sale. One submitter responded and still voiced his opposition to the sale.

The City is confident that the agreed conditions for the sale of the property addresses the concerns regarding the public parking. Therefore, it is recommended that Council proceed with the sale of the property to Windsor Knight Pty Ltd.

### Consultation

Under section 3.58(3) of the *Local Government Act 1995* the City is required to give local public notice of the proposed disposition of the property inviting submissions for at least 2 weeks. The public consultation period commenced on 11 July 2019 and closed on 26 July 2019.

### Policy and Legislative Implications

Section 3.58 of the *Local Government Act 1995* (Act) allows the City to dispose of the property.

As the value of the transaction would be less than \$10 million, there is no requirement to prepare and publish a business plan in accordance with section 3.59 of the Act.

### Financial Implications

The current income from parking would reduce by \$10,000 per year, as this income would no longer be available to the City after the sale. The land parcel and the infrastructure (car park and sump) have a fair asset value included in the Balance sheet. On disposal, these asset values will be written down to zero and will result in a final net profit/loss being included in the Operating Statement. In addition, the transaction would result in an increase to cash on the Balance sheet of \$3,220,000. Based on the recommendation to place the sale proceeds to a Reserve, interest income earned whilst in the Reserve would equate to approximately \$65,000 per annum. In addition, as redevelopment is likely to increase the Gross Rental Value, provided by Landgate would result in increased rates to the City, although this has not been estimated and the timing would depend on when the development was finalised.

### Strategic Implications

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

Strategic Direction:	Economy
Aspiration:	A thriving City activated by innovation, attractions and opportunities.
Outcome:	Activated places
Strategy:	Facilitate activity centres and neighbourhood hubs that offer a diverse, viable and attractive mix of uses

### Attachments

10.2.1 (a): Public Submissions (*Confidential*)

## 10.3 STRATEGIC DIRECTION 3: ENVIRONMENT (BUILT AND NATURAL)

### 10.3.1 Proposed retrospective posts to awning over footpath of existing cafe/restaurant alfresco dining area at Shop 1, No. 21 Mends Street

Location: South Perth  
Ward: Mill Point  
Applicant: Auto and Co Pty Ltd  
File Reference: D-19-73459  
DA Lodgement Date: 11 June 2019  
Meeting Date: 27 August 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 retrospective posts to awning over footpath of existing café/restaurant alfresco dining area at Shop 1, No. 21 Mends Street. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Use of Local Scheme Reserve	TPS6 clause 2.2

#### 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 retrospective posts to awning over footpath of existing café/restaurant alfresco dining area at Shop 1, No. 21 Mends Street be **approved** subject to:

#### Conditions

1. The development shall be in accordance with the approved plans unless otherwise authorised by the City.
2. The existing column identified for removal/relocation on the approved plans and the existing fixed balustrades surrounding the alfresco shall be removed and the footpath reinstated, to the satisfaction of the City.
3. The canvas screens and transparent blinds shall remain temporary at all times to the satisfaction of the City.

4. Prior to the issue of a building permit, the applicant shall prepare and submit an Operational Management Plan. The Operational Management Plan shall identify how the proprietor/applicant proposes to prevent patrons to the café from obstructing the footpath during opening hour, to the satisfaction of the City.
5. Prior to submission of a building permit, the following shall be submitted to and approved by the City:
  - a. a colour schedule and perspective of the external finishes including canvas screens; and
  - b. details of blinds to be installed which shall be transparent.

All permanent and temporary structures shall be fully maintained at all times to the satisfaction of the City.
6. All remedial works required to satisfy condition (2) shall be completed within 60 days from the approval date to the satisfaction of the City.

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

### Background

The development site details are as follows:

<b>Landowner:</b>	Department of Planning, Lands and Heritage
<b>Zoning</b>	Unzoned Land (Road Reserve)
<b>Lot area</b>	Not Applicable
<b>Building height limit</b>	Not Applicable
<b>Development potential</b>	Not Applicable
<b>Plot ratio limit</b>	Not Applicable

The location of the development site is shown 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:

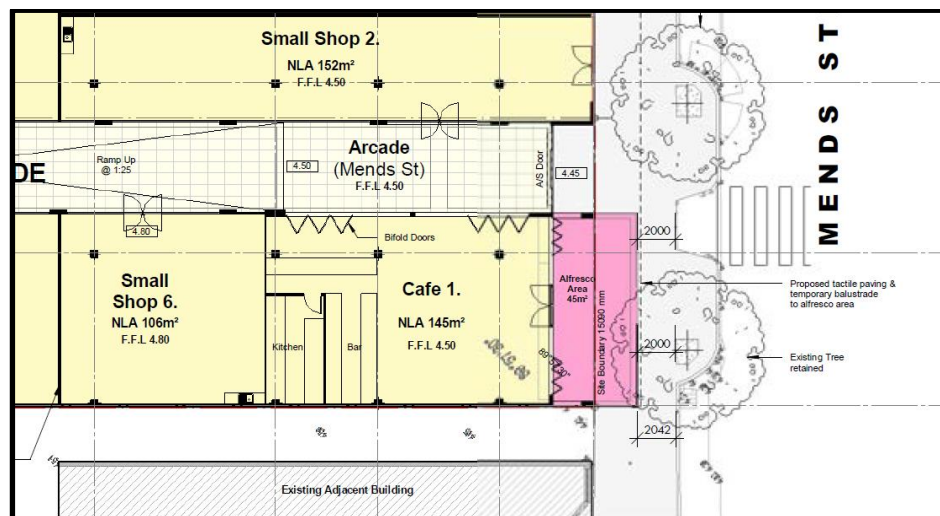
**6. Amenity impact**

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

**Comment**

**(a) Background**

In July 2016 a Determination Notice for an Application for Development Approval was issued by the Development Assessment Panel (extracts of approved plans in **Figure 2** and **Figure 3** below) which approved the use of a café/restaurant at Shop 1, No. 21 Mends Street. The approval included an area of alfresco dining partially located within the road reserve/footpath area with reference to temporary balustrading surrounding that area, however the alfresco area in the verge was not approved as part of that application as the development only included works within the boundaries of the property and canopies above the footpath to provide shade and shelter to pedestrians.



**Figure 2: Extract of Approved Site Plan**





**Figure 3:** Extract of Approved Elevation

In April 2017 a building permit was issued for the entire Millstream Arcade which included canopies above the footpath of which the plans referenced temporary glazed balustrades surrounding the perimeter of the alfresco area which corresponded with the notations on the original development approval plans.

In October 2018 a further building permit was issued by the City for the fit-out of Atomic Café at Shop 1, No. 21 Mends Street and that permit authorised works within the boundaries of the subject site only. The plans provided with this building permit application included the fixed posts and balustrades in the footpath area however those works were not authorised as part of that building permit.

Following approval of the fit-out of Atomic Café, the posts and balustrades were constructed as well as other related infrastructure which included paving and drainage within the verge.

In February 2019 a formal complaint was received by the City relating to the obstruction of the footpath by the enclosure of the alfresco area at Atomic Cafe, citing issues relating to blocking sight lines of vehicles entering and exiting the adjoining property car park and obstruction to pedestrian traffic. As a result of this formal complaint and follow-up action by the City with Atomic Cafe, an application for development approval for the retrospective works (including further modifications) was lodged in May 2019.

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

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



**Figure 3: Aerial Plan**

**(c) Description of the Proposal**

The proposal involves the following works:

- request for approval of existing posts in the footpath surrounding the alfresco dining area associated with the adjacent café/restaurant use;
- remedial works to remove one of the existing posts and balustrading; and
- replacement of existing balustrading with temporary canvas screens.

The development plans can be found at **Attachment (a)**. The site photographs show the relationship of the site with the surrounding built environment at **Attachment (b)** and include photos of the alfresco area in use prior to construction of the Millstream Arcade.

The retrospective works and proposed modifications are considered to meet the relevant discretionary criteria of the Scheme and relevant Council policies. The relevant discretionary assessment is discussed in further detail below.



**(d) Use of Local Scheme Reserves**

The installation of the posts requires the consent from the City, pursuant to s. 55 (2) of the *Land Administration Act 1997*:

*55. (2) Subject to the Main Roads Act 1930 and the Public Works Act 1902, the local government within the district of which a road is situated has the care, control and management of the road.*

Sections 3.53 (2) and 3.2 of the *Local Government Act 1995* also reaffirms this delegation to local governments, with respect to the management of roads. Additionally, it is noted that the road verge is reserved under the City's TPS6 as a 'Local Road' reserve. In this regard, clause 2.2 (2) (b) of TPS6 outlines the following:

- (b) In determining an application for development approval, the local government shall have regard to:*
  - (i) the matters set out in Deemed Provisions clause 67; and*
  - (ii) the ultimate purpose intended for the Reserve.*

In consideration of the retrospective and remedial works in the road reserve, Council needs to contemplate the ultimate purpose intended for the road reserve as well as general matters within clause 67 of the Deemed Provisions. The relevant matters of Clause 67 are discussed further in **Part (f)** 'Matters to be considered by local government' of this report.

In regard to the ultimate purpose intended for the Reserve, the area to be used within the local road reserve is to be used in conjunction with an approved café/restaurant use and is seen to be an ancillary function to the operation of the café/restaurant. Element 1 and 2 of Schedule 9A – Special Control Area SCA1 – South Perth Station Precinct of TPS6 acknowledges the use of café/restaurant as a preferred land use in the Mends Street Sub Precinct. Guidance Statement (f) of Element 7 'Relationship to the Street' of Schedule 9A of TPS6 confirms the use as appropriate and states, *'that where cafés or restaurants are proposed, alfresco dining is encouraged'*.

In addition to the scheme provisions noted above, the purpose as an alfresco dining area aligns with the City's Local Policy P402 'Alfresco Dining' which is a licence that is approvable under delegated authority provided the City are satisfied that the proposal aligns with the policy requirements and ultimately the policy objectives. The Assets and Design business unit has confirmed that the proposed layout with modifications is approvable for purposes of an alfresco licence and is discussed further in **Part (g)** of the report.

Accordingly, the proposed development is regarded as complying with the purpose of the reservation.

**(e) 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:

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

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

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

In considering an application for development approval, the local government is to have due regard to the matters listed in Clause 67 of the Deemed Provisions to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application. 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
(a) <i>the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;</i>	<p>The development is considered to be consistent with the aims and provisions of the Scheme, particularly the following:</p> <p>Clause 1.6 (j): <i>In all commercial centres, promote an appropriate range of land uses consistent with:</i></p> <ul style="list-style-type: none"> <li>(i) <i>the designated function of each centre as set out in the Local Commercial Strategy; and</i></li> <li>(ii) <i>the preservation of the amenity of the locality.</i></li> </ul>
(j) <i>in the case of land reserved under this Scheme, the objectives for the reserve and the additional and permitted uses identified in this Scheme for the reserve.</i>	<p>As noted in <b>Part (d)</b> of the report, the provisions of the scheme that relate to comprehensive new development, in particular, the Guidance Statement of Element 7 'Relationship to the Street' of Schedule 9A of TPS6 states that where cafés or restaurants are proposed, alfresco dining is encouraged. Based on this provision, it is considered that the use of the reserve for alfresco dining is a permitted use of the reserve.</p>

<p>(m) <i>the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</i></p>	<p>In relation to the posts and proposed modifications, the posts align with existing posts attached to awnings along the Mends Street frontage, in particular, the adjacent site at No. 11-15 Mends Street. Therefore the proposal is considered to be compatible with development on adjoining land as well as other land in the locality. In addition, the City's Alfresco Dining Policy P402 permits permanent or temporary structures in the road reserve and the proposal has been considered by the City to align with the policy requirements in respect to its appearance and functionality.</p>
<p>(n) <i>the amenity of the locality including the following –</i></p> <ul style="list-style-type: none"> <li>(i) <i>environmental impacts of the development;</i></li> <li>(ii) <i>the character of the locality;</i></li> <li>(iii) <i>social impacts of the development;</i></li> </ul>	<p>The original café included an alfresco of approximately the same dimensions and functioned this way for approximately 11 years prior to the demolition and reconstruction of the Millstream Arcade. It is considered that the use of this area of the footpath does not significantly change in relation to how it was previously used and will therefore not affect the amenity of the locality.</p>
<p>(s) <i>the adequacy of –</i></p> <ul style="list-style-type: none"> <li>(i) <i>the proposed means of access to and egress from the site; and</i></li> <li>(ii) <i>arrangements for the loading, unloading, manoeuvring and parking of vehicles;</i></li> </ul>	<p>The alfresco being located directly adjacent to the café and having a sufficient distance between the alfresco area and the carriageway as determined by City's Infrastructure Design business unit ensures that there is a clear passage for access and egress along the street frontage for pedestrians.</p> <p>A condition of approval is recommended that the café owner is responsible for ensuring a clear unobstructed footpath during operating hours so as to not obstruct the flow of pedestrian traffic.</p>
<p>(t) <i>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></p>	<p>The proposal is not considered to affect the amount of traffic as the alfresco area is ancillary to the functions of the adjacent café/restaurant where traffic and parking have already been considered appropriate.</p>

(y) <i>any submissions received on the application;</i>	The submissions received during the advertising period have been duly considered, as outlined in the 'Consultation' section of this report.
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### Consultation

#### (g) 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, occupiers and/or strata bodies of the adjoining properties at No. 11-15 Mends Street and No. 25-37 Mends Street were invited to inspect the plans and to submit comments during a minimum 14-day period.

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

Submitters' Comments	Officer's Responses
<u>Pedestrian Safety</u> <i>Barricades blocks and prevents a clear walk flow thru. They can also be confusing and dangerous particularly the elderly and sick babies or children who are attending the medical centre, pathology or the pharmacy. The situation is worse when it is wet.</i>	<p>These comments are related to the existing structures. The plans lodged with the retrospective application include modifications to the existing structures which include the removal and relocation of the existing post and removal of the fixed balustrades at the southern corner in order to provide a suitable truncation and replacing all of the fixed balustrades with removable canvas screens. The modifications were considered acceptable by the City's Infrastructure Design business unit as the proposed modifications align with the City's Policy P402 'Alfresco Dining'.</p> <p>These comments are <b>NOT UPHOLD</b>.</p>

<p><u><i>Traffic Safety</i></u>  <i>The alfresco structure is a risk as the view of drivers are compromised when exiting from the driveway. Delivery van and trucks also find it challenging to enter and exit the driveway.</i></p>	<p>As noted above, these comments relate to the existing structure. The City's Infrastructure Design business unit reviewed the proposed amendments relating to driver sight lines and advised that the truncation proposed on the plans will suitably modify the existing situation and will ensure that the view of drivers will not be compromised.</p> <p>These comments are <b>NOTED</b>.</p>
<p><u><i>Safety and Accessibility</i></u>  <i>Restricts access for clients and pedestrians walking to and from the Pharmacy and the Medical Centre. This is particularly of concern for clients who may be using wheelchairs, mobility scooters and those with prams. It also affects the elderly and those who have difficulty with movement.</i></p> <p><i>Clients crossing the road (using the zebra crossing) have to navigate a narrow walkway, uneven paving, a large tree with extended roots as well as the driveway which the alfresco structure has impinged on.</i></p> <p><i>To compound the problem, the walkway is frequently obstructed by bicycles (leaned against the structure) despite numerous warnings, installation of 'no parking' signs and presence of bike racks.</i></p>	<p>The City's Infrastructure Design business unit confirmed that with the modifications proposed, there is sufficient distance between the alfresco area and the carriageway for pedestrian access. The setbacks proposed align with the City's Policy P402 'Alfresco Dining'.</p> <p>As above.</p> <p>A condition is included to the effect that the footpath area between the alfresco and carriageway must remain unobstructed at all times. In response to this submission Atomic Café have actively discouraged patrons leaning their bicycles against the posts/balustrades by installing temporary signs with staff advising clients not to obstruct the footpath with their bicycles.</p> <p>These comments are <b>NOTED</b>.</p>

<p><u>Visibility/Business Exposure</u></p> <p><i>The alfresco area takes up a large area of the public/pedestrian footpath. This structure (including the posts and the balustrading) extending too far out onto the footpath, has isolated the pharmacy businesses from the rest of the street. It has severely affected the visibility of our buildings hence limiting our businesses' exposure to the public, the arcade and other shops on Mends Street. This in turn has impacted the flow of foot traffic to our business premises. We are therefore at a disadvantage and feel cut off from street.</i></p>	<p>Alfresco areas are permitted within footpaths directly adjacent to shop fronts. The City's Infrastructure Design business unit have reviewed the proposal and have confirmed that the proposal is consistent with the City's Policy P402 'Alfresco Dining' which permits temporary or permanent barriers provided they are setback appropriately from the carriageway and pedestrian crossings. The items for consideration under this application are the posts attached to the awning and extending down into the footpath pavement. A condition is included so that any blinds installed to this area are transparent and that they be fully maintained at all times to the satisfaction of the City. This will ensure visibility is maintained along the verge at a pedestrian scale.</p> <p>These comments are <b>NOTED</b>.</p>
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The applicant's responses to the submissions are provided in **Attachment (c)**.

**(h) Internal referrals**

Comments have been obtained from the Environmental Health section as well as the Infrastructure Design business unit of the City's administration.

The Environmental Health section and the Infrastructure Design business unit reviewed the proposal for its acceptability in terms of compliance with the City's Policy P402 'Alfresco Dining' and raised no objections to the current development plans. Both referrals confirmed that the alfresco area was capable of being approved under delegated authority as part of an Alfresco Dining Licence.

Accordingly, planning conditions and advice notes are recommended to respond to the comments from the above officers.

**Policy and Legislative Implications**

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

**Financial Implications**

This determination has some financial implications, to the extent that if the applicant were to appeal a decision, or specific conditions of an approval granted, the City may need to seek representation (either internal or external) at the State Administrative Tribunal (SAT).



### Strategic Implications

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

Strategic Direction:	Environment (Build and Natural)
Aspiration:	Sustainable urban neighbourhoods
Outcome:	2.3 Sustainable built form
Strategy:	Promote and facilitate contemporary sustainable buildings and land use

### Sustainability Implications

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

### Conclusion

It is considered that the proposal meets all of the relevant Scheme and/or Council Policy objectives and provisions, moreover that the City's Environmental Health and Infrastructure Design requirements as they relate to the City's policy for alfresco dining (Policy P402) have been satisfied by way of the proposed remedial works. Furthermore the proposal will not have a detrimental impact on nearby residential properties and the streetscape, subject to compliance of recommended conditions. In addition, it is considered the proposed use of the road reserve for purposes of alfresco dining will activate the street frontage thereby enhancing surveillance in order to prevent anti-social behaviour, as well as being complementary to existing uses in the immediate vicinity of the site. Provided that the conditions are applied as recommended, it is considered that the application should be conditionally approved.

### Attachments

- 10.3.1 (a): Development Plans
- 10.3.1 (b): Site Inspection Photos
- 10.3.1 (c): Summary of Submissions with Applicant's Responses

### 10.3.2 Proposed Eight Multiple Dwellings in a Four Storey Building with Basement Parking Plus Roof Deck at Lot 203, No.9 Cale Street, Como

Location: Lot 203, No. 9 Cale Street, Como  
Ward: Como Ward  
Applicant: Planning Horizons Development Solutions  
File Reference: D-19-73460  
DA Lodgement Date: 11 July 2019  
Meeting Date: 27 August 2019  
Author(s): Victoria Madigan, Statutory Planning Officer  
Reporting Officer(s): Vicki Lummer, Director Development and Community Services  
Strategic Direction: Environment (built and natural): Sustainable urban neighbourhoods  
Council Strategy: 3.2 Sustainable Built Form

#### Summary

To consider an application for development approval for proposed eight Multiple Dwellings in a four Storey Building with Basement Parking Plus Roof Deck on Lot 203, No. 9 Cale 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 and Rear 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 (Fencing)	CBACP Desirable Outcome 10 of Element 10 and Deemed Provisions cl. 43(1)
Maximum Ground and Floor Levels	Clause 6.10 (3) of TPS6

#### 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 proposed 8 Multiple Dwellings in a 4 Storey Building with Basement Parking Plus Roof Deck at Lot 203, No. 9 Cale Street, Como, be **approved** subject to the following conditions:

1. The development shall be in accordance with the approved plans unless otherwise authorised by the City.
2. 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.

The Construction Management Plan must be complied with at all times during development, to the satisfaction of the City.

3. 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.
4. Prior to the submission of a building permit application, a public art concept for the subject development or alternatively a contribution to public art within the vicinity of the development, to the value of 1.0% of the construction value (maximum \$500,000 contribution) shall be submitted to the City of South Perth. The approved public art concept shall be to the satisfaction of the City of South Perth. (Refer to the associated Advice Note)
5. Prior to the submission of an occupancy permit application, the approved public art concept shall be implemented and maintained thereafter, to the satisfaction of the City of South Perth.
6. 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.
7. 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.

8. Prior to the submission of a building permit application, the applicant is to submit a sustainability report confirming the development achieves a 5 Star Green Star rating or the equivalent under another formally recognised ecologically sustainable rating system. The sustainability report is to confirm the final green star strategy that will guide the construction stage of the development and beyond and 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.
9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. The approved Waste Management Plan prepared by Planning Horizons and dated June 2019, unless otherwise approved by the City, shall be implemented and adhered to at all times, to the satisfaction of the City.
16. Prior to the submission of a building permit, the applicant shall supply details of how stormwater drainage will be managed on site, to the satisfaction of the City of South Perth.  
All stormwater from the property shall be discharged into soak wells or sumps located on the site unless otherwise approved by the City.

17. 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.
18. External clothes drying facilities shall be screened from view from the street or any other public place.
19. No street tree shall be removed, pruned or disturbed in any way, without prior approval from the City (Streetscapes).
20. Prior to the submission of a building permit, a tree protection zone shall be indicated on the plans and implemented during construction to protect the verge tree at all times, to the satisfaction of the City (Streetscapes).
21. For the avoidance of doubt, no approval is hereby granted or implied for the alteration of property line levels and/or footpath levels.
22. A separate application is to be submitted for any proposed signage that is not exempt from planning approval, to the satisfaction of the City.

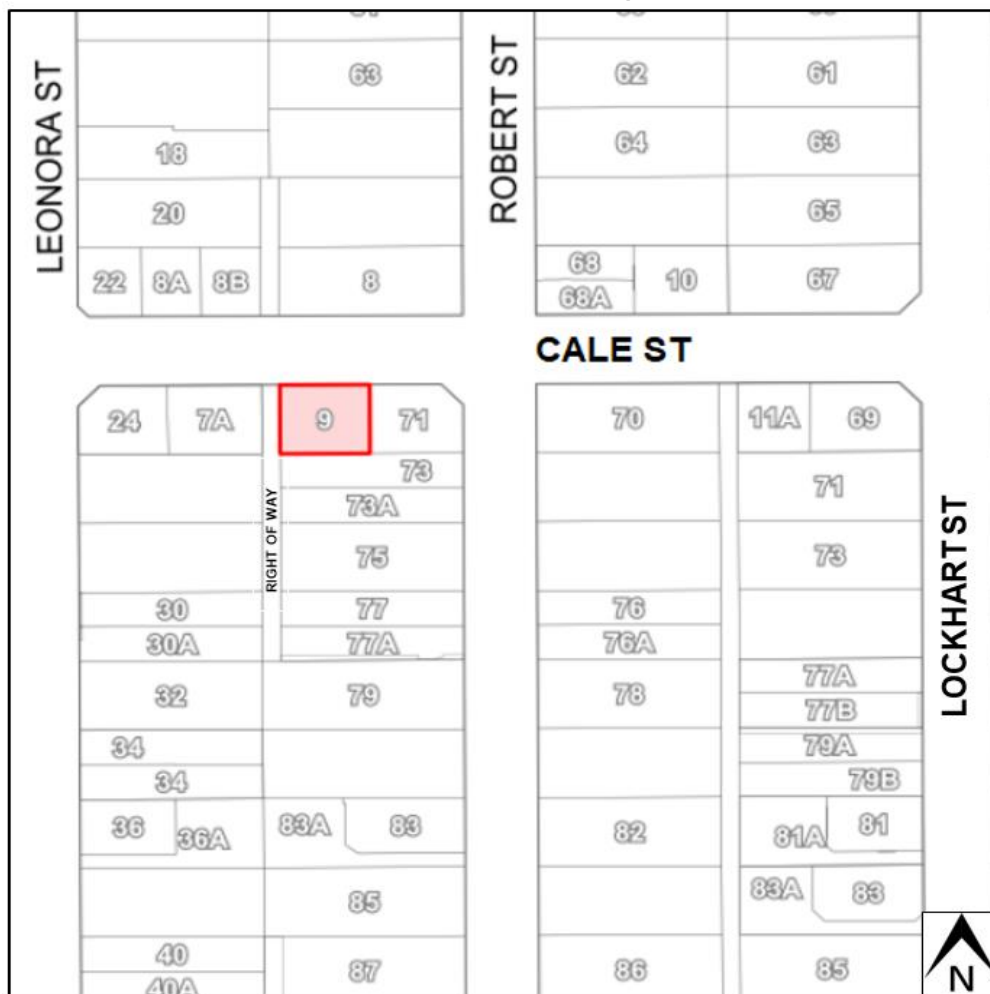
**Note:** City officers will include relevant advice notes on the recommendation.

### Background

The development site details are as follows:

<b>Zoning</b>	Centre Zone Canning Bridge Activity Centre Plan (CBACP) Quarter: Casey (Q3) CBACP Zone: H4 (Residential Development Up to 4 Storeys)
<b>Density coding</b>	Not Applicable
<b>Lot area</b>	496 sq. metres
<b>Development Potential</b>	Corner Store, Multiple Dwelling, Grouped Dwelling, Single House, Aged or Dependant Person's Dwelling, Single Bedroom Dwelling, Recreation - Private, Recreation - Public, Residential Building, Home Occupation, Home Office
<b>Existing Land Use</b>	Single Dwelling

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

**2. Major Developments**

- (d) *Development not of the kind referred to in items (a) to (c) above, which, in the opinion of the delegated officer, is contentious and is the subject of significant community interest.*

**Comment**

**(a) Background**

Development Application

In February 2019, the City received an application for eight Multiple Dwellings in a four storey building with basement parking plus roof deck at Lot 203, No. 9 Cale Street, Como (the site). The site is located within the Canning Bridge Activity Centre Plan (CBACP), which was approved by the Western Australian Planning Commission in April 2016. In accordance with Schedule 2 clause 43(1) of the Planning & Development Regulations 2009, the City is to have due regard to the activity centre plan when deciding this application for development approval.

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 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 located within 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 currently features a Single Residential Dwelling.



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

The Site has a frontage to Cale Street to the north, residential dwellings to the east and south and a privately owned right of way (ROW) to the west, as seen in **Figure 2** below:



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

(d) **Description of the Proposal**

The proposal involves the demolition of the existing single dwelling and the construction of eight Multiple Dwellings in a four storey building plus roof deck, with associated basement parking which is described as follows:

- Basement level – Nine car parking bays, store rooms, stairwell and lift;
- Ground level – One, single bedroom dwelling an associated store room and one, two bedroom dwelling; and
- First, second and third level – Six, two bedroom dwellings
- Fourth Level - Roof deck and drying court.

The development is proposing vehicle access off a privately owned right of way (ROW). The ROW services is utilised by eight other residential dwellings for vehicle access.

The development plans can be found at **Attachment (a)** in this report. The site photographs show the relationship of the site with the surrounding built environment and can be found at **Attachment (b)**. The discretionary matters are also addressed by the applicant in their justification letter, contained at **Attachment (c)**.

The following components of the proposed development require discretion under the Scheme, CBACP and Council Policy requirements:

- (i) Street Setbacks (Element 4 - Requirement 4.5 of CBACP);
- (ii) Side and Rear Setbacks (Element 5 - Requirement 5.6 of CBACP);
- (iii) Facades (Element 9.7 – CBACP); and
- (iv) Open space and Landscaping (fencing) (Element 10 -Requirement 10.7 of CBACP).

## (e) Planning Assessment

Local 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.	Compliant.
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"> <li>Min. 1.70-2.30m AHD.</li> <li>Finished levels to achieve 'equal cut and fill'.</li> <li>Maximum driveway gradients.</li> </ul>	Compliant.

Activity Centre Plan: CBACP

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 bedroom dwellings, and a minimum of 40% of the dwellings provided as two bedroom dwellings.	The development is proposing less than 10 dwellings and therefore this element is not applicable.
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 – achieves objectives.
Street Setbacks: Req. 4.5, 4.8	
<ul style="list-style-type: none"> <li>Min. 4m and Max. 6m.</li> <li>Street setback area landscaped.</li> </ul>	<ul style="list-style-type: none"> <li>Street setback – Discretion sought</li> <li>Balconies (3.5m)</li> <li>Street setback area landscaping – Compliant – achieves objectives.</li> </ul>
Side and Rear Setbacks: Req. 5.6	
Min. 4m.	East side setback – Compliant South Rear setback – Compliant West Side – <b>Discretion sought</b> as follows: <ul style="list-style-type: none"> <li>Balcony and roof deck 3m in lieu of 4m on all levels.</li> </ul>

Facades: Element 9	
<ul style="list-style-type: none"> <li>• Developments sympathetic to the surrounding environment</li> <li>• Substantial glazing and semi-active frontages</li> <li>• Provision of windows and balconies into building design. Balconies: Min. 2.4m depth &amp; 10m<sup>2</sup> area.</li> <li>• Development designed to discourage vandalism.</li> <li>• Floor Level: Max. 0.5m above footpath. Development which fronts a street with differing levels should consider innovative design to meet this requirement.</li> </ul>	<p>Compliant.</p> <p>Compliant.</p> <p>Compliant.</p> <p>Compliant.</p> <p>Floor Level – <b>Discretion sought</b>. Floor level between 0.23m and 1.425m above footpath.</p>
Open Space and Landscaping: Element 10	
<ul style="list-style-type: none"> <li>• Min. 198.4m<sup>2</sup> (40%) landscaping.</li> <li>• Landscape design</li> <li>• Max. 1.2m height – landscaping and fencing.</li> </ul>	<p>Compliant - achieves objectives.</p> <p>Compliant - achieves objectives.</p> <p><b>Discretion sought.</b></p> <ul style="list-style-type: none"> <li>• Fencing ranging from 1.2m – 1.4m.</li> </ul>
Sustainability: Req. 11.5	
Designed to maximise passive solar principles & 5 star Green Star level of performance.	<p>Compliant.</p> <p>Applicant has provided a sustainability statement of compliance, prepared by Sustainability WA, March 2019.</p> <p>Condition to be applied as part of recommendation to ensure compliance and achieve green star rating or equivalent of 5 stars.</p>
Universal Access: Req. 15.2	
Universal access to be provided.	Compliant - achieves objectives.
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).	<p>Compliant – 9 car bays provided.</p> <p>Storage rooms will cater to required bicycle parking however some racks are provided within the street setback area for the use of visitors and occupants.</p>
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) Storage;
- (ii) Waste Management;
- (iii) Utilities; and
- (iv) Vehicle access.

Due to the introduction of State Planning Policy 7.3 Residential Design Codes (Volume 2) gazetted in May 2019, terminology for the abovementioned provisions of the R – Codes have been amended.

Requirement	Proposal
<b>SPP 7.3 Utilities and facilities (Formally S.P.P 3.1 - Utilities and Facilities: cl. 6.4.6)</b>	
4.6 Storage 4.17 Waste management 4.18 Utilities <ul style="list-style-type: none"> <li>Provision of a compliant bin area accessible by service vehicles.</li> <li>Clothes drying screened from view.</li> </ul>	Storage area – Compliant, achieves objectives. <ul style="list-style-type: none"> <li>Rubbish – Compliant, achieves objectives.</li> <li>Clothes drying – Compliant achieves objectives.</li> </ul>
<b>SPP7.3 Vehicle Access – A.3.8.7 (Formally S.P.P 3.1 - Sight Lines: cl. 6.2.3)</b>	
A. 3.8.7 - Walls, fences and other structures truncated or reduced to no higher than 0.75m within 1.5m of where walls, fences, other structures adjoin vehicle access points where a driveway meets a public street and where two streets intersect.	Compliant, achieves objectives.

Local Planning Policies

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.	Not applicable – no boundary walls are proposed.
Walls not visible from the street – Surface finish being compatible with the external finish of the neighbours dwelling.	
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 are included in a landscape plan supported by the City.

**(f) Street Setbacks**

Element	Deemed-to-Comply Provision	Proposed
Ground Floor North - Cale Street	4.0 – 6.0 metres	3.5 – 8.7 metres

First to Third Floors North – Cale Street	4.0 – 6.0 metres	3.5 – 4.0 metres
Roof Deck North – Cale Street	4.0 – 6.0 metres	3.5 – 4.0 metres
Ground Floor West – Right of Way	4.0 – 6.0 metres	3.0 – 4.0 metres
First to Third Floors West – Right of Way	4.0 – 6.0 metres	3.0 – 4.0 metres
Roof Deck West – Right of Way	4.0 – 6.0 metres	3.0 metres

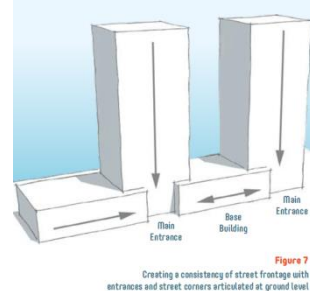
**Objective****Element 2 - Site Planning and Built Form**

*To reinforce the unique identity of the CBACP area by creating distinct street character, to form urban landmarks and urban vistas to key locations inside and outside the CBACP area.*

**Desired Outcomes****DO 4**

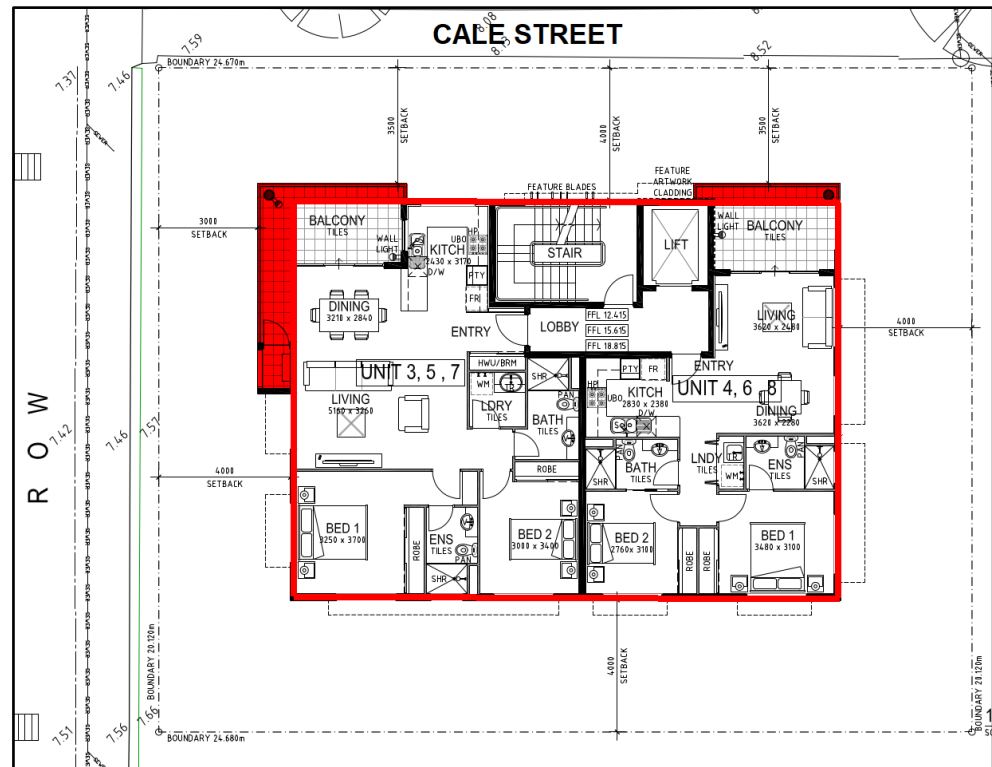
*To ensure that the setback to buildings contributes to a distinct street character and that the form of multi-level development is sensitive to pedestrian scale. Podiums will provide an opportunity for creating a diversity of scale and form at lower levels, whilst taller elements are encouraged with 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.*

**Requirements**

**4.5** ... All development within H4 Zones in Q3, Q4 and Q5 shall have a minimum 4 metre and maximum 6 metre setback.

The proposed minimum street and right of way setbacks are proposing variations less than the minimum 4 metre setback requirements, the extent of setback variations (including 3d image) is shown below:



**Figure 3:** Street and Right of Way Setback Variations to all levels (Highlighted in Red)



**Figure 4:** 3D Aerial Image using the City's 'Skyline Terra Explorer' database shows the streetscape view\*.



**Figure 5:** 3D Aerial Image using the City's 'Skyline Terra Explorer' database showing the proposed development as viewed from the west including the right of way\*.

*\*Note:* The above images show the three dimensional building model supplied by the applicant inserted into the 2016 survey of the CBACP area.  
The model is an indication of the proposal but may not reflect the final built form outcome.

#### North (Cale Street)

The proposed street setback variations are considered to meet the objectives and the desired outcomes of the CBACP and are supported for the following reasons:

- The height and scale of the building conforms to the existing streetscape character and does not affect the amenity of the locality;
- The minor variations to Cale Street (minimum setback of 3.5 metres) does not create a 'break' in active frontages, as the current frontages are single houses with a minimum 3 metre setback and 6 metre average setback to Cale Street;
- The development provides multiple articulations between walls, using varying setbacks to reduce the impact of bulk as viewed from the Cale Street;
- The variations are sensitive to pedestrian scale by providing a transitional point between public and private space as well as accessible bike storage areas and landscaping areas capable for the use of occupiers and visitors;
- The proposed four (4) storey Multiple Dwelling development will not affect the tower elements of future development on adjacent properties in regard to access to sunlight, ventilation and view corridors as the side setbacks to adjacent residential dwellings on the upper floors are compliant;



- Outdoor living areas are visible from Cale Street with low height fencing or clear balcony balustrading providing greater surveillance and connectivity with the street, which is a key element of the CBACP; and
- The City's Design Review Panel has supported the design of the development as viewed from the street.

#### West (ROW)

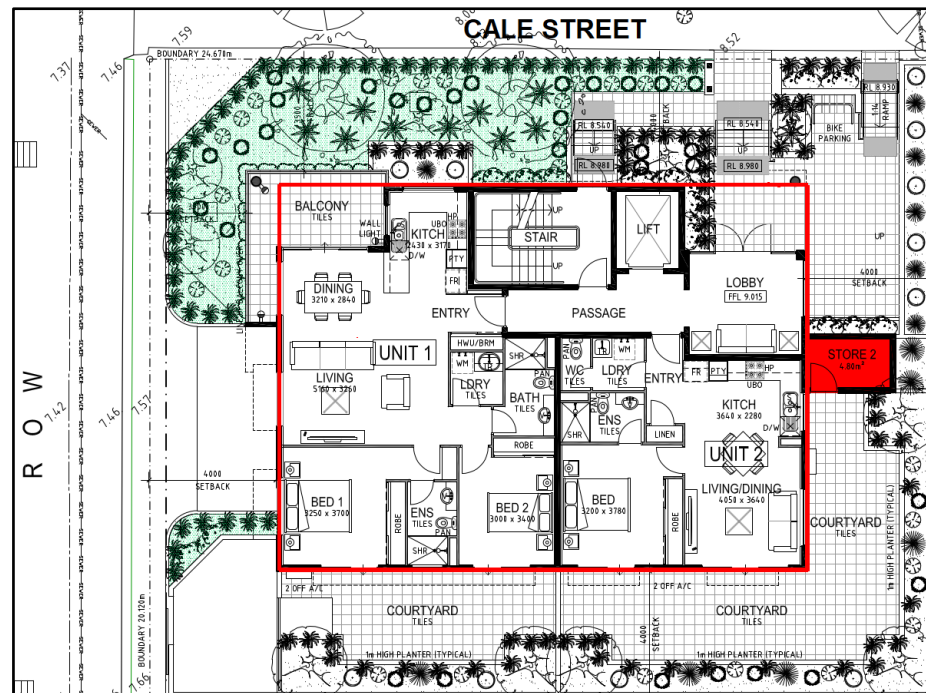
The proposed right of way setback variations are considered to meet the objectives and the desired outcomes of the CBACP and are supported for the following reasons:

- The proposed bin store variation on the ground floor to the right of way conceals the communal bin store area and protects the amenity of these facilities as viewed from the street;
- The proposed dwelling variations provide balconies facing the adjoining right of way, thereby providing street surveillance and a transitional point between public and private space for the dwellings; and
- The development has provided multiple articulations between walls, using varying setbacks, to reduce the impact of bulk as viewed from the adjoining right of way.

#### (g) Side and Rear Setbacks

Element	Deemed-to-Comply Provision	Proposed
Ground Floor East	4.0 – 6.0 metres	1.2 – 4.0 metres
<p><b>Objective</b>  <u>Element 2 - Site Planning and Built Form</u>  <i>To reinforce the unique identity of the CBACP area by creating distinct street character, to form urban landmarks and urban vistas to key locations inside and outside the CBACP area.</i></p> <p><b>Desired Outcome</b>  <u>DO.5</u>  <i>To provide a continuity of frontage at ground and podium levels to encourage activity whilst providing interest.</i>  <i>To allow opportunities for tower elements to access sunlight, ventilation and view corridors throughout the area from and between multi-level developments.</i>  <i>To ensure that development opportunities throughout the precinct are maximised.</i>  <i>Developers should minimise overlooking and overshadowing of adjacent and adjoining properties through appropriate design response, supported by the setback provisions of this Element.</i></p> <p><b>Requirements</b>  <u>5.6</u>  <i>Side and rear setbacks for all development within the H8 and H4 Zones shall be ... 4 metres for any lot which is equal to or greater than 16 metres in width. Setbacks do not apply to any eaves and sun shading devices.</i></p> <p><u>5.7</u>  <i>Provisions of privacy and solar access and overshadowing do not apply within the CBACP area.</i></p>		

The proposed minimum side setback of the building are less than the minimum 4.0m setback requirement highlighted in red **Figure 4** below:



**Figure 4:** Side Setback Variation (East) – Ground Floor (Highlighted in Red)

The proposed side and rear setback variation is considered to meet the objectives and the desired outcomes of the CBACP and are supported for the following reasons:

- Continuity of frontage at ground and podium levels will be maintained as the proposed setback variation is located to the side of the property and will not deter from the existing streetscape given the ground floor variation;
- The proposed ground floor variation will not affect the tower elements of future development on adjacent properties in regard to access to sunlight, ventilation and view corridors as the structure is at ground level;
- The ground level variation has minimal impact on the amenity of the adjoining properties as the store room will not result in overlooking to the neighbouring properties, being a non-habitable room; and
- The proposed storeroom setback of 1.2 metres is consistent to the existing residential dwellings along Cale Street.
- The City's Design Review Panel has supported the design of the development.

## (h) Facades

Element	Requirement	Proposed
Element 9 - Facades	Internal floor level - No greater than 0.5 metres above adjoining footpath level	Internal floor level – 0.23 – 1.4 metres above adjoining footpath level
<b>DO 9</b> 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.		

The proposed ground level variations are considered to meet the objectives and the desired outcomes of the CBACP and are supported for the following reasons:

- The final review of the development plans by the Design Review Panel was generally supportive of the streetscape presentation of the development;
- The verge level slopes 1.32 metres from east to west due to the topography of the site; and
- The landscaping and fencing within the street setback area respond to the fall of the site to reduce the slope in topography as viewed from the street through providing a transitional area between the public and private realm.

## (i) Open Space and Landscaping (Fencing)

Element	Deemed-to-Comply Provision	Proposed
Street Fencing	Maximum height 1.2 metres	Up to 1.4 metres in height
<b>Objective</b> <i>Element 2 - Site Planning and Built Form</i> <i>To reinforce the unique identity of the CBACP area by creating distinct street character, to form urban landmarks and urban vistas to key locations inside and outside the CBACP area</i>		
<b>Desired Outcomes</b> <b>DO 10</b> <i>To encourage intensity of development whilst also catering for the enjoyment, comfort and sense of security of centre users, The majority of M15 and M10 development sites will have significant site coverage at ground level, particularly at the street frontage, to maintain a continuous and interesting frontage as per Elements 2 – 8 of these Guidelines.</i> <i>However, open space at ground levels in the form of active plazas, public or private open space at podium levels which are visible from the streetscape, terraced areas and balconies and rooftop gardens is encouraged. Ground floor or podium level open space should comprise trees and other vegetation to contribute to the overall leafy nature of the CBACP area.</i> <i>In particular, the Guidelines encourage the development of areas that provide opportunities for communal meeting and interaction within the CBACP area.</i>		



**Requirements**10.7

*Landscaping and/or low fencing below 1.2 metres on property boundaries, where buildings are setback from the boundary, shall reinforce the separation between public and private realm.*

The proposed fencing variation is considered to meet the objectives and the desired outcomes of the CBACP and are supported for the following reasons:

- The solid portion of street fencing in excess of 1.2 metres high provides screening for the balcony of a private outdoor living area and contributes to landscaping within the street setback area. The remaining section of the fence is visually permeable;
- 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;
- The 0.2 metres variation does not obstruct views from the street, the landscaping and outdoor living areas, and still provides adequate street surveillance; and
- The proposed fencing provides for an open landscaping area for capable use of visitors and occupiers of the dwelling thereby providing street surveillance and a transitional point between public and private space for the dwellings.

**(j) Maximum Ground and Floor Levels**

Element	Permitted	Undertaken
Finished Ground Level	Equal cutting below and filling above the ground level	Up to 0.9 metres in fill
<b>Discretionary Provisions</b> <i>TPS6 Clause 3:</i> (a) <i>The site shall not be filled to a level which, in the local government's opinion, would unreasonably adversely affect the amenity of neighbouring properties in relation to visual impact and overshadowing.</i> (b) <i>Portions of the site beyond the external walls of the building shall be filled to a level which, in the local government's opinion, is necessary to maintain visual privacy for the occupiers of any adjoining lot, consistent with the provisions of any Local Planning Policy.</i>		

The proposed ground level fill variation is considered to meet the discretionary provisions of TPS6 and are supported for the following reasons:

- The raised ground level poses no visual privacy impacts as the adjoining properties will be screened by the required dividing fence;
- The portion of the development site located adjacent to the courtyard of the southern adjoining property will be at most 0.3 metres higher than the existing ground level. This minor level difference is seen to pose no adverse effect to the adjoining properties, in terms of visual impact and overshadowing impact; and
- The highest portion of fill is positioned towards the south western corner of the development site. This portion of the development site is located next to a driveway and garage on the southern adjoining property. These affected spaces on the southern adjoining property are utilitarian in nature and accordingly the fill poses no adverse effect, in terms of visual impact and overshadowing impact. The upper level balcony above the garage on the southern adjoining property is not affected by the raised ground level, as the balcony is higher than the proposed ground level on the development site and has obscure privacy screening on its northern side.

**(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 the Scheme, 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.

(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. 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
(a) <i>the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;</i>	For reasons outlined in the report, the development is considered to be consistent with the aims and provisions of the Scheme, particularly the following:  Clause 1.6 (f): <i>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>
(b) <i>the requirements of orderly and proper planning including any proposed local planning scheme or amendment to this Scheme that has been advertised under the Planning and Development (Local Planning Schemes) Regulations 2015 or any other proposed planning instrument that the local government is seriously considering adopting or approving;</i>	The development is considered to meet requirements within the 'Deemed Provisions', being a state planning regulation.
(f) <i>any policy of the state;</i>	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.

<p>(m) <i>the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;</i></p>	<p>While not reflective of or consistent with existing surrounding development, it should be acknowledged that the CBAC 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.</p> <p>It is noted that the existing two storey dwelling to the immediate east of the site include street setbacks 3.0 metres from Cale Street. The dwelling to the west (separated by the right of way) also has a setback of 3.0 metres to Cale Street and 1.5 metres to the right of way.</p>
<p>(n) <i>the amenity of the locality including the following –</i></p> <ul style="list-style-type: none"> <li>(i) <i>environmental impacts of the development;</i></li> <li>(ii) <i>the character of the locality;</i></li> <li>(iii) <i>social impacts of the development;</i></li> </ul>	<p>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.</p> <p>Specific objection to overshadowing has been raised by the adjoining owner to the south of the development site. 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>

(t) <i>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 Assessment provided by the applicant and reviewed by the City clearly demonstrates that the surrounding road network can accommodate the extra vehicles resulting from the proposed development.
(y) <i>any submissions received on the application;</i>	As discussed further in the Consultation section of this report, the concerns raised by surrounding neighbours have been taken into consideration as part of the officer's assessment. The applicant has amended the development plans to address the overshadowing and building bulk concerns as discussed earlier in the report.

### Consultation

#### (m) Design Advisory Consultants' Comments

The proposal was referred to the Canning Bridge Design Review Panel (DRP) as a pre-lodgement item in March 2019 and subsequently as a formal development application in May 2019. The DRP comments are summarised below:

The design of No. 9 Cale Street Como, incorporates a number of strengths including:

- *'Natural light and ventilation to stairs and cross ventilation in all apartments are well considered, and apartment layout plans work well.*
- *Roof garden is a good addition for deep soil planting.*
- *The improved relationship to public and ground floor domain is good.*
- *Modification of apartment layout works and is more logical than previous design.*
- *Roof garden is a good addition from previous plans.*
- *Improved ground floor lobby dimensions and access to light*

Weaknesses of the proposal include:

- *Reluctant to support setback variations which are less than 4 metres at the rear.*
- *Leniency to setback variation is considered to Cale Street and Right of Way rather than to residential dwelling to the south.*
- *Regarding setback variation, south dwelling has highlight windows which provide sunlight penetration in the afternoon. Non-compliant 1 metre setback incursion reduces light.*
- *Front elevation has a lot of features (i.e. feature porch and feature material).*
- *Won't support location of AC condensers visible from public or private domain or visible from balconies.*

- *Weakness is demonstrating Design WA context of character and there is an absence of context and character study in this proposal. Unclear as to how it has impacted on your design and streetscape. Should be more indicative around the façade.*
- *Some bedrooms which rely solely on high level glazing (this can act on privacy) are a weakness and are not supported.*
- *Looking for more delivery upon deep soil zone for tree canopy.*
- *Elevations could be simplified or distilled more.*

Suggested improvements:

- *Consider commentary above.*
- *Extend the 'Nib' in the lobby next to the sofa further north to provide more lobby and lift area. This will help shelter the apartment.*
- *Keep shared natural light in the lobby reasonable open – this will help shield entry and remain less visible from the front door.*
- *Provide 1 or 2 larger scale trees for tree canopy – something more sizable and relevant in terms of ecological value to the area.*
- *Preference for the ramp instead of the lift hoist. Ramp may be able to be simplified and direct.*
- *Provide bedroom windows which incorporate low level glazing.*
- *Reduce front elevation features; pick one feature that dominates in a tasteful way.*
- *List all the A/C Units on the plans.*
- *Potentially locate A/C units in large sized cupboards fully screened from the public and private domain*
- *Include context studies you may have done but haven't shared.'*

The applicant has amended their plans to reflect compliant 4.0 metre setbacks to the side and rear boundaries. Accordingly, the amended plans have satisfied the suggested improvements noted above through modifications to the design.

**(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'. Under the standard consultation method, individual property owners, occupiers and/or strata bodies were invited to inspect the plans and to submit comments during a minimum 14-day period.

During the advertising period, 29 consultation notices were sent, and four submissions were received against the proposal. Amended plans were received by the City as a result of the below submissions and all submitters were emailed with a link to the amended plans which addressed their concerns and rectified side and rear setback requirements to provide a compliant 4.0 metre setback (where discretion is not being sought). The main concerns of the submission are outlined below:

Submitters' Comments	Officer's Responses
<p><b>Building height limit</b> Development too high for surrounding locality.</p>	<p>The current planning framework permits development up to four storeys and 16 metres in height on this site.</p> <p>The 16 metres building height limit does not include lift plans, utility services or architectural features if they are less than three metres in height. These features have been proposed above the 16 metre building height limit; however remain compliant.</p> <p>The proposal is compliant with the CBACP building height restrictions.</p> <p>This comment is <b>Noted</b>.</p>
<p><b>Building setback impacts</b></p>	<p>The CBACP has a minimum 4.0 metre side and rear setback requirement. Where discretion has been sought, specific comments have been explained in more detail in <b>Section (g)</b> of the 'Officers Comments' section of the report relating to setbacks from side boundaries.</p> <p>This comment is <b>Noted</b>.</p>
<p><b>Visual privacy</b> Concerns of loss of visual privacy to adjacent dwellings.</p>	<p>The CBACP does not contain specific privacy provisions. The development is predominantly compliant with the side and rear setback provisions of Element 5 which are intended to provide an acceptable distance between properties. It's noted the balconies for each dwelling face Cale Street and the adjoining right of way.</p> <p>This comment is <b>Noted</b>.</p>
<p><b>Solar access</b> Concerns of loss of solar access to adjacent dwellings</p>	<p>The CBACP does not have specific overshadowing controls, though the side and rear setback controls (minimum 4 metre for this site) and building height limit are effectively setting the overshadowing requirements</p> <p>It is noted for this specific development that the south of the development is a two storey residential dwelling and associated outdoor living area.</p>



	<p>The applicant has amended their original development plans as a result of neighbour consultation, to propose a compliant 4.0 metre setback to the southern boundary. The 4.0 metre setbacks accommodate for sunlight and ventilation to adjoining dwellings.</p> <p>Where discretion has been sought, specific overshadowing comments have been explained in more detail in <b>Section (g)</b> of the 'Officers Comments' section of the report relating to setbacks from side boundaries.</p> <p>This comment is <b>Noted</b>.</p>
<p><b>Increased ground levels</b> Increased shadow cast to the south as a result of increased ground levels</p>	<p>Where discretion has been sought, specific comments have been explained in more detail in <b>Section (h)</b> of the 'Officers Comments' section of the report relating to Facades (ground levels).</p> <p>This comment is <b>Noted</b>.</p>
<p><b>Excessive number of dwellings</b></p>	<p>The density of the development is consistent with the intent of the CBACP.</p> <p>This comment is <b>Noted</b>.</p>
<p><b>Vehicle Impacts</b> e.g. traffic impact and flow, car parking impact, insufficient car bays.</p>	<p>The density of the development and the resultant traffic impacts are consistent with the intent 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. The proposal is compliant in relation to vehicle parking on site.</p> <p>The applicant has submitted traffic impact statement which is supported by the City's Infrastructure Services. The proposal satisfies the resident parking requirements.</p> <p>This comment is <b>Noted</b>.</p>
<p><b>Noise</b> Increased noise as a result of balconies and roof decks adjacent to residential dwellings.</p>	<p>The State's Environmental Protection (Noise) Regulations 1997 applies to noise matters. An advice note is included in the recommendation section of this report, informing the applicant of their obligation to achieve compliance with legislation relating to noise levels in residential areas.</p> <p>This comment is <b>Noted</b>.</p>

These matters have been addressed by the applicant in their justification letter, contained in **Attachment (c)**.

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

Assets and Design

The City's Assets and Design business unit was invited to comment on issues relating to car parking and traffic, arising from the proposal.

Accordingly, planning conditions and important notes are recommended to address issues raised by this business unit.

City Environment

The application was referred to the City's Streetscapes Coordinator as a small tree is growing in the verge which would be affected by the development.

The City's Streetscape Coordinator advised as the proposed crossover is adjacent off the right of way, the development will not impact the existing street tree, however a tree protection zone is recommended to protect the street tree during construction of the development.

Accordingly, planning conditions and advice notes are recommended to address issues raised by this business unit.

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 address issues raised.

Street Addressing

The City Projects Officer, Development Services provided comments with respect to the street numbering along Cale Street. This section raises no objections and has provided the following advice note to be included on the determination notice if the development is approved:

- (i) The allocation of street and unit addressing is made by the City in accordance with the Australian Standard and Policy P361 – Street Addressing at the time the Occupancy Permit is applied for at the City or when Landgate requests numbering for new titles. If the applicant needs to know what these addresses will be earlier than this (e.g. for sales advertising or for fixings) or the dwellings will not be strata titled, please contact the City. The size and siting of the numbering must be in accordance with Policy P361 – Street Addressing.

Accordingly, the above advice note is recommended to respond to the comments from the above officer.

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 (SAT) 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 five 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 eight Multiple Dwellings in a four storey building within the Casey Quarter meets the objectives of the CBACP which promotes the creation of a vibrant and rejuvenated area with housing catering to multiple users. The application adequately address the setback variations proposed as well as consideration of solar access, which are further supported by the City's Design Review Panel. Subject to the recommended conditions, it is considered that the application should be conditionally approved.

**Attachments**

10.3.2 (a):	Development Plans
10.3.2 (b):	Site Photographs
10.3.2 (c):	Applicant Justification

### 10.3.3 Amendments to Canning Bridge Activity Centre Plan

Location:	Not Applicable
Ward:	Como, Moresby, Manning
Applicant:	Not Applicable
File Ref:	D-19-73461
Meeting Date:	27 August 2019
Author(s):	Aaron Augustson, 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

The Canning Bridge Activity Centre Plan (CBACP) provides guidance and development standards for development within the Canning Bridge Activity Centre area. The CBACP became operational in the City of South Perth February 2017. In August 2018 the Council resolved to undertake a review of the CBACP in response to a Council resolution in May 2015 to review the plan after 1 year of operation.

A consultant was subsequently engaged to lead this review and a comprehensive analysis of the operation of the plan has been undertaken which included;

- Background analysis and review of the strategic documents or case-studies that informed/shaped the original CBACP, and development applications received since gazettal of the plan; and,
- Preliminary stakeholder engagement to inform the review of the plan that included several engagement activities and tools.

The review culminated in the preparation of a 'Review Recommendations Report' included at **Attachment (b)** of this report. The report identifies a number of amendments that are recommended to be made to the CBACP. The amendments include:

- Introduction of provisions that provide assessment of solar access, building depth, tree retention and deep-soil areas, and visual privacy;
- Greater side and rear setbacks for taller buildings and greater setbacks for podium structures within parts of the M10 zone;
- Greater flexibility on building height in the H4 zone to provide design flexibility and to help achieve greater building separation, solar access, building depth, tree retention and deep-soil areas and visual privacy.
- Introduction of criteria relating to visitor parking ratios, waste collection, street interface along Canning Highway, dwelling mix and environmental sustainability.

It is recommended that Council consent to publically advertise the recommended amendments. Following the public consultation and review of submissions, a further report will be presented to Council identifying the outcomes of the public consultation and a recommendation as to how to proceed with the review process.

#### Officer Recommendation

That Council:

1. Consents to publically advertise the draft (modified) Canning Bridge Activity Centre Plan subject to the amendments set out in **Attachment (a)** – Schedule of Modifications, in accordance with Regulation 34 of Schedule 2, Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, for a period of 28 days.
2. Pursuant to Regulation 34(1)(c) of the Regulations, provides a copy of the Draft (modified) Canning Bridge Activity Centre Plan to the Western Australian Planning Commission for review.
3. Following the public advertising outlined in Point 1., receives a further report outlining the outcomes of the public consultation prior to making a final recommendation to the Western Australian Planning Commission.

#### Background

##### Preparation and adoption of the CBACP

The CBACP was prepared jointly by the City of South Perth and City of Melville to provide guidance for development of the Canning Bridge Activity Centre Plan area.

The activity centre area comprises the walkable catchment of the Canning Bridge bus and rail interchange and includes land within the City of South Perth and the City of Melville. This area is recognised as an ‘activity centre’ under the Western Australian Planning Commission’s State Planning Policy 4.2: Activity Centres for Perth and Peel (SPP4.2).

The CBACP was developed over a number of years (2010 to 2015) and endorsed by the Western Australian Planning Commission (WAPC), with modifications, on 19 December 2015. The Minister for Planning approved the document subject to minor modifications in April 2016. The CBACP became operational in the City of Melville upon this approval, and operational within the City of South Perth following the gazettal of Amendment No. 47 in February 2017.

Previous modifications to the CBACP

Following the gazettal of the CBACP the City of Melville undertook a review of the plan and proposed a number of technical and administrative amendments, which were approved by the WAPC in June 2018.

In July 2018 the City of Melville resolved to commence public consultation on proposed amendments to the CBACP relating to building height, mezzanine levels, the permissibility of single dwellings, solar access/overshadowing and minimum lot sizes for buildings of certain sizes on land within the H4 zone under the plan. At its meeting held 19 March 2019, the City of Melville resolved to support the proposed amendments, subject to modifications resulting from the outcomes of the community consultation. The City of South Perth endorsed the proposed modifications at its meeting of 28 May 2019 and forwarded the amendment report(s) to the WAPC for final approval.

Resolution by the City of South Perth Council to review the CBACP

In May 2015, Council resolved to endorse the draft CBACP subject to a range of modifications and;

*'(d) The adopted structure plan will be reviewed and updated after a year of operation to address any issues that may arise.'*

The CBACP did not take effect within the City of South Perth until gazettal of amendment No. 47 in February 2017. At its meeting held 28 August 2018, Council resolved to initiate a review of the CBACP that considered any improvements and/or noted deficiencies in the plan, focusing on the following matters:

- Overlooking in the H4 and H8 zones;
- Access to direct sunlight for adjacent properties;
- Lack of guidance in the application of discretion for certain matters;
- Potential lack of landscaping in side and rear setback areas;
- The reasonableness of sustainability requirements for smaller developments;
- The zoning of existing commercial properties on Ley Street;
- Potential issues with mandatory podium requirements; and
- Potential issues associated with parking management.

The review concerns the development of land in Q3, Q4 and Q5 of the CBACP only; being those quarters located within the City of South Perth. It is not the intent of the review to affect land within the City of Melville.

Following Council's resolution to review the CBACP, the City engaged consultants Shape Urban to (in cooperation with City officers) undertake a review of the operation of the plan that included:

- Background analysis of the strategic documents or case-studies that informed/shaped the original CBACP and Council/development assessment panel reports for applications received since gazettal of the plan. This analysis helped ascertain the key attitudes expressed by stakeholders on previous development applications received by the City in the CBACP area. This enabled the preliminary stakeholder engagement to target, more precisely, the possible deficiencies with the plan; and,

- Preliminary stakeholder engagement that included two public information and feedback sessions, an online survey and the formation of a 'Citizen Stakeholder Group' (CSG) to provide detailed feedback on the operation, requirements and aspirations of the plan. The CSG was comprised of 26 participants and convened for two sessions. At the conclusion of the second CSG session, CSG members had developed a series of recommendations.

### Comment

#### Overview of participation and outcomes of preliminary consultation

Throughout early 2019 the City undertook a series of preliminary engagement activities to identify and test stakeholder attitudes towards the CBACP. The engagement process involved three elements:

- Public information and feedback sessions: These sessions were intended to give all stakeholders the ability to raise, understand and discuss the key elements of the CBACP they considered may need improvement. It also provide participants with an opportunity to familiarize themselves with the plan more before completing the online survey. Two sessions were held, attended by 107 participants.
- Online survey & engagement: An online survey was made available throughout the preliminary consultation period and asked participants to identify their key priorities for the CBACP into the future. This covered topics such as the design of buildings, transport and parking, and environment and sustainability.
- Citizen Stakeholder Group. This was a group that was randomly selected following expressions of interest from people within CBACP area. The purpose of the group was to explore the outcomes of the background analysis and outcomes of earlier consultation activities to provide a detailed set of recommended modifications to the CBACP.

The engagement resulted in the following participation by stakeholders;

- 107 participants attended two information and feedback sessions;
- 1,400 individuals visited the project page (on Your Say South Perth) during the preliminary consultation phase;
- 321 individual surveys were completed;
- 26 participants attended the Citizen Stakeholder Group meetings.



*Results of Online Survey and Feedback Sessions*

This component of the engagement culminated in the preparation of the 'Canning Bridge Activity Centre Plan Review – Engagement Summary Report', included in this report at **Attachment (c)**. This report established a framework of key issues for further, more in-depth discussion by the CSG. The report identified the following 'key themes' for further investigation by the CSG;

- Parking;
- Building height;
- Transport pathways, including public transport improvements;
- Safety;
- Setbacks and solar access;
- Design quality; and,
- A range of other matters including noise impacts and waste management.

The report identifies a range of key comments associated with each of the key themes identified.

*Citizen Stakeholder Group*

The CSG then met for two meetings and determined a series of recommended modifications to the CBACP. All of the CSG recommendations are set out in **Attachment (d)** – Citizen Stakeholder Group Report. Not all recommendations have resulted in a recommended modifications to the plan. In these situations, a direct modification to the plan is not required to affect the change, or the plan already deals with the matter. For example:

- Recommendations to provide greater guidance to the Design Review Panel, which does not require a modification to the plan to be made;
- The ability to provide flexibility on street setbacks, which the plan already provides in most instances; and
- The ability to exercise more discretion in the plan when approving commercial uses, which is already available/apparent.

With the exception of instances like those described above, all of the CSG recommendations have been addressed through proposed modifications to the CBACP. The recommendations of the CSG that result in modification to the CBACP are as follows:

#	CSG Recommendation
1.1	Front and side setbacks of nil if fronting Canning Highway. This should be considered in conjunction with the provision of deep colonnades (3-4m) to be provided along Canning Highway.
1.5	A more flexible approach to housing diversity standards, encouraging 3+ bedroom dwellings as well as smaller apartment typologies
1.8	Increased discretion on built form setbacks and heights where housing diversity is provided in alternative formats such as courtyard housing, mews, living laneways, fonzi flats.
3.0	Introduce the Design WA Deep Soil Zones policy element.
4.0	Adoption of Design WA solar and daylight access provisions and recommendations for cross ventilation.
5.0	Adopt Design WA building separation requirements, providing clear direction in the Desired Outcomes to allow discretion to reduce this to maximise dwellings facing the street.
6.0	Adopt Design WA floor plate depth requirements to mitigate the loss of privacy and drive a higher quality of apartment design and allow for inclusion of large trees.
7.2	Introducing some flexibility in heights in the H4 and H8 zones provided that high quality design is provided.
8.0	Allow for unbundling of car parking in all zones and remove as a bonus element (Element 21 and 22). Potential to mandate unbundled bays for any space over 1 bay per dwelling.
9.0	Include waste management requirements per H8, M10 and M15 zones within the H4 zone.

These recommendations, along with other matters identified as part of the review of the CBACP are discussed further in sections below.

The table below sets out the proposed modifications to the CBACP identified through the review process undertaken to date. These have been identified having regard to the following;

- The suite of issues identified in Council resolution from August 2018;
- The background analysis undertaken prior to the preliminary stakeholder engagement;
- The outcomes of the preliminary stakeholder engagement, including the recommendations of the CSG.

Matters such as consideration of visitor parking and the appropriateness of sustainability measures for smaller development proposals did not form part of the recommendations of the CSG.

Matter identified in review & preliminary consultation	Summary of proposed modification
Greater flexibility on setbacks and building size where this results in reduced building bulk, improved solar access, greater tree retention and planting and enhanced privacy.	<p>Introduce the provisions of State Planning Policy 7.3 – Apartments ('SPP7.3) in relation to;</p> <ul style="list-style-type: none"> <li>- Design Element 2.7 - Building separation (setbacks);</li> <li>- Design Element 2.6 – Building depth;</li> <li>- Design Element 3.3 – Tree canopy and deep soil areas.</li> </ul> <p>Additionally, introduce the 'Element Objectives' and 'Planning Guidance' to provide performance-based measures in relation to;</p> <ul style="list-style-type: none"> <li>- Design Element 3.2 – Orientation (inclusive of considerations of solar access to adjoining sites);</li> <li>- Design Element 3.5 – Visual privacy.</li> </ul>
Greater flexibility on height where setbacks and design quality is improved.	Amend the height limited in the H4 zone to allow buildings up to 6 storeys in height on sites greater than 1,200sqm.
Reduced impacts of podium structures.	Podiums to be setback from side and rear boundaries in the M10 zone an average of 4 metres, with the exception of sites fronting Canning Highway.
Ensure appropriate parking management throughout the precinct.	Apply the visitor parking criteria of the R-Codes for developments greater than 12 dwellings.
	Enable parking to be unbundled in all zones to allow parking demand to be more flexibility satisfied.
Provision of a variety of dwelling types, including those that suit family households.	Modify dwelling mix criteria of the plan to promote the delivery of +3 bedroom dwellings.
Sustainability criteria of the plan are inappropriate for small developments	Apply the sustainability requirements of the plan to developments in the same way as the City's P350.01 Environmentally Sustainable Building Design.
Align waste collection criteria to the scale of the development.	Waste in larger developments (greater than 1,200sqm site area and more than 4 storeys) shall be collected on site. Waste management plans to accompany each development application.
Other minor modifications.	Open sided balconies are to be included as part of lot boundary setback calculations.
	Grouped Dwellings and Single House proposals in the H4 zone must demonstrated that the intensity of land use proposed assists in achieving the objectives of the CBACP.

Each of these proposed modifications is discussed in detail below. The series of changes, particularly those relating to modifications to built-form controls (such as lot boundary setbacks and building height) are intended to be considered as a single suite of changes. A number of the modifications could result in a reduction of dwelling/development yield and it important that is linked to complimentary flexibility in lot boundary setbacks and building height.

#### Integration of SPP7.3/R-Codes provisions

Clause 4.3(1)(p) of the Scheme specifically excludes consideration of the majority of the provisions of the Residential Design Codes (R-Codes).

The CBACP was adopted in 2016. Since that time the R-Codes have been modified considerably. An update to the R-Codes, in the form of SPP7.3, was gazetted in May 2019 and provides a comprehensive basis for the design and control of apartment development in Western Australia. SPP7.3 provides performance based measures for assessing a development; design quality, neighbourhood compatibility and amenity impact.

It is recommended that a number of provisions of SPP7.3 be introduced to the CBACP to provide more robust criteria on matters such as building separation, deep-soil areas and tree retention, visual privacy and solar access.

#### *Building separation and lot boundary setbacks*

Integration of Design Element 2.7 (Building separation) of SPP7.3 into the CBACP results in buildings being setback greater distances from side and rear boundaries. This is particularly the case for buildings more than 4 storeys. The table below sets out differences between the prescribed setbacks in SPP7.3 and the CBACP:

Height	CBACP Setbacks	SPP7.3
Up to 4 storeys (H4 zone)	3-4m depending on the lot width.	3.0m minimum, 3.5m average
Up to 8 storeys (H4, H8 zone)	3-4m depending on the lot width.	9.0m
Above 8 storeys (M10, M15)	4.0m	12.0m

Design Element 2.7 of SPP7.3 also requires a decision maker to give due regard to the 'element objectives' of the clause. These objectives are stated as follows;

*'2.7.1 New development supports the desired future streetscape character with spaces between buildings.'*

*2.7.2 Building separation is in proportion to building height.*

*2.7.3 Buildings are separated sufficiently to provide for residential amenity including visual and acoustic privacy, natural ventilation, sunlight and daylight access and outlook.*

*2.7.4 Suitable areas are provided for communal and private open space, deep soil areas and landscaping between buildings.'*

A key implication of introducing Design Element 2.7 of SPP7.3 into the plan is that the majority of lots within the CBACP will not be able to accommodate buildings greater than 4 storeys without some form of land assembly.

The majority of un-subdivided lots within the CBACP have a frontage of approximately 20m. These lots would not be capable of development in excess of 4 storeys and would only achieve a developable building width (that is, the lot width less any side or rear setback criteria) equivalent to that currently achievable under the CBACP if the frontage was at least 30m.

	20m frontage		30m frontage		36m frontage	
Height	CBACP	SPP7.3	CBACP	SPP7.3	CBACP	SPP7.3
4 storey	12m	13m	22m	23m	28m	29m
6-8 storeys	12m	2m	22m	12m	28m	18m
9 or greater storeys	12m	Nil	22m	6m	28m	12m

*Remaining site width less side setbacks based on lot frontage (numerals in red indicate negligible development envelope). 3.5m average used for SPP7.3 buildings 4 storeys or less.*

Integration of the building separation criteria of SPP7.3 is likely to have the following affects;

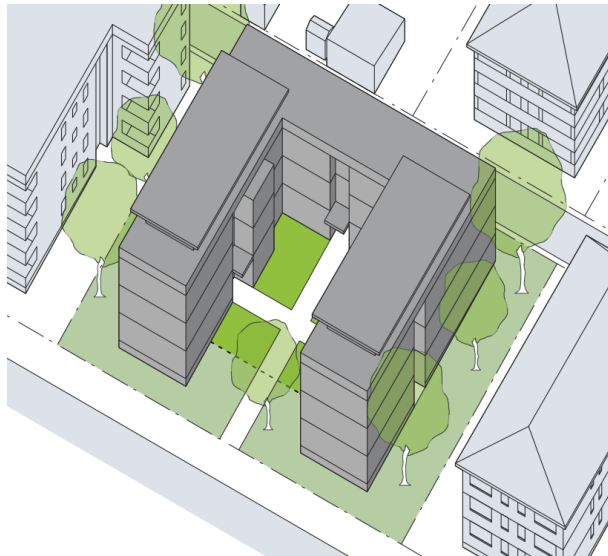
- There will be a greater incentive to develop 4 storey buildings in instances where land assembly is not possible/desirable;
- There will be less incentive to develop 6 storey buildings on unassembled lots. In the H8 zone, buildings greater than 6 storeys can only be developed if the land is at least 1,200sqm. As land will need to be assembled to allow for a 6 storey building to achieve the stated setback criteria, most development sites will likely be larger than 1,200sqm. This would then provide an incentive for a landowner to simply pursue an 8 storey development.

Overall the introduction of these criteria will provide incentive for the development of a greater variety of buildings forms while also encouraging land assembly.

#### *Building depth*

Design Element 2.6 of SPP7.3 (Building depth) provides a single 'acceptable outcome' that describes that buildings should not exceed a maximum depth of 20m. This distance is measured from the edge of apartments on either side of a circulation corridor.

The criteria restricts the depth of building floorplates (for apartments) to allow for daylight access, good solar access and orientation and ventilation. A typical design response is to articulate the façade of the building to provide a greater building perimeter; such as a 'u-shaped' building shown in the figure below.



*Extract of figure from Apartment Design Guide – Appendices (Department of Planning, New South Wales) isometric example of courtyard (U-shaped) building resulting from building depth criteria.*

This, as opposed to singular ‘block’ buildings, provides for enhanced privacy, solar orientation, opportunities for deep-soil planting and ventilation to apartments and to adjoining sites. The criteria also assist in breaking up building bulk and limiting the scale of buildings overall by limiting their depth/width relative to the proportions of the site.

#### *Tree canopy and deep-soil areas*

A key attitude identified in the consultation activities was that new buildings were resulting in the loss of large trees and that, along with inadequate setback criteria, offered insufficient space at ground levels to promote tree canopy growth.

SPP7.3 provides the first State-wide criteria that both protect existing trees and ensure sufficient area for new trees to be established on development sites. It is recommended that these criteria be adopted into the CBACP to ensure the on-going protection and maintenance of significant vegetation/trees.

The criteria of SPP7.3 provide that 7-10% of the site are should be provided as a deep-soil zone and planted with sufficient trees.

**Table 3.3a** Minimum deep soil area and tree provision requirements

Site Area	Minimum deep soil area	Minimum requirement for trees <sup>1</sup>
Less than 700m <sup>2</sup>		1 medium tree and small trees to suit area
700 – 1,000m <sup>2</sup>	10%  <b>OR</b>	2 medium trees <b>OR</b> 1 large tree and small trees to suit area
> 1,000m <sup>2</sup>	7% if existing tree(s) retained on site  (% site area)	1 large tree and 1 medium tree for each additional 400m <sup>2</sup> in excess of 1000m <sup>2</sup> <b>OR</b> 1 large tree for each additional 900m <sup>2</sup> in excess of 1000m <sup>2</sup> and small trees to suit area
<sup>1</sup> Minimum requirement for trees includes retained or new trees Refer Table 3.3b for tree sizes		

*Extract of Table 3.3 of SPP7.3 – Minimum deep soil area and tree provision criteria*

It is recommended that Design Element 3.3 – Tree canopy and deep soil areas be applied to development within the CBACP to improve the retention of mature trees and growth of tree canopy.

#### *Visual privacy & solar orientation*

A number of development applications received within the CBACP area have proposed major openings/windows and balconies that impact the privacy of adjoining properties. This has included balconies facing side boundaries that directly overlook outdoor living areas on adjoining sites. Development proposals have also resulted in significant loss of solar access to southern adjoining properties; notwithstanding that the CBACP allows for the development of tall buildings throughout the plan area.

SPP7.3 provides a series of ‘acceptable outcomes’ which provide a prescriptive assessment criteria for each design element. The acceptable outcomes provide a ‘one-size-fits-all’ approach to assessment that give little regard to the varied site and character circumstances that exist throughout the CBACP area. In general, rigidly applying the (generic, not locally specific) acceptable outcome criteria results in unresponsive design that favours a standardised outcome over one that is more suited for the site.

SPP7.3 also provides a series of ‘element objectives’ and ‘design guidance’ that outlines design elements/approaches that can be used to minimise visual privacy and solar access impacts. For visual privacy and orientation (solar access) these are stated as follows;

#### *‘Visual privacy – Element Objectives*

*The orientation and design of buildings, windows and balconies minimises direct overlooking of habitable rooms and private outdoor living areas within the site and of neighbouring properties, while maintaining daylight and solar access, ventilation and the external outlook of habitable rooms.’*

#### *‘Orientation – Element Objectives*



*3.2.1 Building layouts respond to the streetscape, topography and site attributes while optimising solar and daylight access within the development.*

*3.2.2 Building form and orientation minimises overshadowing of the habitable rooms, open space and solar collectors of neighbouring properties during mid-winter.'*

These approaches recognise the need to balance the desire for outlook, ventilation and solar access to apartments with the need for reasonable privacy and solar access to adjoining sites. SPP7.3 provides acceptable outcomes for these two design elements, summarised as follows:

- Criteria for openings/balconies to be setback minimum distances (between 3-7.5m) from boundaries; and.
- Maximum rates (expressed as a percentage of the adjoining site) of overshadowing.

It is recommended the 'element objectives' and 'design guidance' be adopted into the CBACP, but the 'acceptable outcomes' be specifically excluded from any future assessment, for the following reasons:

- Solar access is a recognised concern but is largely unavoidable in CBACP owing to lot orientation and the development heights permitted. A performance based, rather than prescriptive approach, will result in proposals that balance development outcomes for the site (and future occupiers) and the need for reasonable solar access to adjoining sites;
- Applying prescriptive separation criteria (i.e. cone-of-vision setback criteria) will not provide sufficient separation between spaces so as to fully ameliorate the loss of privacy. Setback distances of 3-7.5m are unlikely to fully resolve visual privacy concerns and could result in developments proposing heavily screening of balconies and living areas. This will result in enclosed spaces with poor light access and ventilation. Instead, the element objectives would encourage better orientation and layout of balcony structures to minimise overlooking;
- Overly prescriptive criteria, particularly in relation to solar access could significantly inhibit development of land within the CBACP area and undermine the objective of the plan to add intensity of land use within proximity of Canning Bridge railway station.

Overall the 'element objectives' and 'design guidance' of 3.2 (Orientation) and 3.5 (Visual Privacy) of SPP7.3 provide a robust framework for the consideration of visual privacy and solar orientation for new buildings. The use of performance based criteria will ensure more rigorous building design and assessment and provide for more well-resolved solutions to privacy and solar access impact for each individual site than simply stating prescriptive criteria.

Additional building height in the H4 Zone

A key principle of SPP7.3 is that assessments of buildings should be performance based; offering flexibility and thorough interrogation of the potential impacts of development. Some of these measures proposed to be introduced into the CBACP are likely to impact development yield. In recognition of this it is recommended that complimentary flexibility also apply to development heights in the CBACP. It is important the development capacity of the CBACP is not significantly altered given the objective of the plan to add intensity of land use within proximity of Canning Bridge railway station.

It is recommended that the CBACP be modified to allow for additional development height, up to two additional storeys in the H4 zone where a site achieves a minimum lot size of 1,200sqm. To achieve this building height land will need to be assembled to accommodate the greater side and rear boundary setbacks outlined earlier in this report. This will result in larger land parcels that are able to more flexibly achieve higher standards of design, building siting, setbacks and landscaping.

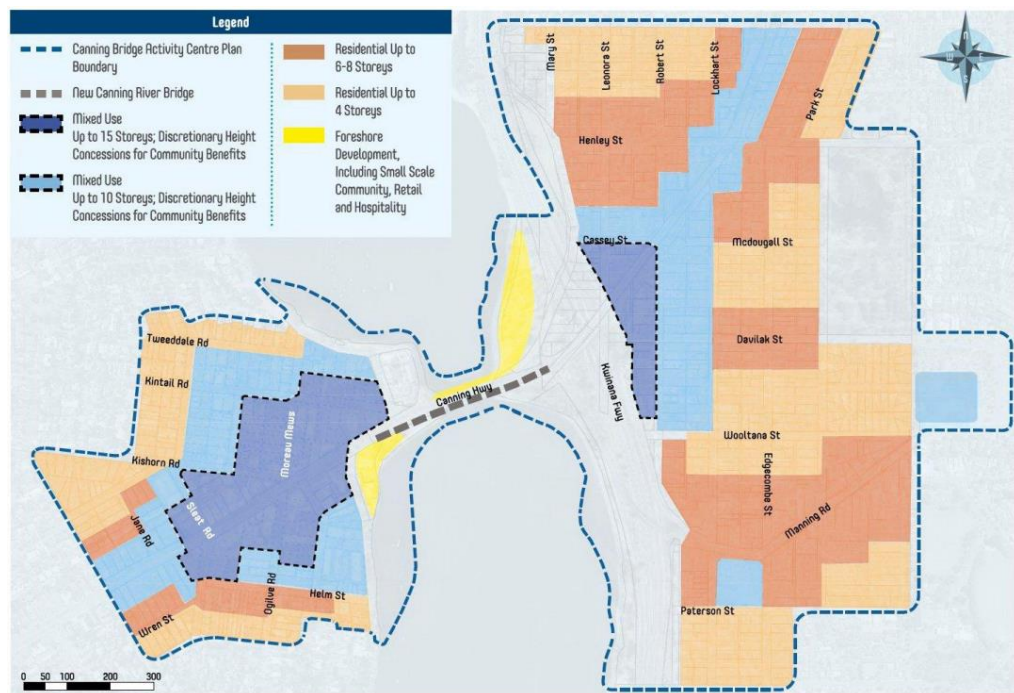
It may also, in the short-term, encourage the development of smaller 4-6 storeys developments. This would assist in alleviating the short-term 'transition' matters.

Built-form in the M10 zone

Element 3.3 of the CBACP mandates that development in the M10 or M15 Zone have a 'podium' of a minimum height of 7.0m (2 storey) and a maximum height of 13.5m (about 4 storeys). This is further reinforced by Element 5.1 which requires these podiums to be built to side boundaries, right-of-ways and possibly to rear boundaries.

Within Q3, Q4 and Q5 of the plan, the majority of the land zoned M10 is located along Canning Highway and opportunity sites along Manning Road (Mount Henry Tavern and former 'Telstra Site' at the corner of Ley Street).

However land between Lockhart Street, Wooltana Street, Robert Street and Canning Highway is also zoned M10 under the CBACP. While lots in this location are close to Canning Bridge Station, the character of the streets is considered to be more suburban and lower density with many single and two storeys houses. Mandating the development of substantial podiums in this location is clearly out-of-character with the prevailing built form and scale and results in an unnecessarily severe transition.



*Canning Bridge Activity Centre Plan Land Use, Built Form and Zones*

Conversely, Canning Highway consist of a 'highway' streetscape where buildings are built closer to boundaries, contain a range of commercial activities and the level of general amenity is lower.

It is recommended that the requirement to develop large podiums, built to side and rear boundaries is removed for land in the M10 zone except for land fronting Canning Highway. Podium/buildings on these lots will be required to be setback an average of 4.0m.

#### Built-form along Canning Highway

The CSG recommended that:

*'Front and side setbacks of nil if fronting Canning Highway. This should be considered in conjunction with the provision of deep colonnades (3-4m) to be provided along Canning Highway.'*

Deep colonnade structures will provide weather protection and relief from the busy traffic environment along Canning Highway.

Requirement 4.2 of the CBACP states that all development in the M15 shall be a minimum of nil and a maximum of 2.0m. To reflect the recommendation of the CSG and to assist in providing relief to the busy traffic environment along the highway, it is recommended the requirements 4.2-4.5 (contained in Element 4) be modified to require that a deep-colonnade (minimum 3.0m deep) for all buildings fronting Canning Highway.

Visitor parking ratios

The CBAPC provides ratios for the provision of parking within new developments. Ratios for the provision of visitor parking are not provided. A review of development applications lodged within Q3, Q4 and Q5 of the CBACP indicate that development provides an average of 1.33 bays per dwelling (503 bays across 377 dwellings).

A key attitude expressed during the preliminary consultation (though not specifically by the CSG) was a concern that parking for visitors to the precinct was not being appropriately catered for.

As a result, the CBACP is proposed to be modified to include a requirement to provide one visitor parking bay per eight dwellings in developments greater than 12 dwellings. An additional criteria requires that visitor parking not be located within a street setback area and not be visually prominent from the street.

Introducing criteria to allow for visitor parking is seen as an interim response that will providing parking flexibility as population in the CBACP area grows and infrastructure is incrementally improved.

Unbundled parking

A further recommendation of the CSG was to;

*‘Allow for unbundling of car parking in all zones and remove as a bonus element (Element 21 and 22). Potential to mandate unbundled bays for any space over 1 bay per dwelling.’*

Unbundled parking refers to parking bays held on separate title. This allows landowners to sell or acquire bays as demand changes. It also serves to articulate the value of a parking bay given each bay can be sold across a development. It is recommended element 18.2 be modified to allow unbundled parking in all zones of Q3, Q4 and Q5. This will promote the rationalisation of the amount of parking provided within a development to the minimum demanded by the market.

It is noted that selling/leasing of a parking bay to a party not an owner or occupier of a development would likely be considered ‘public parking’ (as per the definition of the CBACP), which is stated as *‘any land or buildings or part of a building open to the public generally for parking of vehicles for which payment of a fee or charge may be required’*. ‘Public parking’ is listed as a land use in various zones of the CBACP (namely the M15 zone). It is not listed as a ‘preferred use’ in the H4, H8 or M10 zones within Q3, Q4 or Q5. Notwithstanding the use of land for this purpose, future development applications involving unbundled parking could be considered subject to conditions which limit the use of any unbundled bays (that is, only to residents/occupiers of the development).

Dwelling mix and diversity

Element 1.13 of the CBACP currently specifies that developments proposing ten (10) or more dwellings shall provide between 20-50% of dwellings as one-bedroom dwellings and a minimum of 40% as two-bedroom dwellings.

A key attitude identified during the preliminary consultation was that there were too many smaller dwellings being constructed within the CBACP area and an insufficient opportunities for larger households (families) to live in new developments.

It is recommended Element 1.13 be amended to provide between 20-40% of dwellings as one-bedroom dwellings and a minimum of 20% as two-bedroom dwellings.

Sustainability criteria

The CBACP currently requires 'all development' within the City of South Perth to meet a 5-star Green Star rating. This includes the development of minor Single House and Grouped Dwelling developments. P350.01 requires that development in the rest of the City achieve a 4-star Green Star rating and specifically excludes:

- Single House and Grouped Dwelling developments (amongst other use classes); and,
- Buildings less than 1,000sqm gross floor area.

A review of certified Green Star buildings around Australia indicates that the tool is seldom applicable to smaller scale residential development; with no evidence of Single Houses or minor Grouped Dwelling developments having been certified. The Green Star (and equivalent tools) are designed to suit larger multi-residential, commercial and community scaled developments. It is not considered appropriate to apply then Green Star rating requirements to smaller developments. It is recommended the plan be modified to apply the criteria of the CBACP to the same scale of developments as outlined in P350.01.

Other modifications

The following further (minor) modifications are proposed to the plan to improve its operation;

- Amend Element 19.3 to provide that;
  - Where a development site is greater than 1,200sqm, waste shall be collected on-site and development shall be designed to allow internal circulation of the City's waste vehicle;
  - Where land is less than 1,200sqm and is 4 storeys or less, waste can be collected from the street. In this instance, the City may request a dedicated parking embayment and collection point;
  - All development applications are to be accompanied by a waste management plan.
- Amend Element 5.5, which permits open-sided balconies to protrude into setback areas, to exclude this from applying within Q3, Q4 and Q5.

- Add an additional requirement at 1.15 that outlines that development in Q3, Q4 & Q5 shall be provided in a variety of typologies, provided that the resulting density reflects the desired density outcomes of the CBACP. This ensures the development that significantly ‘underdevelops’ a site will not be supported.

### Consultation

As described earlier in this report, there has been extensive preliminary consultation undertaken to inform the recommendations of this report. In accordance with Regulation 45 of Schedule 2, Part 5 of the Regulations, should Council resolve to proceed with the recommended modifications to the CBACP, the City is required to seek comments from all stakeholders likely to be affected by the modifications. Regulation 34 requires that advertising of activity centre plans must be carried out for at least 14 days but no more than 28 days unless approved by the WAPC. While the matters encompassed in the modifications are considered to be reasonably complex, it is not recommended that the City seek to advertise the modified CBACP for a period longer than 28 days. The extensive preliminary community consultation has added considerably to the identification of key community attitudes regarding the plan and this has cogently informed the recommendations of this report.

Advertising of the proposed modifications to the CBACP will be undertaken in accordance with Regulation 34 of Schedule 2 of the Regulations. Advertising will include the following:

- Direct written notice to all owners and occupiers within the CBACP area and properties directly adjoining the plan area;
- Email notice inviting comment on the plan modifications to the City’s email database and those who have previously registered for updates via Your Say South Perth;
- A notice in the Southern Gazette newspaper, e-news and the City’s social media platforms giving notice of the consultation period;
- Notice and documents setting out the proposed modifications (and any accompanying material) being made available for inspection at the City’s administration centre during opening hours;
- Two community drop-in sessions to allow residents to learn more about the proposed modifications before making comment.

Upon conclusion of the public advertising, Council will consider all submissions received and must then consider whether to recommend the modifications to the WAPC.

### Policy and Legislative Implications

The process relating to adopting and modifying activity centre plans are outlined in Part 5 of the Deemed Provisions. This report and the associated recommendations are required in accordance with Regulation 36 of the Deemed Provisions.



### **Financial Implications**

There are no financial implications associated with this report.

### **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

### **Attachments**

- 10.3.3 (a): Schedule of Modifications to Canning Bridge Activity Centre Plan
- 10.3.3 (b): Review Recommendations Report
- 10.3.3 (c): Engagement Summary Report
- 10.3.3 (d): Citizen Stakeholder Group Summary



### 10.3.4 Revised Policy P303 - Design Review Panel

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	Not Applicable
File Ref:	D-19-73462
Meeting Date:	27 August 2019
Author(s):	Elyse Maketic, Manager Strategic Planning
Reporting Officer(s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy:	3.2 Sustainable Built Form

#### Summary

This report outlines the modifications that have been made to local planning Policy P303 – Design Review Panel and the Design Review Panel Terms of Reference. The modifications have been made in order to align the policy and Terms of Reference with the model process for design review and the model Terms of Reference contained in Design WA: Design Review Guide. This report recommends that Council publically advertise the modified policy and terms of reference.

#### Officer Recommendation

That Council:

1. Adopts the draft modified Local Planning Policy P303 – Design Review Panel as contained at **Attachment (a)** for public comment for a period of not less than 21 days; and,
2. Following completion of the public comment period, receives a further report detailing the outcomes of the advertising period, including any submissions received, for consideration.

#### Background

At the 23 April 2019 Council meeting, Council resolved:

*That Council reviews the Policy P303 Design Review Panel including the Terms of Reference by August 2019.*

The reasons for this resolution included that the Western Australian Planning Commission recently released Design WA Guidelines to assist with good design and that one of the documents is the “Design Review Guide”.

The City created a design advisory committee (DAC) in the early 1960’s. The DAC was comprised of a group of architects who lived or worked within the City of South Perth. It is believed to have been the first of its kind to be established in Western Australian local government. Under different names, the design advisory group has operated consistently since that time. The group is now named the ‘Design Review Panel’ (DRP).

Integrating design review into the planning system is a key component of the implementation and operation of State Planning Policy (SPP) 7.0 Design of the Built Environment and SPP7.3 Apartment Design Guides, as well as the State's 'Better Places and Spaces: a policy for the built environment in Western Australia' (adopted 2013). The City's Scheme and Activity Centre Plans also embed performance based design criteria into the planning framework for certain areas. Ultimately good design is integral to achieving good planning outcomes.

The establishment and operation of the DRP in the City of South Perth is governed and guided by local planning policy P303 – Design Review Panel. The policy includes two appendices, the City of South Perth Design Review Panel Terms of Reference and the City of South Perth Design Review Panel Templates, both of which form part of the Policy.

These documents were last reviewed in June 2017 in order to align them with the draft Design WA: Design Review Guide, which was currently being developed as part of the Design WA suite of documents. The Design WA: Design Review Guide contains a model process for design review and a model Terms of Reference for Design Review Process. The purpose of this document is to provide a best practice guide for design review and more consistency for design review across the state.

The Design WA suite of documents have now been finalised and became operational on 24 May 2019. The Policy, Terms of Reference and templates have been reviewed to align them with the content of the Design WA: Design Review Guide.

### Comment

#### Policy Modifications

The intent of the Policy is to provide the head of power for the establishment and operation of the DRP. The detail of these matters are then included in the Terms of Reference. The policy has been modified to:

- Better align its format with the most recently adopted local planning policies; and
- Better align its content with the content of the Design Review Guide; and
- To incorporate some of the key aspects of the model Terms of Reference directly into the policy. These primarily relate to the role and operation of the DRP. Incorporating these aspects into the policy is considered necessary as it provides visibility for these important aspects of design review.

The key modifications to the policy can be summarised as follows:

- Deleting the background section;
- Adding a new policy application section which references SPP7.0, the importance of design review and that the policy and associated appendices apply to the establishment and operation of the DRP;
- Streamlining the policy objectives and providing a direct reference to the model process and other guidelines of the Design Review Guide;
- Modifying section 2 to include the role description of the DRP from the model terms of reference;
- Renaming section 3 to 'Establishment and Operation of the DRP. This section includes direct reference to the Terms of Reference, outlines Design Review Principles (formerly comprised this part in its entirety), and outlines the process for Design Review Report and Recommendations.

- Modifying appendix 2 – Design Review Report and Recommendations. This appendix is the template for design review reporting and recommendations from the Design Review Guide. Part 3(c) directly references the modified appendix 2 –and states that all reporting and recommendations shall be provided in this form. Providing the reporting and recommendations in this form will provide a clear and transparent method of reporting on design review. This will benefit the city officers, elected members, decision makers and the community.

#### Modifications to the Terms of Reference

The terms of reference have been modified to better align with the model terms of reference provided in the Design Review Guide. This has resulted in reordering of the current Terms of Reference and additional matters being included.

The key modifications to the terms of reference can be summarised as follows:

- Renaming section 1 to Proposals to be Reviewed and including a new sub section on the timing and number of reviews. This clearly articulates when Design Review should be undertaken, and the expectation for early review and review at key stages of design. Reviewing at these stages ensures the most is gained from the design review process and leads to more efficient and cost effective review process for both the proponent and the City.
- Including a new appendix 1 – development assessment overview. This is to be used for proposals at both the pre development application and development application stage.
- Including a new section 2 Process and Principles of Review. This section incorporates the content of the section that is currently referred to as Aspects of proposals to be considered by the DRP and incorporates a direct reference to the model process.
- Addition of new sections on governance, status of advice and panel management and support. These sections directly align with the model terms of reference, however, the status of advice section incorporates the content of the existing DRP comments and advice section.
- Modifying the Membership section to align with the model terms of reference. The modifications include adding a list of essential and desirable expertise, and modifying the selection criteria to state that the panel should include a balance of both local knowledge and expertise outside the local government area. An additional point on experience with the design and delivery of the types of proposals to be considered by the DRP has also been added.
- An additional section on Panel roles and responsibilities has been included. This section is as per the model terms of reference. The section on the Panel chair has been modified and expanded to include the content from the model terms of reference.
- The attendance section has been modified to incorporate requirements on quorum and to also include reference to the need to maintain consistency of the panel across subsequent reviews of the same proposal.
- A new attachment 2 has been added. This attachment is the template for the agenda and is consistent with the template provided in the Design Review Guide. The use of this template is specifically referenced in section 7(iii).
- An additional requirement for a site inspection has also been included in the meeting section.

- Renumbering of the existing sections to accommodate the additions and modifications.

The matter of fees has also been considered, however does not directly fall under this policy. In the 2019/2020 budget Council endorsed the fee for applicants of \$750 per referral to the DRP. The City currently pays the DRP members \$600 per meeting and an additional \$220 per hour to the Panel chair for review of the notes.

The fee paid to the DRP members does not currently align with standard practice elsewhere as the remuneration is listed in the Terms of Reference for other local governments. The model terms of reference recommends remuneration should be included in the terms of reference and the value set at standard professional rates up to a maximum of three hours review time, plus one hour of preparation. Setting the remuneration at this level would assume that each meeting would go for a duration of three hours, which in practice does not always happen and in some circumstances members may be paid more than the work actually undertaken for the meeting.

It is therefore recommended to set remuneration in the terms of reference at an hourly rate of \$200. This means that in every circumstance the members are paid according to the work undertaken, including preparation, and for the panel chair review of reporting and recommendations. The terms of reference will provide guidance on the amount of preparation time considered appropriate and reasonable. The hourly rate recommended is considered appropriate given the level of skills the City requires on its DRP for the types of proposals considered. It is important to remunerate members appropriately to ensure the calibre of members is commensurate with the skill level required for review. Investing appropriately in design review is critical to ensure the success of design review.

#### Summary

The modifications to the policy and terms of reference align these documents with the best practice guide for design review, as described in the state's Design Review Guide. They will result in a clearer, more transparent and more streamlined design review process which will benefit the City, community and decision makers.

#### **Consultation**

In reviewing this policy, the City consulted with other comparable local governments including the Cities of Vincent, Subiaco and Stirling. The City also consulted with the DRP members. Two members provided comment on aligning the City's processes and templates with the Design WA: Design Review Guide and clarifying when the DRP members can speak publically (JDAP and SAT). These suggestions have been incorporated into the review.

Should the Council resolve to adopt the policy for the purpose of public consultation, advertising of the policy will be undertaken for a period of twenty-one (21) days in accordance with Schedule 2, clause 4(1) and 4(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*. Consultation will be undertaken in accordance with P301 – Community Engagement in Planning Proposals commencing at an appropriate time following the Christmas and New Year period.

### Policy and Legislative Implications

A planning policy does not form part of a Scheme and cannot bind the decision maker in respect of an application or planning matter. However, the decision maker is required to have due regard to the provisions and objectives of the policy in its decision making.

The City is able to adopt local planning policies relating to matters of local development under Schedule 2, clauses 5 & 6 of the Planning and Development (Local Planning Schemes) Regulations 2015. This policy has been made pursuant to this legislation. The table below sets out the process for review of this policy and the likely timeframes.

Stage of Process	Estimated Time
Council resolves to advertise local planning policy.	August 2019
Local planning policy advertised for a period of at least 21 days.	September 2019
Council to consider outcomes of consultation and recommendation on whether to adopt the local planning policy.	November/December 2019

### Financial Implications

The costs of remuneration of panel members is already included in the annual budget.

There is a minor cost associated with advertising the modified draft policy. This cost is accounted for in the 2019/2020 operational 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: Sustainable built form  
 Strategy: Develop a local planning framework to meet current and future community needs and legislative requirements.

### Attachments

- 10.3.4 (a):** P303 Design Review Panel - August 2019
- 10.3.4 (b):** P303 Design Review Panel - Appendix 1 - Terms of Reference August 2019
- 10.3.4 (c):** P303 Design Review Panel - Appendix 2 - Design Review Report and Recommendations

### 10.3.5 Endorsement of the Waste and Resource Management Plan

Location:	Not Applicable
Ward:	All
Applicant:	Not Applicable
File Ref:	D-19-73464
Meeting Date:	27 August 2019
Author(s):	Jac Scott, Manager Business & Construction
Reporting Officer(s):	Mark Taylor, Director Infrastructure Services
Strategic Direction:	Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy:	3.4 Resource Management & Climate Change

#### Summary

This report seeks Council's final endorsement of the Waste and Resource Management Plan (WRMP) after receiving community feedback.

As a result of Community feedback of the Draft WRMP, two action points were changed/amended to the final document.

#### Officer Recommendation

That Council:

1. Notes the community feedback on the Waste and Resource Management Plan; and
2. Adopts the amended Waste and Resource Management Plan as contained in **Attachment (b)**.

#### Background

At the October 2018 Ordinary Council Meeting, the following was resolved in response to a Notice of Motion from the Mayor.

*That the City prepare a report to the November meeting of Council about reviewing its commitment to:*

- *Waste education;*
- *Sustainable living programme; and*
- *Demonstrating how the City can lead by example – e.g. recycling in City premises and events*

A report was prepared for the November 2018 meeting following which Council endorsed that a draft Waste Management Plan be presented to the February 2019 meeting. Due to the publication of the WA State Waste Strategy, which modified State objectives, the presentation of the draft Waste Management Plan to Council was delayed to the April 2019 meeting.

At the April 2019 Ordinary Council Meeting, Council endorsed the advertising of the draft Waste and Resource Management Plan (WRMP) for Community comment. A four week consultation period followed to gather the community opinions and comments on the draft WRMP document.



### Comment

The majority of respondents were supportive of the actions and the direction of the City's future waste and resource management proposals and targets. A summary of the feedback is included in **Attachment (a)**.

Two common feedback themes were concerning Food and Organics waste treatment opportunities and the need for improved community education.

#### Food and Organics

The City is committed to the Waste to Energy plant, and does not provide a Food and Organics bin (FOGO) to residents. Green Waste is effectively managed through verge collections and the recycling centre, however opportunities to divert food organics from the general waste bin, and therefore landfill disposal, are not provided by the City. Providing suitable composting opportunities and education would be an appropriate area for further support, and this has been confirmed as an area of interest through the community consultation.

The draft WRMP has been updated with an action to investigate community composting options. The investigation of options, and implementation and education on subsequent proposals is proposed to be undertaken by a Waste Projects Officer.

#### Community Education

Education is acknowledged as being a key area for improvement and driving behaviour change. Public consultation called for further and increased education. Additional education programs could be undertaken by a Waste Projects Officer.

The previous plan acknowledged the staffing constraints of the waste team and identified the need to investigate options for a waste education or project officer in order to meet the expanded requirements arising from the WRMP. Community consultation has identified support for the proposed and expanded actions. These cannot be effectively met within current staffing constraints without service reductions elsewhere.

The draft WRMP has therefore been updated with an action for the City to consider a Waste Projects Officer position to implement the WRMP and associated Action Plan. The Waste Projects Officer would initially focus on improved community education, and investigate key improvement projects such as the options for community composting.

Improved community education leads to improved waste management outcomes which in turn will reduce the City costs for the management of waste. A major financial benefit can be achieved through the community improving behaviours both in respect to the generation of waste and the subsequent treatment of it.

The cost of an additional officer would be funded from the Waste Management Reserve, however the nature and timing of the appointment would need to be considered by the City against competing needs and staff establishment numbers.



### Modifications to the draft WRMP

The modifications to the draft WRMP document are:

- Amend "Investigate appointment of a Waste Education or Waste Project Officer" to "Engage a Waste Projects Officer "
- Add "Investigate options where the Community could participate or belong to a Community Compost system."

The WRMP including the proposed amendments is contained in **Attachment (b)** and is recommended for adoption by Council.

### **Consultation**

The community consultation was conducted over a four week period from 10 June to 8 July 2019. Information was gathered from the general correspondence feedback, face to face interaction and waste management best practice.

### **Policy and Legislative Implications**

An endorsed WRMP and its principles will now be integrated into relevant policies, strategies and planning decisions in order to be effective, and this will be underpinned by a strong education strategy.

The WRMP will create the structure to define and support future waste activities of the City and residents

### **Financial Implications**

The WRMP is intended to be delivered over a period of five years from 2019 to 2024. Funds required for the Actions will be sought using the City's Waste Reserve funds and /or external funding; and will be requested as part of the annual operational budget process for assessment by Council.

### **Strategic Implications**

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

Strategic Direction:	Environment
Aspiration:	Sustainable urban neighbourhoods.
Outcome:	Resource management and climate change
Strategy:	Promote and implement sustainable water, waste, land and energy management practices

### **Attachments**

<b>10.3.5 (a):</b>	Draft Waste and Resource Management Plan Community Feedback Summary
<b>10.3.5 (b):</b>	Waste and Resource Management Plan

## 10.4 STRATEGIC DIRECTION 4: LEADERSHIP

### 10.4.1 Listing of Payments - July 2019

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	Not Applicable
File Ref:	D-19-73465
Meeting Date:	27 August 2019
Author(s):	Elizabeth Smith, Financial Coordinator
Reporting Officer(s):	Colin Cameron, Director Corporate Services Andre Brandis, Manager Finance
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 July 2019 and 31 July 2019 for information. During the reporting period, the City made the following payments:

EFT Payments to Creditors	(290)	\$4,268,193.44
Cheque Payment to Creditors	(10)	\$41,026.00
<b>Total Monthly Payments to Creditors</b>	<b>(300)</b>	<b>\$4,309,219.44</b>
EFT Payments to Non-Creditors	(22)	\$128,055.64
Cheque Payments to Non-Creditors	(4)	\$232.20
<b>Total EFT &amp; Cheque Payments</b>	<b>(326)</b>	<b>\$4,437,507.28</b>
Credit Card Payments (July 2019)	(6)	\$14,249.22
<b>Total July Payments</b>	<b>(332)</b>	<b>\$4,451,756.50</b>

#### Officer Recommendation

That the Council receives the Listing of Payments for the month of July 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 in Policy P605 - Purchasing and Invoice Approval and Delegation DM605 sets the authorised purchasing approval limits.

After an invoice has been matched to a correct Goods Receipt Note in the financial system, 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.

In accordance with the Council Resolution on 26 March 2019, the attached report includes a "Description" for each payment. Officers provide a public disclaimer in that the information contained within the "Description" is unlikely to accurately describe the full nature each payment. In addition, officers have used best endeavours to redact (in black) information of a private or confidential nature.

The report records payments classified as:

- **Creditor Payments**

These include payments by both Cheque and EFT to regular suppliers with whom the City transacts business. The Reference numbers represent a combination of both date and Batch Number of each payment.

- **Non Creditor Payments**

These one-off payments that include both Cheque and EFT are made to individuals / suppliers who are not listed as regular suppliers. The Reference numbers represent a combination of both date and Batch Number of each payment.

- **Credit Card Payments**

Credit Card Payments are now processed in the Technology One Finance System as a Creditor Payment and treated as an EFT payment when the bank account is direct debited at the beginning of the following month.

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**

10.4.1 (a): Payment Listing July

## 10.4.2 Monthly Financial Statements - July 2019

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	Not Applicable
File Ref:	D-19-73467
Meeting Date:	27 August 2019
Author(s):	Elizabeth Smith, Financial Coordinator
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)–(f))**. High level analysis is contained in the comments of this report. The July reports are interim, in that all the 2018/19 year-end accounting transactions and reconciliation are being finalised. With the implementation of new accounting software (1System Project) on 1 July 2019, it is likely that the volume of transactions processed were less than usual and therefore the Financial Statements are likely to be understated for the month. This timing issue will be resolved through August and September. In addition the reports in the new system are still being developed.

### Officer Recommendation

That Council notes the interim Financial Statements and Report for the month ended 31 July 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 2019/20 Budget adopted by Council on 25 June 2019, determined the variance analysis for significant amount of \$10,000 or 10% for the 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.

It should be noted that these statements are interim, in that all the 2018/19 year-end accounting transactions and reconciliation are being finalised. The final annual financial statements form part of the Annual Report. These financial statements are Audited by the WA Auditor General and presented at the Annual Meeting of Electors held each year.

### 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.

With the implementation of new accounting software (1System Project) on 1 July 2019, it is likely that the volume of transactions processed were less than usual and therefore the Financial Statements are likely to be understated for the month. This timing issue will be resolved through August and September.

In addition, the Budget was developed based on the chart of Accounts within Authority, the old financial system and now been loaded and reported within the chart of Accounts in the Technology One CiAnywhere Finance System (1System Project). This has resulted in some of Budgets V Actuals appearing in the reports in slightly different within each report. This does not affect the overall Budget for each Business Unit, rather the detailed lines within. These Budget adjustments, with nil effect on the closing position, will be presented for Council approval at a future meeting.

Actual income from operating activities for July year-to-date (YTD) is \$46.36m in comparison to budget of \$45.47m. Actual expenditure from operating activities for July is \$5.04m in comparison to budget of \$6.44m. Variations in the month of July are common with a lower activity awaiting the Budget adoptions, as well as many year-end processes currently being undertaken. By way of example, there is a timing issue on Revenue for Collier Park Village, with the reallocation of Revenue to the Reserve not completed before the July accounts were finalised.

Actual Capital Revenue YTD is \$0.544m in comparison to the budget of \$0.768m. Actual Capital Expenditure YTD is \$0.179m in comparison to the budget of \$1.074m. As described during the Budget deliberations, the estimation of Capital projects that may carry-forward from one year to the next is challenging as it is dependent on estimating the completion of work by 30 June by a contractor. As in previous years, there are a number of Capital projects that will require a Budget adjustment as they were not re-budgeted for 2019/20.

Cash and Investments balance is \$48.512m, traditionally a low point of the annual cycle, prior to the rates being issued and payments being received during August. Consistent with the previous monthly reports, this information contained within Statement of Financial Position. In addition, further detail was included in a non-statutory report (All Council Funds). At the time of submitting the July Reports, the City had not completed this non Statutory Report that will be available for August Reports.

**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**

10.4.2 (a):	Statement of Financial Position
10.4.2 (b):	Statement of Change in Equity
10.4.2 (c):	Statement of Financial Activity
10.4.2 (d):	Operating Revenue & Expenditures
10.4.2 (e):	Capital Summary
10.4.2 (f):	Significant Variance Analysis



### 10.4.3 Select Committee into Local Government

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	Not Applicable
File Ref:	D-19-73468
Meeting Date:	27 August 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 is for Council to consider the City's submission to the WALGA submission to the Select Committee into Local Government.

#### Officer Recommendation

That Council endorses the City of South Perth's response to the Western Australian Local Government Association submission to the Select Committee into Local Government as contained in **Attachment (a)**.

#### Background

The Legislative Council of Western Australia established a Select Committee into Local Government on 26 June 2019.

As per the Terms of Reference the Select Committee is to inquire into how well the system of local government is functioning in Western Australia, with particular reference to:

- (a) whether the Local Government Act 1995 and related legislation is generally suitable in scope, construction and application;*
- (b) the scope of activities of local governments;*
- (c) the role of the department of state administering the Local Government Act 1995 and related legislation;*
- (d) the role of elected members and chief executive officers/employees and whether these are clearly defined, delineated, understood and accepted;*
- (e) the funding and financial management of local governments; and*
- (f) any other related matters the Select Committee identifies as worthy of examination and report.*

The Members conducting the inquiry are as follows:

- Hon. Simon O'Brien MLC (Chairman)
- Hon. Laurie William Graham MLC (Deputy Chairman)
- Hon. Diane Marie Evers MLC
- Hon. Martin Aldridge MLC
- Hon. Charles Leonard Smith MLC

WALGA has prepared a draft submission **Attachment (b)** to the Committee for sector input which was circulated to local governments on 29 July 2019. They requested feedback on the submission by 4pm, Tuesday 13 August 2019 as the deadline to the Select Committee was Friday 23 August 2019. However, the Select Committee have since extended the deadline for submissions from 23 August to 13 September 2019.

It should be noted that the establishment of the Select Committee and the review of the *Local Government Act 1995* are separate and unrelated processes.

### Comment

A workshop was held with Councillors on Monday 12 August 2019 where the WALGA submission was considered in more detail. From the discussions raised at this workshop, the City's response to WALGA's submission was developed. The City's response can be found at **Attachment (a)**.

### Consultation

Elected Members were notified of the correspondence from WALGA in the Councillor Bulletin on 2 August 2019 and provided a copy of the following:

- WALGA's Draft Submission – Select Committee into Local Government
- LG Act Advocacy Positions with background info – July 2019
- Local Government Cooperation and Shared Services – June 2019

A workshop was held with all Councillors to discuss and consider the submission paper on Monday 12 August 2019.

### 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):	Response to WALGA
10.4.3 (b):	WALGA - Draft Submission Select Committee into Local Government

#### 10.4.4 Proposed 2020 Council Meeting Schedule

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Not Applicable
File Ref:	D-19-73470
Meeting Date:	27 August 2019
Author(s):	Toni Fry, Governance Coordinator
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 seeks Council's consideration of a Special Council Meeting on 22 October 2019, the Electors' General Meeting on 9 December 2019 and the City of South Perth 2020 Meeting Schedule.

##### Officer Recommendation

That Council:

1. Endorses the Council meeting dates, times and places proposed for 2020 as detailed in Table (1) within this report.
2. Endorses a Special Council meeting to be held Tuesday 22 October 2019 for the swearing in of new Councillors.
3. Endorses the 2019 Annual Electors' Meeting to be held Monday 9 December 2019.

##### Background

The *Local Government Act 1995* and the Local Government Regulations 1996 require local governments to give local public notice of the dates on which and the time and place at which ordinary council meetings are to be held over the next 12 months.

All City of South Perth Council Meetings commence at 7pm and are held in the Council Chamber, corner Sandgate Street and South Terrace, South Perth.

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

At its meeting held 25 September 2018 Council endorsed the 2019 Council Meeting Schedule. The meeting to be held Tuesday 22 October 2019 to swear in the newly elected Councillors was listed as an Ordinary Meeting of Council when it should have been a Special Meeting of Council. Recommendation 2 resolves to correct this administrative error.

### Comment

It is proposed that all Council Meetings for the 2020 calendar year continue to be held at 7pm in the City of South Perth Council Chamber.

Following on from previous years, it is proposed to have a recess in January and for the December Council Agenda Briefing and Council Meeting to be brought forward by one week.

The Annual Electors' Meeting has traditionally be held on the second Monday in December – within 56 days of Council accepting the Annual Report as required by the *Local Government Act 1995*. For 2019 it is proposed to be held on Monday 9 December 2019.

The Proposed Meeting Schedule for 2020 is as follows:

<b>Council Agenda Briefing</b> City of South Perth Council Chamber, corner Sandgate Street and South Terrace, South Perth.	<b>Ordinary Council Meeting</b> City of South Perth Council Chamber, corner Sandgate Street and South Terrace, South Perth.
5.30pm Tuesday 18 February 2020	7pm Tuesday 25 February 2020
5.30pm Tuesday 17 March 2020	7pm Tuesday 24 March 2020
5.30pm Tuesday 21 April 2020	7pm Tuesday 28 April 2020
5.30pm Tuesday 19 May 2020	7pm Tuesday 26 May 2020
5.30pm Tuesday 16 June 2020	7pm Tuesday 23 June 2020
5.30pm Tuesday 21 July 2020	7pm Tuesday 28 July 2020
5.30pm Tuesday 18 August 2020	7pm Tuesday 25 August 2020
5.30pm Tuesday 15 September 2020	7pm Tuesday 22 September 2020
5.30pm Tuesday 20 October 2020	7pm Tuesday 27 October 2020
5.30pm Tuesday 17 November 2020	7pm Tuesday 24 November 2020
5.30pm Tuesday 8 December 2020	7pm Tuesday 15 December 2020

Table (1)

The 2020 Western Australian Public Holidays as shown below do not affect the proposed City of South Perth Council Meeting Schedule:

<b>Public Holiday</b>	<b>2020</b>
New Year's Day	Wednesday 1 January 2020
Australia Day	Monday 27 January 2020
Labour Day	Monday 2 March 2020
Good Friday	Friday 10 April 2020
Easter Monday	Monday 13 April 2020
ANZAC Day	Monday 27 April 2020
WA Day	Monday 1 June 2020
Queen's Birthday	Monday 28 September 2020
Christmas Day	Friday 25 December 2020
Boxing Day	Monday 28 December 2020

Table (2)

**Consultation**

In accordance with Regulation 12 of the Local Government (Administration) Regulations 1996, an advertisement will be placed in the Southern Gazette newspaper. In addition, this advertisement will be placed on the City's website and on the notice board in the Civic Centre, and at both of the City's Libraries.

**Policy and Legislative Implications**

Section 5.25(1)(g) of the *Local Government Act 1995*.

Section 5.27 of the *Local Government Act 1995*.

Regulation 12(1) of the Local Government (Administration) Regulations 1996.

**Financial Implications**

The cost of advertising the meetings dates, times and places for 2020 has been included in the 2019/20 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**

Nil

## 11. APPLICATIONS FOR LEAVE OF ABSENCE

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

### 12.1 NOTICE OF MOTION - COUNCILLOR KEN MANOLAS - ACCESS TO INFORMATION

Location: Not Applicable  
Ward: Not Applicable  
Applicant: Not Applicable  
File Ref: D-19-73471  
Meeting Date: 27 August 2019  
Author(s): Berndine 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

Councillor Ken Manolas submitted the following Notice of Motion prior to the Council Agenda Briefing held 20 August 2019.

#### Notice of Motion Recommendation

1. That the CEO provide to Council, for Council's consideration, the following information relating to the invoices shown below in the listing of Payments and appearing in the attachments to the Agendas for the Ordinary Council Meetings.

	Reference	Date	Payee	Description	Amount
1	2033.203103-01	18/04/2018	<b><i>Jackson McDonald Lawyers</i></b>	42 Broome Street verge	\$61,064.37
2	2034.203103-01	20/04/2018	<b><i>Jackson McDonald Lawyers</i></b>	Collier Golf Course Lease	\$38,495.17
3	2038.203103-01	09/05/2018	<b><i>Jackson McDonald Lawyers</i></b>	Surrender of Lease	\$66,893.89
4	2015.203103-01	14/06/2018	<b><i>McLeods Barristers and Solicitors</i></b>	Windsor Hotel – Advice right of way	\$58,183.91

5	2057.203103 -01	12/07/2018	<i>Jackson McDonald Lawyers</i>		\$39,548.01
6	2072.203103 -01	16/08/2018	<i>Jackson McDonald Lawyers</i>		\$104,366.68
7	2078.203103 -01	30/08/2018	<i>Jackson McDonald Lawyers</i>		\$53,810.44
8	2093.203103 -01	04/10/2018	<i>Jackson McDonald Lawyers</i>		\$31,404.25

2. A written memorandum from the CEO to Council that provides the following information for each Invoice described in (1) above:
  - (a) a description of each matter that the Invoice relates to;
  - (b) a description of the legal work that each Invoice relates to; and
  - (c) where an individual Invoice relates to more than one matter, a breakdown of the proportion of fees (as described in that Invoice) on each matter to which the Invoice relates (i.e. as a proportion of the total Invoice amount).

### Background

Prior to the Council meeting of 20 August 2019, Councillor Ken Manolas submitted a Notice of Motion that requested Council access to information for a number of invoices. The reasons given for the Notice of Motion were:

1. The Invoices described in the Motion are for substantial amounts.
2. It is not immediately clear (from the information that has been provided to Council) exactly what work was performed for each Invoice.
3. Page 49 of the Minutes of the 25 June 2019 Ordinary Council Meeting contains a comment by the administration that:
 

*“Officers provide a public disclaimer in that the information contained within the “Description” is unlikely to accurately describe the full nature each payment.”*
4. Section 2.7(1) of the *Local Government Act 1995* (WA) provides that:
 

*“The council –*

  - (a) governs the local government’s affairs; and*
  - (b) is responsible for the performance of the local government’s functions.”*



5. Council is unable to perform its oversight role without having access to relevant information.
6. Councillors have been advised by the administration that individual Councillors do not have the power to seek the information of the kind described in the Motion under section 5.92 of *Local Government Act 1995* (WA).
7. Therefore, if Council is to have the opportunity to properly understand what the Invoices relate to, a resolution by Council seeking access to relevant information is required.

### Comment

At the Ordinary Council Meeting held 23 April 2019, Councillor Ken Manolas submitted a Notice of Motion requesting:

*That Council resolves that without limitation to section 5.92 of the Local Government Act 1995 (WA), Council Members be granted access to any information held by the local government relevant to reviewing and/or investigating prior decisions made by, or actions taken by, the administration under delegated authority.*

This Notice of Motion was lost 2/6.

At that time, the City obtained legal advice that identified the request was inconsistent with section 5.92 of the *Local Government Act 1995*. A subsequent workshop was held with Councillors on Monday 27 May 2019 where the City's legal advisor presented to Councillors on their role and access to information.

The City has since sought further legal advice regarding the latest Notice of Motion submitted by Councillor Manolas.

The advice received advised that although the Council itself has the power to seek further information about invoices from the Chief Executive Officer (by way of a Council resolution), it is questionable whether it would be appropriate and in the best interests of the effective functioning of the City to do so for two main reasons.

Firstly, unless the privilege has already been waived, the City must protect the City's legal professional privilege in any information that is the subject of the relevant accounts. Providing more detailed information to the Council may result in the City's legal professional privilege being lost (or 'waived', whether intentionally or inadvertently).

Secondly, providing a brief description would be consistent with the Council's oversight function, whereas a more detailed description would involve the Council in operational matters that are the responsibility of the Chief Executive Officer.

It is noted that the request for access to information only relates to eight legal payments made between April and October 2018. These payments were made last year, in some cases over 12 months ago, and reported to the Council in the corresponding monthly Listing of Payments reports.

On 26 April 2019, the Chief Executive Officer advised Council that to help Councillors with their decision making on certain reports presented at Council meetings, information would be placed in a folder in the Councillors Lounge and made available for viewing for 10 days. The Listing of Payments has since been provided in this folder prior to each Council meeting.

## Policy and Legislative Implications

Section 5.92 *Local Government Act 1995*

Regulation 11 of the Local Government (Financial Management) Regulations 1996

Policy P605 – Purchasing and Invoice Approval and Delegation DM605

## 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

Nil.

## 12.2 NOTICE OF MOTION - COUNCILLOR GREG MILNER - MONTHLY FINANCIAL STATEMENTS

Location:	Not Applicable
Ward:	Not Applicable
Applicant:	Not Applicable
File Ref:	D-19-71623
Meeting Date:	27 August 2019
Author(s):	Colin Cameron, Director Corporate Services
Reporting Officer(s):	Colin Cameron, Director Corporate Services
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

### Summary

Councillor Greg Milner submitted the following Notice of Motion prior to the Council Meeting held 27 August 2019.

### Notice of Motion Recommendation (suggested alternative recommendation page 102)

1. That the CEO provide Council with the following revised 30 June 2019 Monthly Financial Statements:
  - (a) Statement of Financial Activity;
  - (b) Statement of Operating Revenue & Expenditure;
  - (c) Capital Summary; and
  - (d) Significant Variance Analysis by Business Unit, (the Revised Monthly Financial Statements).
2. That the Revised Monthly Financial Statements be presented in an identical format as presented in the attachments to the Agenda for the 23 July 2019 Ordinary Council Meeting (Original Monthly Financial Statements) SAVE THAT:
  - (a) an additional column be inserted to the right of the previously-presented information displaying the revised YTD figures; and
  - (b) an additional column be inserted to the right of the column described in (a) above, displaying the variance between the YTD figures that appeared in the Original Monthly Financial Statements and the revised YTD figures described in (a) above.
3. That the Revised Monthly Financial Statements be presented to Council for noting at the September Ordinary Council Meeting.

## Background

Prior to the Council meeting of 27 August 2019, Councillor Greg Milner submitted a Notice of Motion that requested a revision of the monthly financial statements.

The reasons given for the Notice of Motion were:

1. The Monthly Financial Statements for June 2019 were presented to Council in July 2019 pursuant to Item 10.4.2 of the Agenda for the 23 July 2019 Ordinary Council Meeting (**July Agenda**).
2. Those Monthly Financial Statements necessarily could only capture transactions completed prior to the finalisation of the July Agenda.
3. It is probable that other transactions relating to the financial year ending 30 June 2019 have been processed since the finalisation of the July Agenda.
4. A revised version of the June Monthly Financial Statements are required to ensure that complete expenditure has been incorporated in the final year reports for the financial year ending 30 June 2019.
5. The revised June Monthly Financial Statements will ensure transparency and allow Council to consider the final financial results for the financial year ending 30 June 2019 (including any transactions that were processed after the finalisation of the July Agenda).

## Comment

Each year, as described in the Comments section, the June Monthly Financial Statements are considered interim, in that there is significant effort undertaken to complete the year end process after the production of these reports. The main transactions include; invoices from suppliers for services completed by 30 June, accruals relating to employees and the capitalisation and depreciation of assets. The transactions are many, with the changes to balances potentially substantial. This is standard practice in all organisations, given the reality that monthly statements are prepared within a week or so of the end of month, whereas annual statements are prepared some three months following the year end.

The Monthly and Annual Financial Statements are created for different purposes and these are prescribed within different sections of the *Local Government Act 1995* and Regulations. The Annual Financial Statements contain extensive notes to support the Statutory Reports, in accordance with Australian Accounting Standards, with the WA Auditor General auditing the values contained within these report. Whereas Monthly Reports have few notes, commentary on variations of actual to budget, with only the Statement of Financial Activity being prescribed, as described in Regulation 34 of the Local Government (*Financial Management*) Regulations 1996. Interestingly this report does not form part of the Annual Financial Statements or Annual Budget.

July to October is the busiest time for officers in Financial Services as they are implementing the Adopted Budget for the new year, closing off the previous financial year, completing all the statutory reports, preparing monthly and annual financial reports, undertaking an External Audit from the WA Auditor General and preparing for a ½ Year Budget Review. This year has added to that burden, with the implementation of a new Accounting System, through the 1System Project. This adds complexity and challenges as Finance officers are working in two different systems to achieve these time consuming outcomes.

As described above, these two types of reports (Monthly and Annual) are for different purposes and therefore there is no requirement to reissue a June Monthly Report.

Nevertheless, if Council were of the view that this might be of some value, then Officers recommend a slightly different approach than what has been proposed by this motion, given the resources required to complete the current workload.

Point 1 in the proposed motion describes some of the existing reports to be re-run with the updated transactions that have occurred since the reports were prepared for the July round of meetings. The use of existing report templates will facilitate a simpler process and reduce officer effort to complete this task. Whilst reconciliations will still be required, using the existing reports for the last time would not be overly burdensome.

In relation to point 2 of the proposed motion, redesigning existing reports from the old system that will never be used again is not considered a prudent use of City resources, nor does it provide any greater clarity than would be achieved by simply placing both reports (Original June and Revised June) side by side. Officers do not recommend this approach.

In relation to point 3 of the proposed motion, presenting the Revised June reports to the September Ordinary Council meeting would not achieve the desired outcome, in that there are still likely to be transactions processed to finalise the Annual Financial Statements. In terms of the timing, it would be more sensible for these reports to be presented at the same time as the Annual Financial Statements. In that way staff are able to ensure the information is accurate, the monthly statements would then be final (no longer Interim) and therefore aligned to the intent of the Notice of Motion.

In summary, if Council are of the view that Revised June Reports offers some assistance, then officers recommend the Revised June reports be included in the same Agenda as the Annual Financial Statements.

### **Consultation**

Nil.

### **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 of the Local Government (Financial Management) Regulations 1996. The *Local Government Act 1995* and Regulations do not require the June monthly reports to be refreshed at a later time.

## Financial Implications

Additional officer time and effort is involved to prepare further reports for Council, depending on the particular Council resolution. An estimate of additional work has not been undertaken.

## 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

Nil.

### Suggested Alternative Recommendation

That the Chief Executive Officer, at the same time as the Annual Financial Statements are presented to Council, provide the revised 30 June 2019 Monthly Financial Statements, these being the:

- a. Statement of Financial Activity;
- b. Statement of Operating Revenue & Expenditure;
- c. Capital Summary; and
- d. Significant Variance Analysis by Business Unit.

### Reason for Alternative Recommendation

The revised 30 June 2019 monthly statements, will be reconciled to the Annual Financial Statements that will have been audited by the WA Auditor General. This will ensure that all year end transactions have been processed, providing Council with meaningful year ended June (final) monthly reports. Presentation of these reports in the same format as was presented in July 2019, provides for full comparative analysis, whilst providing the least impact on officer time during a very busy period. In addition, as the system has now been replaced, any changes to these reports will be redundant and may confuse the reader.

### 13. QUESTIONS FROM MEMBERS

Responses to questions from members taken on notice at the Ordinary Council Meeting held 23 July 2019 can be found in the Appendix of this Agenda.

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

### 15. MEETING CLOSED TO THE PUBLIC

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

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

##### 15.1.1 Tree Species Selection for the Connect South Project

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

Location:	Connect South Project, Mends Street Foreshore
Ward:	Mill Point Ward
Applicant:	Not Applicable
File Ref:	D-19-73472
Meeting Date:	27 August 2019
Author(s):	Mark Taylor, Director Infrastructure Services
Reporting Officer(s):	Mark Taylor, Director Infrastructure Services
Strategic Direction:	Environment (built and natural): Sustainable urban neighbourhoods
Council Strategy:	3.3 Enhanced Environment & Open Spaces

##### 15.1.2 Suggested Names for the Mends Street Jetty Foreshore - Connect South

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

Location:	South Perth Foreshore at Mends Street
Ward:	Mill Point Ward
Applicant:	Not Applicable
File Ref:	D-19-73473
Meeting Date:	27 August 2019
Author(s):	Mark Taylor, Director Infrastructure Services
Reporting Officer(s):	Mark Taylor, Director Infrastructure Services
Strategic Direction:	Community: A diverse, connected, safe and engaged community
Council Strategy:	1.1 Culture & Community



### 15.1.3 Contract Variations - Request for Approval

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

Location:	Mends Street, South Perth
Ward:	Mill Point Ward
Applicant:	Not Applicable
File Ref:	D-19-73474
Meeting Date:	27 August 2019
Author(s):	Jac Scott, Manager Business & Construction
Reporting Officer(s):	Mark Taylor, Director Infrastructure Services
Strategic Direction:	Leadership: A visionary and influential local government
Council Strategy:	4.3 Good Governance

#### Officer Recommendation

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

- 15.1.1 Tree Species Selection for the Connect South Project
- 15.1.2 Suggested Names for the Mends Street Jetty Foreshore - Connect South
- 15.1.3 Contract Variations - Request for Approval

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

## 16. CLOSURE

## APPENDIX

### RESPONSES TO PUBLIC QUESTIONS TAKEN ON NOTICE AT THE ORDINARY COUNCIL MEETING HELD 23 JULY 2019

<b>5. Mr Craig Dermer, Mill Point Road South Perth</b> <b>Received: 23 July 2019</b>	<b>Responses provided by: Vicki Lummer, Director Development and Community Services</b>
<i>[Preamble]</i> <i>In the recent JDAP the consultant from Element, speaking for the applicant, stated clearly that the applicant was originally happy with the height specified in Amendment 56 – that of ~96m. He went on to explain that it was the “encouragement of the City’s Planning Department” that prompted a change of an increase of extra ~60 meters.</i>	
1. Were the Councillors aware that the Planners took this action?	The preamble is incorrect. It was the City’s Design Review Panel that encouraged the additional height. The reasons for this are in the Responsible Authority Report
2. Why did the City deem it appropriate to take this action?	The reasons for this are in the Responsible Authority Report.
<i>[Preamble]</i> <i>We have been looking forward to something special on Civic for many years. This JDAP was the result of years of preparation by the City, with input from the community. The applicant had worked with the DRP many times, and so with the officers. The Panel’s words and decision attest that the RAR and officers responses were below expectations.</i>	
1. Is there anything the councillors can offer to help the CEO improve the capability of the Planning group?	The preamble is incorrect. The panel deferred the item to allow the City to review conditions to ensure they are “concise, consolidated and valid”. At the JDAP meeting the City officers explained that conditions could have been more concise, however for administrative purposes and ease of implementation, the number of conditions had been expanded. The number of conditions is unrelated to the quality of the report or development and this was also explained at the meeting.

## RESPONSES TO ELECTED MEMBER QUESTIONS TAKEN ON NOTICE AT THE ORDINARY COUNCIL MEETING HELD 23 JULY 2019

Councillor Cheryle Irons	Response provided by: Vicki Lummer, Director Development and Community Services
1. How much has the City spent in fighting the Farmer Jack's development?	The City has expended at least \$50,000 on dealing with the Farmer Jack's development proposals. In addition to significant Senior Planner's and Manager's time, advertising and stakeholder meetings, the City also engaged consultants to provide advice on the retail impact assessment and traffic impact assessment.