

MINUTES

Ordinary Council Meeting

26 July 2022

Mayor and Councillors

Here within are the Minutes of the Ordinary Council Meeting of the City of South Perth Council held Tuesday 26 July 2022 in the City of South Perth Council Chamber, corner Sandgate Street and South Terrace, South Perth.



MIKE BRADFORD
CHIEF EXECUTIVE OFFICER

29 July 2022

Acknowledgement of Country

Kaartdjinin Nidja Nyungar Whadjuk Boodjar Koora Nidja Djining Noonakoort kaartdijin wangkiny, maam, gnarnk and boordier Nidja Whadjuk 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 - Minutes

Minutes of the Ordinary Council Meeting held in the City of South Perth Council Chamber, corner Sandgate Street and South Terrace, South Perth at 6.00pm on Tuesday 26 July 2022.

1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member declared the meeting open at 6.01pm.

2. DISCLAIMER

The Presiding Member read aloud the City's Disclaimer.

3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

Nil.

4. ATTENDANCE

Mayor Greg Milner (Presiding Member)

Councillors

Como Ward

Manning Ward

Manning Ward

Moresby Ward

Moresby Ward

Mill Point Ward

Mill Point Ward

Councillor Carl Celedin (retired 7.06pm)

Councillor Blake D'Souza

Councillor André Brender-A-Brandis

Councillor Jennifer Nevard

Councillor Stephen Russell (arrived 6.10pm)

Councillor Mary Choy

Councillor Ken Manolas

Officers

Chief Executive Officer

Director Corporate Services

Director Development and Community Services

A/Director Infrastructure Services

Manager Development Services

Manager Finance

Manager Governance

Manager Strategic Planning

Governance Coordinator

Principal Strategic Planner

Governance Administration Officer

Governance Officer

Mr Mike Bradford

Mr Garry Adams

Ms Vicki Lummer

Mr Steve Atwell

Ms Fiona Mullen

Mr Abrie Lacock

Ms Bernadine Tucker

Mr Warren Giddens

Ms Toni Fry

Ms Jessica Birbeck

Ms Shannon Renner

Mr Morgan Hindle

Gallery

There were approximately 8 members of the public present.

4.1 APOLOGIES

Nil.

4.2 APPROVED LEAVE OF ABSENCE

- Councillor Glenn Cridland for the period 23 July 2022 to 31 July 2022 inclusive.

5. DECLARATIONS OF INTEREST

Nil.

6. PUBLIC QUESTION TIME

6.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

The Presiding Member advised that the responses to previous public questions taken on notice are available in the Appendix of these Minutes.

Councillor Stephen Russell arrived at 6.10pm during consideration of Item 6.2.

6.2 PUBLIC QUESTION TIME: 26 JULY 2022

The Presiding Member opened Public Question Time at 6.02pm

Written questions were received prior to the meeting from:

- Mrs Jayne Morrissey of Como.
- Dr Louise Johnston of Como.
- Mr Sanjay Gonsalves of Karawara.
- Mrs Cecilia Brooke of South Perth.
- Mr Peter Scott of Como (questions 1 and 2).

At 6.19pm the Presiding Member called for a Motion to extend Public Question Time to hear those questions not yet heard.

COUNCIL DECISION

0722/093

Moved: Mayor Greg Milner
Seconded: Councillor Mary Choy

That in accordance with Clause 6.7 of the City of South Perth Standing Orders Local Law 2007, Public Question Time be extended to hear those questions not yet heard.

CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

- Mr Peter Scott of Como (question 3).

The questions and responses can be found in the **Appendix** of these Minutes.

There being no further questions, the Presiding Member closed Public Question Time at 6.21pm.

7. CONFIRMATION OF MINUTES AND TABLING OF NOTES OF BRIEFINGS

7.1 MINUTES

7.1.1 Ordinary Council Meeting Held: 28 June 2022

Officer Recommendation AND COUNCIL DECISION

0722/094

Moved: Councillor André Brender-A-Brandis

Seconded: Councillor Ken Manolas

That the Minutes of the Ordinary Council Meeting held 28 June 2022 be taken as read and confirmed as a true and correct record.

CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

7.2 CONCEPT BRIEFINGS

7.2.1 Council Agenda Briefing - 19 July 2022

Officers of the City presented background information and answered questions on Items to be considered at the July Ordinary Council Meeting at the Council Agenda Briefing held 19 July 2022.

Attachments

7.2.1 (a): Briefing Notes

7.2.2 Concept Briefings and Workshops

Officers of the City/Consultants and invited third party guests provided Council with an overview of the following matters at Concept Briefings and Workshops:

Date	Subject	Attendees
5 July 2022	Painted Dog Customer Satisfaction Survey Results	Mayor Greg Milner and Councillors Glenn Cridland, , Carl Celedin, André Brender-A-Brandis, Stephen Russell.
11 July 2022	Professional Development Session 1 – Giving Voice to Values and Ethics	Mayor Greg Milner and Councillors Carl Celedin, André Brender-A-Brandis, Stephen Russell, Jennifer Nevard, Ken Manolas.
12 July 2022	Professional Development Session 2 – Leadership Fundamentals	Mayor Greg Milner and Councillors Carl Celedin, André Brender-A-Brandis, Stephen Russell, Jennifer Nevard.
20 July 2022	Professional Development Session 3 – Psychology Resilience	Mayor Greg Milner and Councillors Carl Celedin, André Brender-A-Brandis, Jennifer Nevard, Mary Choy, Ken Manolas.

Attachments

Nil.

Officer Recommendation AND COUNCIL DECISION

0722/095

Moved: Councillor André Brender-A-Brandis

Seconded: Councillor Carl Celedin

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

- 7.2.1 Council Agenda Briefing - 19 July 2022
- 7.2.2 Concept Briefings and Workshops

CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

8. PRESENTATIONS

8.1 PETITIONS

Nil.

8.2 PRESENTATIONS

Nil.

8.3 DEPUTATIONS

Deputations were heard at the Council Agenda Briefing held 19 July 2022.

9. METHOD OF DEALING WITH AGENDA BUSINESS

The Presiding Member advised the following:

That following publication of the Ordinary Council Meeting documents, the applicant in relation to Item 10.3.1 Proposed Third-Party Digital Advertising Sign Additions to Existing Commercial Building on Lot 303, No. 149-153 South Terrace Como submitted an amended plan. As it was not possible to consider an amended plan at this stage, the applicant requested the item be withdrawn from the Council agenda for July and as such was not considered.

In addition, Item 12.1 Notice of Motion – Councillor Mary Choy - Protection and Maintenance of Trees During Development was withdrawn by Councillor Mary Choy and as such was not considered.

The Presiding Member advised that with the exception of the items identified to be withdrawn for discussion that the remaining reports, including the Officer Recommendations, will be adopted by exception resolution (i.e. all together) as per Clause 5.5 Exception Resolution of the Standing Orders Local Law 2007.

The Chief Executive Officer confirmed all the report items were discussed at the Council Agenda Briefing held 19 July 2022.

ITEMS WITHDRAWN FOR DISCUSSION

- 10.4.2 Monthly Financial Statements June 2022 (Interim)
- 10.4.3 City of South Perth Penalty Units Amendment Local Law 2022

The Presiding Member called for a motion to move the balance of reports by Exception Resolution.

Officer Recommendation AND COUNCIL DECISION

0722/096

Moved: Councillor André Brender-A-Brandis

Seconded: Councillor Stephen Russell

That the Officer Recommendations in relation to the following Agenda Items be carried by exception resolution:

- 10.3.2 Consent to Advertise Modified Draft Building Height & Salter Point Escarpment Local Planning Policies
- 10.4.1 Listing of Payments June 2022

CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

10. REPORTS

This Item was withdrawn from the Agenda at the request of the applicant and was not considered.

10.3 STRATEGIC DIRECTION 3: ENVIRONMENT (BUILT AND NATURAL)

10.3.1 Proposed Third-Party Digital Advertising Sign Additions to Existing Commercial Building on Lot 303, No. 149-153 South Terrace, Como

Location: Lot 303, No. 149-153 South Terrace, Como
Ward: Moresby Ward
Applicant: Planning Solutions
File Reference: D-22-34239
DA Lodgement Date: 14 February 2022
Author(s): Kevin Tang, Urban Planner
Reporting Officer(s): Vicki Lummer, Director Development and Community Services

Summary

This report seeks Council's consideration for a recommendation of refusal to the Western Australian Planning Commission (WAPC) for Third-Party Digital Advertising Sign Additions to Existing Commercial Building on Lot 303, No. 149-153 South Terrace, Como.

The item is referred to Council as there is no specific delegation afforded to officers to determine the application.

It is considered that the proposed development does not achieve compliance with the requirements and objectives of the relevant planning scheme and policy and would have a significant adverse amenity impact on the residents of the precinct.

For the reasons outlined in this report, it is recommended that Council advise the WAPC of a recommendation of refusal for the reasons listed below.

Officer Recommendation

That Council recommends to the Western Australian Planning Commission (WAPC) that the application for development approval for a Third-Party Digital Advertising Sign Additions to Existing Commercial Building on Lot 303, No. 149-153 South Terrace, Como, is **refused** for the following reasons:

1. The proposal does not satisfy the requirements of Development Control Policies 1.2 & 5.4 in relation to amenity.
2. The proposal does not comply with clause 6.12(3) of TPS6 as roof-mounted advertisement is prohibited.
3. The proposal does not satisfy the objectives of TPS6 as it will pose a significant adverse impact to the residential character and amenity of the locality.

4. The proposal does not satisfy the requirements of clause 2 of Council Policy P308 Signs as the digital sign contains third-party advertising content.

Background

The development site details are as follows:

Zoning	Primary Regional Road Reserve (Metropolitan Region Scheme)/Highway Commercial
Density coding	R80
Lot area	965m ²
Building height limit	10.5m
Development potential	N/A
Plot ratio limit	0.5

(a) Background

In February 2022, the City received a development application for a Third-Party Digital Advertising Sign Additions to Existing Commercial Building on Lot 303, No. 149-153 South Terrace, Como (the site).

The site is partially reserved as Primary Regional Road Reservation (Canning Highway) under the Metropolitan Region Scheme (MRS) and partially zoned Highway Commercial under the City's Town Planning Scheme No. 6 (TPS6). The proposed development is fully contained within the Primary Regional Road Reservation.

Development applications under the MRS are generally determined by the Western Australian Planning Commission (WAPC) unless they are delegated to other authorities via a resolution or delegation policy. WAPC Delegation Policy (DEL2022/03) delegates certain power to determine an application for development approval to the local government where the proposal is wholly located within the MRS regional road reservation and where the local government is supportive of the development.

In this instance, should the officers recommendation be supported by Council, the application will be referred to the WAPC for determination.

It is also noted that Clause 61 of the Deemed Provisions provides an exemption from the need to obtain a development approval under TPS6 when a proposed development is wholly located within an MRS regional reservation.

As a result, this development proposal requires an MRS development approval but does not require a development approval under TPS6. Notwithstanding the above, the development application has been assessed against TPS6 and relevant local planning policies as Development Control Policy 1.2 requires the City to consider compatibility with relevant planning policies, strategies and development control criteria.

(b) Description of the Surrounding Locality

The site has a frontage to Canning Highway to the west and South Terrace to the north and is located adjacent to residential properties to the east and south, as seen in **Figure 1** below.

Notably, the site is also surrounded by some non-residential land uses and development, including the following land uses activities located in the immediate vicinity of the Site:

- The Como Hotel is located opposite the subject site to the north-west;
- A Medical centre is located opposite the subject site to the west;
- Physiotherapy consulting rooms are located opposite the subject site to the north



Figure 1: Aerial Photo of the Site

(c) Description of the Proposal

The site is currently developed with a one and two-storey building containing a mix of commercial tenancies on the ground floor, including two restaurants, a hairdresser and clothing shop.

The proposal seeks to install a digital advertising sign on the existing building on the subject site. The sign comprises a curved digital screen to be installed at the north-west corner of the site and mounted on the top of the existing building awning, oriented towards the intersection of Canning Highway and South Terrace. The proposed sign has dimensions of: 8.96m wide x 2.88m high, with a display area of 25.8m². As a comparison, the existing north facing digital sign on the corner of Canning Highway and Henley Street is 12.44m in width and 3.3m in height, while the west facing sign is 8.78m in width and 2.96m in height.

The sign is proposed to digitally display a range of first, second- and third-party advertising content. The advertisements will be static images and will not display any animations, moving graphics, flashing lights or offensive content. The sign was initially proposed to operate 24 hours a day, 7 days per week. Following the neighbour consultation period and officer's planning assessment, the applicant has provided additional information and amended development plans. The amended proposal includes an introduction of operational down time between 10pm and 6am and the applicant's willingness to set aside 2.5% of operational time for community advertising. ,

A copy of the amended development plans is provided at **Attachment (b)** with the applicant's planning reports, including a Road Safety Assessment and Lighting Impact Assessment, provided at **Attachment (c)**. The site photographs show the relationship of the site with the surrounding built environment at **Attachment (d)**.

The applicant has requested the City's discretion relating to the following components of the proposed development under the MRS, TPS6 and Council Policy requirements:

- Character and amenity;
- Consistency with clause 6.12(3) of TPS6
- Consistency with local planning policy P308;
- Consistency with Development Control Policy 5.4 (DCP5.4)
- Street setback;

The proposal is not considered to meet the relevant requirements of the Scheme, council policies and WAPC policies.

(d) Character and amenity

In considering the suitability of the proposal, Council (as a delegate of WAPC) is required to have regard to the following relevant planning considerations in making decisions on this development application in accordance with Development Control Policy 1.2 – Development Control (General Principles) (DCP1.2):

- *Compatibility with relevant planning policies, strategies and development control criteria;*
- *Integration of development into the site and its surroundings;*
- *Transport and traffic impacts;*
- *Vehicular and non-vehicular access, circulation and car parking;*
- *Relevant environmental, economic and social factors;*
- *Relevant factors of amenity and suitability*

Clause 6.12 (6) of TPS6 states the following:

When determining an application for development approval for an advertisement, the local government shall examine the application in the light of the objectives of the Scheme and the precinct, and with particular regard to the character, amenity, historic or landscape significance and traffic safety, within the locality.

Clause 1.6 (2) of TPS6 (general objectives of the Scheme) provides the following relevant objectives for Council's 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;*
- (g) Protect residential areas from the encroachment of inappropriate uses;*
- (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 term 'amenity' is defined in clause 1 of the Deemed Provisions to mean 'all those factors which combine to form the character of an area and include the present and likely future amenity'.

The locality surrounding the site is characterised predominantly by low to medium density residential properties (colour coded brown) with some commercial pockets (colour coded blue) located on the four corners of Canning Highway and South Terrace Street intersection (Refer to **Figure 2**). These commercial properties were intended to serve a local population and provide daily convenience. Como Hotel, a heritage listed building, is located opposite to the site to the northwest. There is currently no digital signage on any of the commercial buildings. It is considered that the proposed digital sign is a large, illuminated structure that would detract from the existing visual amenity of the locality.



Figure 2: Zoning Map

The proposed digital sign would have light spillage impact on the nearby residences and this impact is particularly great at night. The site is surrounded by residential properties with the closest property on the opposite side of South Terrace being approximately 70m away.

The proponent has provided a Lighting Impact Assessment (refer to **Attachment (b)**), which contains an assessment against Australian Standards AS4282-2019 Control of the Obtrusive Effects of Outdoor Lighting and the Main Roads Western Australia "Policy and Application Guidelines for Advertising Signs". The findings of the Assessment indicate that the proposal will be compliant with the relevant Australian Standards. This Assessment has been reviewed by the City's Environmental Health business unit and found to be acceptable subject to a condition. Additionally, the applicant has offered to introduce an operational down time between 10pm and 6am. On this basis, it is considered that the light spillage impact has been appropriately addressed.

Notwithstanding, given there is no digital sign within the immediate surrounding area, the proposed digital sign presents a large, illuminated structure and is considered to be out of character with the street interface and would detract from the existing streetscape. The proposed digital sign does not enhance the amenity of nearby residential areas and would be more suitably located at a city centre or activity centre location.

It is noted that the applicant has provided justification addressing the character and amenity aspects of this development proposal at **Attachment (c)**.

Based on the above analysis, it is considered that the proposal would be inconsistent with relevant objectives of TPS6.

(e) Consistency with Clause 6.12(3) of TPS6

Clause 6.12(3) of TPS6 stipulates that roof-mounted advertisements are prohibited. This clause is designed to prevent unsightly signs that are placed at a visually dominant location, e.g., on top of a building roof.

The proposed digital sign panel is located on the rooftop of the existing commercial building. In considering this variation, Council is required to satisfy clause 7.8(b) as follows:

- (b) The power conferred by this sub-clause may only be exercised if the local government is satisfied that:*
- (i) Approval of the proposed development would be consistent with the orderly and proper planning of the precinct and the preservation of the amenity of the locality;*
 - (ii) The non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the precinct or upon the likely future development of the precinct; and*
 - (iii) The proposed development meets the objectives for the City and for the precinct in which the land is situated as specified in the precinct plan for that precinct.*

As outlined in the preceding section of the report, it is considered that the proposal does not contribute to the preservation of the amenity of the locality and the non-compliance aspect of the development would have an adverse effect on the inhabitants of the precinct. This variation should therefore not be supported.

(f) Consistency with Local Planning Policy P308

Element	Required	Proposed
Clause 2. Relationship between sign and use of a site	On a site in any zone, the City will only approve a sign relating to: <ul style="list-style-type: none"> a) A use or business carried out on that site; b) The name of one or more of the 	The proposal advises that the sign will include first -, second- and third-party advertising with no specified information provided relating to the time allocated for businesses on site.

	occupiers of that site; or c) Merchandise sold on that site	
Clause 9. Signs near traffic light-controlled intersections	The City will not approve a sign in any zone if the sign is within 150 metres of a street intersection and is lit in such a way that it may be confused with traffic lights	The proposed sign is located within 150 metres of a street intersection and is lit.
Clause 10. Control of advertising on Main Roads	All signs on main roads must comply with the requirements of the Main Roads (Control of Advertising) Regulations 1996. A separate approval will be required from Main Roads	Main Roads has no objection to the proposal and provided its advice at Attachment (a) .

The proposal has been assessed against relevant provisions of Council Policy P308 Signs and does not comply with clause 2.

Clause 2 of P308 requires a sign to be related to a use or business carried out on that site, the name of one or more of the occupiers of that site or merchandise sold on that site. The proposed digital sign includes third-party advertising content that does not comply this requirement. This clause relates to the use of a commercial sign and is designed to prevent the proliferation of third-party commercial signs that would be at odds with the predominant residential character of the City. Should Council approve this development, it would have limited control over what will be displayed on the advertising sign. It is noted that the applicant has provided justification in **Attachment (c)** in relation to this non-compliance aspect.

Clause 9 of P308 stipulates that the City will not approve an illuminated sign within 150m of a street intersection. The proposed digital sign is located within 150m of Canning Highway and South Terrace street intersection. The proposal was referred to Main Roads Western Australia and the City's Infrastructure Services business unit. Main Roads Western Australia does not have an objection against the proposal subject to conditions. The City's Infrastructure Services business unit is of the opinion that the proposal would have negligible impact on the local traffic on South Terrace.

Clause 10 of P308 states that a separate approval should be sought from Main Roads in relation to the proposed sign if it is located on a Main Roads controlled road. It is noted that this process is under a different legislation and will be independent from the development approval process.

In considering a variation from the above policy provisions, Council is required to consider the objective of the policy, which states “*this planning policy sets out the guidelines for the installation of signs on premises. It is designed to reduce the adverse visual amenity impact of signs, especially in residential areas.*”

Despite being supported by Main Roads WA and the City’s Infrastructure Services in terms of traffic safety impact of this proposal, it is considered that there is no cogent reason to depart from other provisions of this policy to support the proposed third-party advertising.

(g) Consistency with Development Control Policy 5.4 – Advertising on Reserved Land

DCP5.4 applies to any display of advertisements on land reserved under a Region Planning Scheme. In accordance with the provisions of TPS6, clause 67 of the deemed provisions and DCP1.2, Council is required to have due regard to this policy when determining an application for development approval.

Element	Required	Proposed
Effect on amenity	Clause 5.2.1: The number, size, location and appearance of advertisements must be carefully controlled in order to protect the amenity of the locality. Approval will only be granted if the WAPC is satisfied that the proposal will not detract from the amenity of the reservation and the locality generally.	The proposed digital sign is a large, illuminated structure that would detract from the amenity of the locality.
	Clause 5.2.2: The purpose of the road reserve is a primary consideration in determining the application	The purpose of the reserve is for future road widening. The proposed sign is considered to be appropriate on a temporary basis.
	Clause 5.2.4: The erection of an advertisement to add to the vitality of particular location and to provide a necessary service to the public by giving information, advice and direction in relation to	As discussed in the preceding section of this report, the proposed sign is considered to be out of character at this location, taking into consideration the significant number of residential dwelling and would be more

	available services and events.	suitable for a city centre or activity centre location.
Safety and efficiency of roads	Clause 5.3.1: Advertisements are not acceptable if they interfere with sightlines, distract drivers, or have the potential to hinder the interpretation of traffic signals or road signs	Main Roads WA, being the management authority of Canning Highway, has reviewed the proposal and does not have an objection subject to conditions.
Protection of reservation	Clause 5.4.1: The WAPC will only consider temporary approval of an advertisement and a time limit will be imposed after which the signs shall be removed.	The proposed signs can only be supported on a temporary basis.

It is considered that the proposal does not meet the requirements of DCP5.4 due to its impact on the amenity of the locality.

(h) Street setback

Clause 5.3 and Table 5 of TPS6 provide street setbacks from Canning Highway for all non-residential uses.

Element	Required	Proposed
Canning Highway (east side)	19m	0m to 1m

The proposed digital sign is located between 0m and 1m from the street boundary in lieu of 19m required under Table 5. The objective of the setback is 'to provide future road widening while retaining a 1.5m setback to development'.

In considering this street setback variation, Council is required to satisfy clause 7.8(b) as follows:

- (b) *The power conferred by this sub-clause may only be exercised if the local government is satisfied that:*
- (iv) *Approval of the proposed development would be consistent with the orderly and proper planning of the precinct and the preservation of the amenity of the locality;*
 - (v) *The non-compliance will not have any adverse effect upon the occupiers or users of the development or the inhabitants of the precinct or upon the likely future development of the precinct; and*

- (vi) *The proposed development meets the objectives for the City and for the precinct in which the land is situated as specified in the precinct plan for that precinct.*

For the reasons discussed in the preceding section of this report, it is considered that the proposed digital sign would have an adverse amenity impact on the locality, the non-compliance aspect of the development would have an adverse impact on the inhabitants of the precinct and does not satisfy the objectives of TPS6.

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

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

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

As outlined in the report, the proposed development is not considered to satisfy the above objectives.

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

In considering the application the local government is to have due regard to the following 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 below. The matters most relevant to the proposal, and the City's response to each consideration, are outlined in the table below:

Matters	Officer's Comment
(a) the aims and provisions of this Scheme and any other local planning scheme operating within the Scheme area;	For reasons outlined in the report, the development is <u>not</u> considered to be consistent with the aims and provisions of the Scheme, particularly objectives (a), (f), (g) and (j) of Clause 1.6 of TPS6.
(e) any policy of the Commission;	For reasons outlined in the report, the development is <u>not</u> considered

	to meet relevant provisions of DCP 1.2 and DCP5.4 relating to amenity.
(g) any local planning policy for the Scheme area;	For reasons outlined in the report, the development is <u>not</u> considered to meet relevant provisions of Council Policy P308 Signs.
(m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk, scale, orientation and appearance of the development;	For reasons outlined in this report, the proposal is <u>not</u> considered to be compatible with the surrounding environment.
(n) the amenity of the locality including the following – <ul style="list-style-type: none"> (i) environmental impacts of the development; (ii) the character of the locality; and (iii) Social impacts of the development; 	For reasons outlined in the report, the proposal is <u>not</u> considered to be consistent with the existing amenity and character of the locality and would have a negative impact on the locality.
(y) any submission received on the application;	A summary of submissions and officer's response are provided in the 'Consultation' section below.
(za) the comments or submissions received from any authority consulted under clause 66;	Main Roads WA provided comments regarding the proposal as the management authority of Canning Highway and a copy of advice is provided at Attachment (a) . For reasons outlined in the report, this advice is not considered to be acceptable by the City and the proposal is not supportable.

Consultation

(a) Neighbour Consultation

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by the Deemed Provisions and Council Policy P301 'Advertising of Planning Proposals'. Individual property owners, occupiers and/or strata bodies within a 200m radius of the site were invited to inspect the plans and to submit comments during a 28-day period. In addition, a sign was placed on site inviting comment from any other interested person.

During the advertising period, a total of 334 consultation notices were sent and 12 submission(s) were received, four in favour and eight against the proposal. The comments from the submitter(s), together with officer responses are summarised below.

Submitters' Comments	Officer's Responses
Traffic and pedestrian safety – <ul style="list-style-type: none"> • Busy intersection and unavoidable distraction for drivers and road users; • Safety concerns for pedestrians; 	Council Policy P308 does not support an illuminated sign to be located within 150m of a street intersection. However, the Main Roads WA, being the management authority of Canning Highway, has no objection against the proposal and the City's infrastructure services also reviewed its impact on local traffic and found the impact to be negligible. The comment is NOTED .
Character and amenity – <ul style="list-style-type: none"> • Public visual amenity will be distracted by bright, moving electronic format images and colours; • Overcommercialisation of the area; • Visual and light pollution in the surrounding residential area; 	For reasons outlined in the report, it is considered that the proposal is inconsistent with the existing character and amenity of the area and would have a significant impact to the locality. The comment is NOTED .
Relationship between the sign and site – <ul style="list-style-type: none"> • Clause 2 of P308 should be upheld. 	The comment is NOTED .
Great idea and good for small business Bring more vibrancy to the area	The comment is NOTED .

The applicant's response to the submissions is included in **Attachment (c)**.

(b) Main Roads Western Australia

Main Roads Western Australia is the management authority of Canning Highway road reserve and was invited to comment on the proposal. A copy of referral advice is provided at **Attachment (a)**. This agency does not have an objection to the proposal subject to a number of conditions.

10.3.1 **Proposed Third-Party Digital Advertising Sign Additions to Existing Commercial Building on Lot 303, No. 149-153 South Terrace, Como**

Should Council resolve to approve this development, conditions and advice notes would be included on the notice of determination.

(c) Assets and Design

The City's Assets and Design business unit was invited to comment on the proposal, in particular the Road Safety Assessment submitted by the applicant. This business unit is of the view that the proposal would have negligible impact on local traffic on South Terrace, whilst noting Main Roads Western Australia, being the management authority of Canning Highway road reserve, does not have an objection to the proposal.

(d) Environmental Health

Comments were also invited from the City's Environmental Health business unit in relation to potential environmental health impact from the proposal and the Lighting Impact Assessment.

This business unit has reviewed the Lighting Impact Assessment and is satisfied with the findings of the Assessment. Should Council resolve to approve the development, this business unit has recommended a condition to verify the future operation of the sign.

Policy and Legislative Implications

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

Financial Implications

This determination has no financial implications, as the application will be determined by the WAPC should the officer recommendation be supported.

Key Risks and Considerations

Risk Event Outcome	Reputational Damage Deals with adverse impact upon the professional reputation and integrity of the City and its representative whether those persons be appointed or elected to represent the City. The outcome can range from a letter of complaint through to a sustained and co-ordinated representation against the City and/or sustained adverse comment in the media.
Risk rating	Low
Mitigation and actions	Risk acceptable with adequate controls, managed by routine procedures and subject to annual monitoring

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Environment (Built and Natural)
Aspiration:	Sustainable, liveable, diverse and welcoming neighbourhoods that respect and value the natural and built environment
Outcome:	3.2 Sustainable built form
Strategy:	3.2.1 Develop and implement a sustainable local planning framework to meet current and future community needs

Sustainability Implications

Nil.

Conclusion

It is considered that the proposal does not meet all of the relevant Scheme and/or Council Policy objectives and provisions, as it has the potential to have a negative impact on nearby residential neighbours and streetscape. The proposed digital sign is located in a predominantly residential area and is considered to be out of character, would detract from the existing streetscape and would have a significant amenity impact on the surrounding area.

The proposal contains third-party advertising content and does not comply with clause 2 of Council Policy P308. It is considered that there is no cogent reason to depart from this policy requirement given the proposal does not seek to enhance the amenity of the locality.

While the applicant has provided substantial justification and reports to support this application, it is considered, on balance, that the proposal should not be supported at this location due to its potential impact on local amenity and would be more suitably located in a city centre or activity centre location. Accordingly, it is recommended that Council advise the WAPC of its objection to the proposal.

Attachments

10.3.1 (a):	Main Roads Referral Advice
10.3.1 (b):	Amended Development Plans
10.3.1 (c):	Applicant's Planning Reports
10.3.1 (d):	Site Photographs

10.3.2 Consent to Advertise Modified Draft Building Height & Salter Point Escarpment Local Planning Policies

File Ref: D-22-34240
Author(s): Jessica Birbeck, Principal Strategic Planner
Reporting Officer(s): Vicki Lummer, Director Development and Community Services

Summary

This report recommends that Council endorse modifications to the draft Building Height Local Planning Policy & draft Salter Point Escarpment Local Planning Policy which were approved to be advertised by Council, concurrently with draft Local Planning Scheme No. 7 (LPS 7), in August 2021.

Draft LPS 7 was approved for advertising by the Western Australian Planning Commission on 31 May 2022 subject to modifications. The modifications will affect the operation of provisions within the draft Policies relating to the assessment of building height. Modifications are recommended to the Policies prior to advertising to respond to the changes to LPS 7.

Officer Recommendation AND COUNCIL DECISION

0722/097

Moved: Councillor André Brender-A-Brandis
Seconded: Councillor Stephen Russell

That Council, in accordance with the provisions of Schedule 2, Clauses 3 and 4 of the Planning and Development (Local Planning Schemes) Regulations 2015:

1. Resolves to prepare the Salter Point Escarpment Local Planning Policy as set out in **Attachment (a)**; and
2. Resolves to prepare the Building Height Local Planning Policy as set out in **Attachment (b)**; and
3. Consents to advertise the Building Height Local Planning Policy & Salter Point Escarpment Local Planning Policy in conjunction with advertising for draft Local Planning Scheme No. 7; and
4. Notes that following completion of the public comment period, Council receives a further report detailing the outcomes of the advertising period, including any submissions received, for Council consideration.

CARRIED BY EXCEPTION RESOLUTION (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Background

At its meeting held 24 August 2021, Council resolved to advertise the draft Building Height Local Planning Policy & Salter Point Escarpment Local Planning Policy concurrently with the City's draft Local Planning Scheme No. 7 (LPS 7).

The Building Height Policy was prepared to ensure that the maximum height of buildings is determined in the same manner as currently provided for under Town Planning Scheme No. 6 (TPS 6). The Building Height Policy was not intended to offer general discretion on building height, but rather to confine it to very specific circumstances that currently apply under TPS 6.

The Western Australian Planning Commission (WAPC) considered draft LPS 7 on 31 May 2022 and gave consent to advertise the scheme subject to modifications. One of the modifications is the deletion of Clause 32(1) – Building Height which applied a specific wall height and building height in metres for each density code. Removal of this Clause will revert the measurement of building height to State Planning Policy 7.3 Residential Design Codes (R-Codes).

In the absence of Clause 32(1), the Building Height Policy may not limit the application of discretion as intended and enabled by the former LPS 7 provision. The Building Height Policy may, however, supplement the Design Principles of the R-Codes by providing local housing objectives to guide judgements about the merits of proposals.

The Salter Point Escarpment Policy was prepared to consolidate the existing development controls contained in local planning policies *P306 Development of Properties Abutting River Way* and *P320 Assessment of Significant Obstruction of Views in Precinct 13 – Salter Point*. The Salter Point Escarpment Policy contains specific provisions which relate to the measurement of building height and the assessment of significant obstruction of views. Specifically, the Salter Point Escarpment Policy attempted to carry over the methodology for measuring building height as currently contained in TPS 6, which provides for the reestablishment of ground level on sloping sites.

The Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 contain definitions for 'Wall Height', 'Building Height' and 'Natural Ground Level'. The definitions themselves include a methodology to measure height which cannot be amended by a local planning scheme or local planning policy. Since the August 2021 Council meeting, it has come to the City's attention that the definitions within the Deemed Provisions prevail over the provisions contained within the draft Salter Point Escarpment Policy. This means that the draft Policy provisions cannot be applied and building height must be measured from the natural ground level at the base of the wall across a site. This has the potential to significantly reduce the height and development potential currently provided for under TPS 6.

Comment

Building Height Local Planning Policy

The Building Height Policy is proposed to be amended to replace the existing provisions with local housing objectives to guide the application of discretion to the deemed-to-comply requirements of the R-Codes. The amended draft policies focus on matters of topography, context and streetscape which supplement the corresponding Design Principles of the R-Codes which include considerations such as access to sunlight and amenity of adjoining properties. This guidance is intended to provide for building height as currently permitted under TPS 6 in suitable contexts.

Salter Point Escarpment Local Planning Policy

The Salter Point Escarpment Policy is proposed to be amended to introduce an alternative methodology to maintain the way in which building height is currently measured under TPS 6. Draft LPS 7 contains provisions to consider projections above the building height limit established in Schedule 9B, having regard to a local planning policy. The draft Policy proposes to use this provision to establish a 'projection envelope', using TPS 6 height methodology, to replicate the building height limits which currently apply. The assessment of significant obstruction of views is not proposed to change and will apply to any roofs or minor projections proposed beyond the 'projection envelope' as set out in clause 4.2.2.

In summary, the modified Policy uses an alternative approach to successfully maintain the building height limit, consideration of projections and assessment of significant obstruction of views as the Policy endorsed by Council in August 2021.

Consultation

The draft policies have been prepared to provide guidance to matters contained in LPS 7 and the R-Codes. Advertising will be undertaken in conjunction with LPS 7 to enable stakeholders to appreciate the interrelationship of the City's emerging planning framework relating to building height. LPS 7 will be advertised for 90 days in accordance with the Planning and Development (Local Planning Schemes) Regulations 2015, and Local Planning Policy P301 Advertising of Planning Proposals.

Policy and Legislative Implications

The process for preparing a local planning policy is set out in Schedule 2, Division 2 of the Planning and Development (Local Planning Schemes) Regulations 2015.

Financial Implications

There are no direct financial implications associated with this report. Costs associated with advertising of planning proposals are included in the 2022/23 budget.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation
Risk rating	Medium
Mitigation and actions	Correspond with the Department of Planning, Lands and Heritage to anticipate and prepare for modification to the polices any arising from any future modifications to LPS 7

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Environment (Built and Natural)
Aspiration:	Sustainable, liveable, diverse and welcoming neighbourhoods that respect and value the natural and built environment
Outcome:	3.2 Sustainable built form
Strategy:	3.2.1 Develop and implement a sustainable local planning framework to meet current and future community needs

Attachments

- 10.3.2 (a): Draft Local Planning Policy - Salter Point Escarpment
- 10.3.2 (b): Draft Local Planning Policy - Building Height

10.4 STRATEGIC DIRECTION 4: LEADERSHIP

10.4.1 Listing of Payments June 2022

File Ref: D-22-34242
Author(s): Abrie Lacock, Manager Finance
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

This report presents to Council a list of accounts paid under delegated authority between 1 June 2022 to 30 June 2022 for information. During the reporting period, the City made the following payments:

EFT Payments to Creditors	(553)	\$6,603,284.35
Cheque Payment to Creditors	(5)	\$6,950.42
Total Monthly Payments to Creditors	(558)	\$6,610,234.77
EFT Payments to Non-Creditors	(57)	\$493,112.85
Cheque Payments to Non-Creditors	(63)	\$51,252.76
Total EFT & Cheque Payments	(678)	\$7,154,600.38
Credit Card Payments	(7)	\$18,744.92
Total Payments	(685)	\$7,173,345.30

Officer Recommendation AND COUNCIL DECISION

0722/098

Moved: Councillor André Brender-A-Brandis

Seconded: Councillor Stephen Russell

That Council receives the Listing of Payments for the month of June 2022 as detailed in **Attachment (a)**.

CARRIED BY EXCEPTION RESOLUTION (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

Background

Council has delegated to the Chief Executive Officer (CEO) the exercise of its power to make payments from its Municipal and Trust Funds. In accordance with regulation 13(1) of the Local Government (Financial Management) Regulations 1996 a list of accounts paid by the CEO is to be prepared each month and presented to the Council at the next Ordinary Meeting of the Council after the list is prepared.

Comment

The payment listing for June 2022 is included at **Attachment (a)**.

The attached report includes a “Description” for each payment. City 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 number represent a 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 number represent a 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 directly 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

Regulations 12 and 13(1) of the Local Government (Financial Management) Regulations 1996. Policy P602 Authority to Make Payments from the Municipal and Trust Funds.

Financial Implications

The payment of authorised amounts is within existing budget provisions.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation
Risk rating	Low
Mitigation and actions	Monthly Financial reporting timelines exceeding statutory requirements

Strategic Implications

This matter relates to the following Strategic Direction identified within Council’s [Strategic Community Plan 2021-2031](#):

Strategic Direction: Leadership
 Aspiration: A visionary and influential local government that is receptive and proactive in meeting the needs of our community
 Outcome: 4.3 Good governance
 Strategy: 4.3.1 Foster effective governance with honesty and integrity and quality decision making to deliver community priorities

Attachments

10.4.1 (a): Listing of Payments June 2022

10.4.2 Monthly Financial Statements June 2022 (Interim)

File Ref: D-22-34243
Author(s): Abrie Lacock, Manager Finance
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

The monthly Financial Statements are provided within **Attachments (a)–(i)**, with high level analysis contained in the comments of this report.

Officer Recommendation AND COUNCIL DECISION

0722/099

Moved: Councillor Stephen Russell

Seconded: Councillor Carl Celedin

That Council notes the Financial Statements and report for the month ended 30 June 2022.

CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

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 2021/22 budget adopted by Council on 22 June 2021, determined the variance analysis for significant amounts of \$10,000 or 10% for the financial year. Each Financial Management Report contains an Original and Revised Budget column for comparative purposes.

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 1996. 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.

COVID-19 in conjunction with the war in Ukraine continues to cause uncertainty and supply shortages around the world, with a significant impact on world economic activities. In Western Australia COVID-19 infections in the community has peaked and case numbers are on a downward trajectory, as a result the COVID-19 vaccine mandates for most WA workers has been removed.

The above factors resulting in very uncertain economic circumstances with steep rises in inflation in Australia and other countries. To curb the high inflation the RBA have in the last few months announced consecutive increases in the cash rate .25% in May, .5% in June and .5% in July with increases exceeding market predictions.

In framing the Annual Budget 2021/22, the City considered the economic environment and the impact of COVID-19. As Western Australia remains at risk the State Government continues to extend the state of emergency initially enacted 30 March 2020, however public health measures are easing.

The Legislated Budget Review was completed and Council approved the budget review adjustments at the Ordinary Council Meeting held 22 February 2022. Budget Review entries have been processed, budget phasing was also revised as part of the review.

Interim actual income from operating activities for June year-to-date (YTD) is \$74.86m in comparison to budget of \$73.23m, favourable to budget by 2.23% or \$1.63m. Interim actual expenditure from operating activities for June is \$75.27m in comparison to the budget of \$76.73m, favourable to budget by 1.91% or \$1.46m. The Interim June Net Operating deficit of \$406k was \$3.09m favourable in comparison to budgeted deficit.

Interim actual Capital Revenue YTD is \$2.31m, budget \$4.34m with an unfavourable variance of \$2.03m on budget. Interim actual Capital Expenditure YTD is \$9.53m in comparison to the budget of \$12.55m, \$3.02m or 24% favourable. A variance analysis is provided within **Attachment (e)** titled Significant Variance Analysis. The year-end accounting finalisation transactions and reconciliations are still to be undertaken. 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 may be a number of Capital projects that may require a Budget adjustment earlier or during the 2022/23 midyear review process.

Interim Cash and Cash Equivalents amounted \$59.65m, slightly higher than the prior year comparative period. Consistent with previous monthly reports, the Cash and Cash Equivalents balance is contained within the Statement of Financial Position. In addition, further detail is included in a non-statutory report (All Council Funds).

Although interest rates are improving, the record low interest rates in Australia still have residual impact on the City's investment returns, with banks offering average interest rates of 2.39% for investments under 12 months. The City holds a portion of its funds in financial institutions that do not invest in fossil fuels. Investment in this market segment is contingent upon all of the other investment criteria of Policy P603 Investment of Surplus Funds being met. At the end of June 2022 the City held 33.46% of its investments in institutions that do not provide fossil fuel lending. The Summary of Cash Investments illustrates the percentage invested in each of the non-fossil fuel institutions and the short term credit rating provided by Standard & Poors for each of the institutions.

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.

Financial Implications

The preparation of the monthly financial reports occurs from the resources provided in the annual budget.

Key Risks and Considerations

Risk Event Outcome	Legislative Breach Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation
Risk rating	Low
Mitigation and actions	Monthly Financial reporting time lines exceeding statutory requirements

Strategic Implications

This matter relates to the following Strategic Direction identified within Council’s [Strategic Community Plan 2021-2031](#):

Strategic Direction: Leadership
 Aspiration: A local government that is receptive and proactive in meeting the needs of our community
 Outcome: 4.3 Good governance
 Strategy: 4.3.1 Foster effective governance with honesty and integrity and quality decision making to deliver community priorities

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 and Expenditure
- 10.4.2 (e): Significant Variance Analysis
- 10.4.2 (f): Capital Revenue and Expenditure
- 10.4.2 (g): Statement of Council Funds
- 10.4.2 (h): Summary of Cash Investments
- 10.4.2 (i): Statement of Major Debtor Categories

10.4.3 City of South Perth Penalty Units Amendment Local Law 2022

File Ref: D-22-34244
Author(s): Bernadine Tucker, Manager Governance
Reporting Officer(s): Garry Adams, Director Corporate Services

Summary

This report considers the current provisions and recommends changes to the City of South Perth Penalty Units Local Law 2003, which prescribes the value of a penalty unit used in conjunction with the modified penalties expressed in City of South Perth local laws. The penalty unit determines the value of an infringement.

Officer Recommendation AND COUNCIL DECISION

0722/100

Moved: Councillor Stephen Russell

Seconded: Mayor Greg Milner

That Council gives local public notice stating the City proposes to review and amend the City of South Perth Penalty Units Local Law 2003.

CARRIED (5/3).

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Jennifer Nevard and Stephen Russell.

Against: Councillors Mary Choy, Blake D'Souza and Ken Manolas.

Background

The City of South Perth Penalty Units Local Law 2003 (Local Law) was Gazetted on 20 June 2003. The Local Law prescribes the value of a penalty unit used in conjunction with the modified penalties expressed in the following City of South Perth local laws to determine the value of an infringement:

- Cats Local Law 2016
- Dogs Local Law 2016
- Parking Local Law 2017
- Public Places and Local Government Property Local Law 2011
- Waste Local Law 2017

Following gazettal in 2003, the Local Law was further amended on 23 December 2003, 17 December 2004, 30 September 2008, 26 February 2010, 13 January 2017 and 13 November 2018. The value of a penalty unit has not been amended since 2018.

Comment

The Local Law prescribes the value of a penalty unit and is used in conjunction with the City's other local laws to determine the value of an infringement. It is proposed to amend clause 5 of the Local Law to increase the current value of a penalty unit from \$10.00 to \$13.00.

The City has undertaken research to determine how the penalty units compares to neighbouring local governments. The penalty units and modified penalties of the Cities of Melville, Nedlands, Canning, Perth and Town of Victoria Park were assessed.

It was found that on average, the City of Perth and Town of Victoria Park had modified penalties slightly higher than the City's current penalties. For example, the maximum modified penalty for parking was \$225 and \$240 respectively. The proposed increase to the Local Law would increase our maximum parking penalty from \$150 to \$195.

Section 3.12 of the *Local Government Act 1995* sets out the process to make a local law. In particular, section 3.12(8) provides that the process to amend a local law is the same as making a new one. Once an 'amendment' local law has gone through the process, the 'principle' local law is changed.

The purpose and effect of the proposed local law is as follows:

Purpose: to make amendments to the City of South Perth Penalty Units Local Law 2003 which prescribes the value of a penalty unit.

Effect: to set the value of a penalty unit, which is to be used in conjunction with the modified penalties expressed in other City of South Perth local laws.

Consultation

To commence the local law making process it is necessary for the City to give local public notice of its intent to amend the City of South Perth Penalty Units Local Law 2003 and invite submissions for a period of no less than six weeks after the notice is given.

Policy and Legislative Implications

Section 3.12 of the *Local Government Act 1995* prescribes the process for the making of amendment local law.

Financial Implications

The cost associated with amending the local law is already contained within the approved Governance budget.

Key Risks and Considerations

Risk Event Outcome	<p>Legislative Breach</p> <p>Refers to failure to comply with statutory obligations in the manner in which the City, its officers and Elected Members conduct its business and make its decisions and determinations. This embraces the full gamut of legal, ethical and social obligations and responsibilities across all service areas and decision making bodies within the collective organisation</p>
Risk rating	Low
Mitigation and actions	Following the requirements of s3.12 of the <i>Local Government Act 1995</i>

Strategic Implications

This matter relates to the following Strategic Direction identified within Council's [Strategic Community Plan 2021-2031](#):

Strategic Direction:	Leadership
Aspiration:	A local government that is receptive and proactive in meeting the needs of our community
Outcome:	4.3 Good governance
Strategy:	4.3.1 Foster effective governance with honesty and integrity and quality decision making to deliver community priorities

Attachments

10.4.3 (a):	City of South Perth Penalty Units Amendment Local Law 2022
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11. APPLICATIONS FOR LEAVE OF ABSENCE

- Councillor Jennifer Nevard for the period 5 August 2022 to 13 August 2022 inclusive.
- The Presiding Member called for a Motion to approve the Leave of Absence application.

COUNCIL DECISION

0722/101

Moved: Councillor André Brender-A-Brandis

Seconded: Councillor Carl Celedin

That Council approve the Leave of Absence application received from Councillor Jennifer Nevard for the period 5 August 2022 to 13 August 2022 inclusive.

CARRIED (8/0)

For: Mayor Greg Milner, Councillors André Brender-A-Brandis, Carl Celedin, Mary Choy, Blake D'Souza, Ken Manolas, Jennifer Nevard and Stephen Russell.

Against: Nil.

12. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

This Item was withdrawn from the Agenda at the request of Councillor Mary Choy prior to the commencement of the meeting and was not considered.

12.1 NOTICE OF MOTION - COUNCILLOR MARY CHOY - PROTECTION AND MAINTENANCE OF TREES DURING DEVELOPMENT

File Ref: D-22-34245
Author(s): Warren Giddens, Manager Strategic Planning
Jessica Birbeck, Principal Strategic Planner
Reporting Officer(s): Vicki Lummer, Director Development and Community Services

Summary

Councillor Mary Choy submitted the following Notice of Motion prior to the Council Agenda Briefing held Tuesday 19 July 2022.

Notice of Motion Recommendation (Suggested Alternative Recommendation page 42)

1. That Council request the Chief Executive Officer to prepare a report on methods used around Australia to create additional incentives for tree retention on development sites, private property and street verges and the options for their application in the City of South Perth; and
2. That the Chief Executive Officer present the above report to Council for consideration within 6 months.

Background

Councillor Mary Choy submitted a Notice of Motion regarding Protection and Maintenance of Street Trees During Development. The reasons for the motion given are as follows:

1. Policy P350.05 sets out the planning policy for the retention of Trees on Development Sites and Street Verges, with the main overarching objective being to preserve trees. As noted in the Policy, trees are a valuable community and City asset with their amenity value progressively increasing as the number of mature trees on development sites declines.
2. Local residents and ratepayers have recently expressed concerns, through local community channels and also via deputations to Council, around the seemingly increasing loss of mature trees on and around development sites, private land and street verges due to increasing development.
3. The Western Australian Planning Commission has recently advised the City that the draft provisions included in Local Planning Scheme 7 as endorsed by Council, relating to the protection of trees on private property, has not been supported. I understand other mechanisms to protect the City's significant trees is being discussed.

4. This motion aims to bring resident's concerns, the City's objectives under current policy and the recent WAPC decision, to the forefront for discussion, on what seems to be an increasing challenging issue for our City, to assist in enhancing and strengthening the City's existing Tree Policy and 'Street Tree Management Plan' as it relates to the protection and maintenance of trees during development.

Comment

Trees are an essential part of the urban fabric, providing significant social, economic, and environmental benefits to the community. The protection and growth of a healthy, resilient and diverse urban canopy is a shared responsibility across State and Local Governments, landowners, industry and the community. In many urban areas across Perth there has been a decline in tree canopy cover, particularly on private land. The loss of this canopy cover is a significant issue for local governments and impacts local biodiversity, visual amenity, urban heat and public health.

In August 2021, WALGA held its first meeting for the Tree Retention Sub-Committee, a sub-committee of its wider Urban Forest Working Group. The Tree Retention Sub-Committee was established to investigate and develop a consistent approach to protect trees on private land across Western Australia. This work will also form the basis of a revised WALGA Advocacy Position to inform future advocacy to the State Government and other bodies to ensure protection and enhancement of the State's urban forest. The City of South Perth has representation on both the Urban Forest Working Group and the Tree Retention Sub-Committee. It is anticipated that a draft issues paper will be produced by the Sub-Committee later this year.

The City currently plays an active role in supporting our urban canopy. The Urban Forest Strategy was formally adopted at the Council Meeting on 31 July 2018 and details the actions the City is taking to manage its urban forest, actively working towards a goal of maintaining and increasing canopy cover into the future. The City is also in the process of reviewing its Street Tree Management Plan which provides a coordinated approach to increase street tree planting.

With regard to the protection of verge trees, all street trees are protected against unauthorised damage and removal under the City's Public Places and Local Government Property Local Law 2011. Where a street tree is damaged or destroyed without authority, the City may instigate legal action to pursue the recovery of costs and the application of a fine in keeping with the City's Public Places and Local Government Property Local Law 2011.

With regard to the Planning Framework, the State Government recently introduced additional measures to preserve and enhance urban canopy on private land. Amendments to the Residential Design Codes (R-Codes) Volume 1 introduced in mid-2021, for example, included additional deemed-to-comply requirements relating to minimum tree provision, with similar provisions included in the draft Medium Density Codes. The R-Codes Volume 2, which guide high density (apartment) development, also make provision for retention of existing vegetation and tree planting to increase canopy.

The City currently maintains a register of street trees and tree groups that are of environmental or heritage significance. The Significant Tree Register provides for a tree preservation order to be applied under the City's Town Planning Scheme No. 6. The register largely relies on self-nominations from landowners, however the powers through the Scheme allow the City to issue preservation orders in the absence of a nomination.

12.1 Notice of Motion - Councillor Mary Choy - Protection and Maintenance of Trees During Development

The City’s Local Planning Policy P350.05 Trees on Development Sites and Street Verges also sets out requirements relating to provision and retention of trees. The Policy is proposed to be reviewed in light of recent changes to the R-Codes and preparation of draft Local Planning Scheme No. 7 (LPS 7).

LPS 7, adopted by Council in August 2021 for advertising, included provisions which aimed to retain large trees on private land. Draft LPS 7 was considered by the WAPC in May 2022 and the provisions were not supported to be included for advertising. Following this decision, the City will be working with the Department of Planning, Lands and Heritage and the WALGA Sub-Committee to investigate alternative planning mechanisms to achieve the same outcome.

The City therefore will be conducting detailed investigations into mechanisms to preserve trees on private property throughout the coming year. This will not only be limited to incentives for tree preservation, but will also investigate requirements that the City can implement to retain trees of significance on private land.

Policy and Legislative Implications

Local Planning Scheme No.7

Financial Implications

There are no direct financial implications associated with this report. Costs associated with progressing Local Planning Scheme No. 7 and associated policy work are included in the 2022/23 budget.

Key Risks and Considerations

Risk Event Outcome	None
Risk rating	Not Applicable
Mitigation and actions	Not Applicable

Strategic Implications

This matter relates to the following Strategic Direction identified within Council’s [Strategic Community Plan 2021-2031](#):

- Strategic Direction: Environment (Built and Natural)
- Aspiration: Sustainable, liveable, diverse and welcoming neighbourhoods that respect and value the natural and built environment
- Outcome: 3.3 Enhanced environment and open spaces
- Strategy: 3.3.2 Enhance the City's urban forrest

Suggested Alternative Recommendation

1. That Council request the Chief Executive Officer, in conjunction with the development of suitable tree preservation provisions for LPS 7, to prepare a report on methods used around Australia to create additional incentives for tree retention on development sites, private property and street verges and the options for their application in the City of South Perth; and
2. That the Chief Executive Officer present the above report to Council for consideration when draft LPS 7 is reported to Council after public advertising.

Reason for Alternative Recommendation

Postponing the report until Council considers draft LPS 7 following advertising, will enable feedback from the public consultation of draft LPS 7 to inform the recommended approach to address preservation of trees on private property through the planning framework. LPS 7 is anticipated to be presented back to Council in February 2023. This timeframe is eight months in lieu of the six month timeframe proposed by the motion. This timeframe will allow the City to investigate options for how best to implement tree preservation requirements into the new planning framework which will assist to inform the scope of the research report.

Attachments

Nil.

13. QUESTIONS FROM MEMBERS

13.1 RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS TAKEN ON NOTICE

Responses to questions from members taken on notice at the Ordinary Council Meeting held 28 June 2022 can be found in the Appendix of this Agenda.

Councillor Carl Celedin retired at 7.06pm during consideration of Item 13.2.

13.2 QUESTIONS FROM MEMBERS

- Councillor Stephen Russell
- Councillor Carl Celedin
- Councillor Jennifer Nevard
- Councillor Mary Choy
- Councillor Ken Manolas

The questions and responses can be found in the **Appendix** of these Minutes.

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

Nil.

15. MEETING CLOSED TO THE PUBLIC

Nil.

16. CLOSURE

The Presiding Member thanked everyone for their attendance and closed the meeting at 7.12pm.

APPENDIX

6.1 PUBLIC QUESTION TIME Questions taken on notice: 28 June 2022

1. Mr George Watts, Karawara Received: 27 June 2022	Responses provided by: Mark Taylor – Director Infrastructure Services
1. If the RAF does not go ahead, the City of South Perth will need to fund upgrades to both Collier Park Golf Course club house, George Burnett Leisure Centre and a pool to achieve the City’s Community Strategic Plan. Are the costings for this work at hand, as previously there was indication that this cost would be far greater than the RAF is estimated to be to the City of South Perth?	The City would be required to self-fund these upgrades as they are unlikely to attract private sector investment or grant funding. Recent estimates indicate that more than \$20m would be required to upgrade CPGC and GBLC with limited prospect of financial return. By contrast, the City’s investment in the RAF of \$20 million is expected to generate a return for the City and create a non-rate revenue stream.

6.2 PUBLIC QUESTION TIME: 26 July 2022

1. Mrs Jayne Morrissey, Como Received: 22 July 2022	Responses provided by: Bernadine Tucker – Manager Governance
<p><i>[Preamble]</i></p> <p><i>Large backyards have become a thing of the past. According to the figures (2022) provided by the City's Ranger Services, we currently have 4845 registered dogs and 157 hectares of off-leash dog exercise space in the City of South Perth. Between the four wards, the figures are 1430 dogs and 11ha in Moresby, 1210 dogs and 84ha in Manning, 1062 dogs and 20ha in Como Beach and 925 dogs and 42ha in Mill point.</i></p>	
<p>1. Based on this statistic, Moresby ward has the highest dog ownership (30% of the total), but it has the least off-leash dog exercise space (0.07% of total off-leash area) in the City of South Perth. Is the City planning on creating more off-leash areas in the Moresby ward?</p>	<p>The dog exercise areas are currently under review where current and future dog off-leash areas will be considered across the City and a report presented back to Council.</p>
<p>2. The City's 2016 map for dog exercise areas indicate that Collier Reserve is a designated off-leash space within the Moresby ward. Is this still the case in 2022?</p>	<p>Yes. This is still a dog off-leash area.</p>
<p>3. If the WASP hockey proposal is approved at Collier Reserve, there will be a reduction of the off-leash area in Moresby by approximately 5,000 - 7,000 m2. I understand that no decision has been made about WASP, but if it is approved, will the City create a similar size off-leash area somewhere else in the ward to offset this loss?</p>	<p>The dog exercise areas are currently under review and any recommendation for changes will be presented to Council for adoption. Members of the public will have an opportunity to participate in any community consultation in relation to those areas.</p>

<p>2. Dr Louise Johnston, Como Received: 23 July 2022</p>	<p>Responses provided by: Vicki Lummer – Director Development and Community Services</p>
<p><i>[Preamble]</i> <i>The Department of Planning DC Policy 5.3 which relates to the ‘use of land reserved for parks and recreation and regional open space’ indicates that land reserved for this purpose may be used in several ways such as for ‘passive recreation’, ‘active sporting pursuits’ and ‘cultural and/or community activities’ etc. My questions relate to Collier Reserve, that being Crown land reserved for ‘parks and recreation’</i></p>	
<p>1. In view of the aforementioned Policy, does the City/Council support the Policy’s intention to make land like Collier Reserve available for a diverse range of recreational activities, and not exclusively for sports?</p>	<p>Collier Reserve is available for a diverse range of uses.</p>
<p>2. How does the City balance the provision of available space between active sports and passive recreational activities on reserves used regularly for both?</p>	<p>A wholistic view is taken across the more than 50 City parks and reserves. Only 11 of these, including Collier Reserve, include provision for active sports. When not booked, sporting spaces are used for passive recreation.</p>
<p>3. In the context of the WASP proposal, how would the installation of a fenced hockey facility – that is closed to the public and intended to be used exclusively for one sport – support equitable access to the recreational space at Collier Reserve?</p>	<p>Questions about WASPS hockey at Collier reserve are hypothetical until such time as a proposal is received.</p>

<p>3. Mr Sanjay Gonsalves, Karawara Received: 25 July 2022</p>	<p>Responses provided by: Vicki Lummer – Director Development and Community Services</p>
<p><i>[Preamble]</i></p> <p><i>As per council minutes dated 28 August 2012, item 10.3.1, council adopted the following recommendation: (a) that there be no requirement for the re-opening of the PAW between number 7 and 12 Lenna Court; and (b) no action be taken to require the owners of number 11 and 16 Woonan Place to re- open the PAW between their properties An email response I received from the city on 18-May-2022, and I quote: Our records show that there are two public access ways located at the end of Leena Court and Woonan Place that are under the ownership of the crown. This suggests that there has been no formal closure of these accessways.</i></p>	
<p>1. Since these PAW's are "closed", whether legally or otherwise, have the owners who have consumed the PAW's at the end of Leena Court and Woonan Place compensated the city for the land and if not, shouldn't these PAW's be returned to the rightful owners (ie. the residents of Karawara) or formally transferred to the property owners and the city maps updated to reflect the same?</p>	<p>In accordance with Council resolution in 2012, the City has not requested the landowners either side of the Pedestrian Accessways (PAW's) at Leena Court and Woonan Place open the subject PAW's or request the Department of Planning, Lands and Heritage and the Minister for Lands, consider a formal closure request for these two PAW's. As the land is Crown Reserve, any further action would be subject to the State of Western Australia.</p>
<p>2. If the city has not been compensated for the closed PAW's at the end of Leena Court and Woonan Place, then why are the owners of the properties on Koolunda Court and Yallambee Place, adjoining the PAW and Public Open Space slated for closure, required to purchase the land (if DPLH agrees to the city's request for closure)?</p>	<ul style="list-style-type: none"> • The application to close the PAW and small section of POS adjacent to Yallambee Place and Koolunda Court was undertaken in accordance with the 'Procedure for the Closure of Pedestrian Access Ways Planning Guidelines' any supported request for PAW closure will be processed by the Department of Planning, Lands and Heritage in accordance with section 87 of the <i>Land Administration Act 1997</i>, which specifically addresses the 'sale etc. of Crown land for amalgamation with adjoining land'. • These guidelines provide for a mechanism to identify likely costs associated with the closure process including a land payment to the State of Western Australia.

3. As per council resolution of the 28-Aug-2012, has the city developed a policy specific to the proposed Karawara closures (as it has been 10 years since that resolution) and has the city used the policy guidelines in recommending the closure of the PAW with the sale of public open space between Koolunda Court and Yallambee Place?

- The City of South Perth does not currently have a local planning policy to guide closure of PAW's with the current closure request being progressed and considered in accordance with the 'Procedure for the Closure of Pedestrian Access Ways Planning Guidelines' developed by the Department of Planning in 2009.
- The City's Strategic Planning Team is currently developing a local planning policy on PAW closure in accordance with the Council meeting resolution of 26 April 2022.

<p>4. Mrs Cecilia Brooke, South Perth Received: 25 July 2022</p>	<p>Responses provided by: Steve Atwell – A/Director Infrastructure Services</p>
<p><i>[Preamble]</i></p> <p><i>Since the arrival of Covid on the shores of Australia much has happened to the building industry in Australia and Western Australia is, indeed, no exception. Last year in WA Jaxon Building Co and Pindan two of our leading construction companies closed down because of increased building costs and lack of supply. Just last week Sirona Urban cancelled their tower block on the corner of Lyall St and Labouchere Road, South Perth. Sirona’s Managing Director said “he saw no relief in the short to mid-term and expected other projects would also fold”. He also commented that “it is rare that these sorts of cost increases retreat just as quickly”.</i></p> <p><i>The City has also seen growth in costs. In the latest Peninsula the CEO states in his message to ratepayers that the City has experienced significant increases in construction and maintenance costs. This growth is also evident when reviewing the City’s capital expenditure cost reports.</i></p>	
<p>1. Can the City please explain how the figure quoted three years ago for the construction of the Recreation Aquatic Facility of \$80m can still be the same today when major building companies are closing their doors and cancelling projects and repaying deposits for half the number of units which were presold?</p>	<p>The RAF Project budget is \$80 million (ex GST). A range of fees and provisions including contingency and escalation are incorporated into the project budget. Construction costs for the RAF will be known after completing design and completion of the tender process for construction. Council has not yet approved the City to progress to Design.</p>
<p>2. If the project is to be ‘value engineered’ to remain under a \$80m cap, how does this affect the revenue available to an operator and the ability of that operator to supply the revenue relied upon in the City’s RAF business case to repay the City’s contribution to the project?</p>	<p>The recent value engineering exercise did not affect the financial or operational viability of the various RAF Business Units.</p>
<p>3. The June Accounts showed that on 9 June 2022, the City paid Paatsch Group the amount of \$16,121.88 for the RAF. Can the City please explain what this amount of money is being paid for and what is the total commitment by the City to Paatsch for the work it is doing to support the RAF?</p>	<p>Paatsch Group are one of the specialist consultants engaged to support the development of the RAF Project. Paatsch Group are sport and recreation infrastructure specialists. Funds were allocated to the RAF Project as part of the 21/22 Budget. All work conducted by the Paatsch Group is in accordance with the approved budget and decisions of Council.</p>

<p>5. Mr Peter Scott, Como Received: 25 July 2022</p>	<p>Responses provided by: Steve Atwell – A/Director Infrastructure Services</p>
<p><i>[Preamble]</i> On 15th July 2012 the Council published an article titled “City remains committed to the Recreation and Aquatic Facility” This news article was worded to give the impression that funding was almost complete except for the State Government \$20million. The reality is that Curtin have kicked in \$3m on the proviso that it be used to fit out their facilities, the Council have voted to put in \$20 million they don’t have, and the private investors have yet to materialise.</p>	
<p>1. Can the Mayor or CEO please advise why they allowed the publication of this article, when a majority of Councillors voted against the Officers’ recommendation to appoint a Project Manager. This vote effectively put an end to the Federal funding for the project and clearly demonstrates the Council is not committed to the RAF project.</p>	<p>The City’s statement published on 15 July 2022 on the City’s website is accurate and reflects strategy 1.2.3 of the Strategic Community Plan (SCP), to plan for and promote the proposed recreational and aquatic facility. The role of the City is to implement the SCP.</p> <p>Council has not directed the City to cease work on the RAF project, nor to return the Federal funding for the project.</p> <p>As a correction, I would like to place on the public record that the contribution from Curtin is for capital expenditure.</p>
<p>2. At the last Council meeting Mark Taylor told the meeting that value engineering of the RAF had been undertaken. Can you please advise what person or persons, or organisation carried out this work, and what is their qualification to carry out such a task? Also, can you advise what the cost of this work was?</p> <p><u>Follow up question:</u> Is it possible to know the date that the value engineering was carried out?</p>	<p>The City has appointed Rider Levett Bucknall as the Quantity Surveyor and Christou Architecture as the Architect to the RAF Project. In consultation with the City and Bridge42 (formerly NS Projects), a value engineering exercise was conducted in September 2021 by these parties on the proposed \$80 million scope.</p> <p>Rider Levett Bucknall provided the cost estimates in their capacity as Quantity Surveyor. Bridge42 reviewed the impact of the value engineering exercise on the RAF operational and financial models. As there was no reduction in space for each of the RAF Business Units, there was no impact. The RAF remains financially and operationally viable.</p>

	<p>The costs associated with this work were funded by the approved budget for the RAF Project in the City’s 21/22 Budget and were in accordance with the decisions of Council.</p> <p><u>Additional Information to follow up question:</u> September 2021.</p>
<p>3. The mini golf net revenue for 2021/22 was \$183,790 as reported in this month’s financial statement. Assuming the revenue continues at this rate, the payback period will be 10.88 years not the 6 years that Councillors were led to believe when approving this expenditure. How can Mark Taylor claim this is a successful investment when it is not achieving the payback forecast?</p>	<p>Mini golf has only operated for one full financial year. During that year, there were significant challenges due to Covid, an exceedingly wet winter and a hotter than normal summer. Whilst revenue may have been lower than initially forecast, expenditure has also been lower. Despite the challenges, mini golf still generated a profit of approximately \$183,000. It is unreasonable to expect that the past year will be an accurate predictor of future returns.</p> <p>The City is working closely with Clublinks to ensure the ongoing viability of the golf course, inclusive of mini golf – and that financial targets are being met. Overall, the combined golf course and mini-golf net profit was approximately \$1.2 million for the financial year.</p>

13.1 QUESTIONS FROM MEMBERS taken on notice OCM 28 JUNE 2022

Councillor Stephen Russell	Response provided by: Vicki Lummer – Director Development and Community Services
<p><i>[Preamble]</i></p> <p><i>Just a follow up on my question from the May Ordinary Council Meeting where the City stated that there are no records indicating that the 2 PAW's at Leena Court and Woonan Place had been formally closed.</i></p>	
<p>1. Could the City therefore please confirm that it will be undertaking action to reopen these short PAW's and if not, why not and if the City could give an indication of when it would proceed on this matter?</p>	<ul style="list-style-type: none"> • The City has engaged with various State Agencies on the matter of closing PAW's since 1977 and most recently with DPLH on this matter. • The Pedestrian Accessways (PAW's) at Leena Court and Woonan Place are both held in freehold to the State of WA and have not been formally closed. • Of relevance as to why the City will not reopen the subject laneways, I refer you to items (d) and (e) below. • An Ordinary Meeting of Council 28th August 2012 included item 10.3.1 'Closure of selected portions of Public Open Space (POS) Reserves and Pedestrian Access Way's (PAW's) within Karawara'. Council in considering this item resolved to adopt the following recommendations regarding the proposed PAW and POS reserve closures that directly addresses the subject PAW's: <ul style="list-style-type: none"> <i>(a) the City develops a procedural policy specific to PAW/POS reserve closures in Karawara to guide officers in the implementation of closures and this policy be adopted by Council before pursuing closures; and</i> <i>(b) the City advise submitters of the above Council decision.</i>

	<p><i>(c) the procedural policy shall require that before any closure of a PAW/POS be considered, that all residents directly affected by the closure be required to provide their support;</i></p> <p><i>(d) the POS that runs between Meathcare and the rear of the four houses in Lenna Court be retained and that there be no requirement for the re-opening of the PAW between number 7 and 12 Lenna Court; and</i></p> <p><i>(e) no action be taken to require the owners of number 11 and 16 Woonan Place to reopen the PAW between their properties</i></p> <p>Accordingly the City will not be undertaking action to reopen the subject PAW's.</p>
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13.2 QUESTIONS FROM MEMBERS OCM 26 JULY 2022

Councillor Stephen Russell	Responses provided by: Fiona Mullen – Manager Development Services
<p><i>[Preamble]</i> Thank you to the City for putting up the Parking Cash-in-Lieu payments register onto their website. I have two questions in regard to this.</p>	
<p>1. The register states that it is a public register and I emphasise the word ‘public’. Does that infer that there have been or will be cash-in-lieu payments which are not for public viewing and if so could the City direct me to the planning laws in this respect?</p>	<p>No is the simple answer. It is merely identified as public as that was the wording in the notice of motion.</p>
<p><i>[Preamble]</i> My reading of the planning regulations with respect to parking cash-in-lieu payments is that the City is required to conditionally return the funding after 10 years if the funding has not been spent in an appropriate parking demand manner. I note that there are two line items totalling approximately \$160,000 that seem to satisfy this criteria.</p>	
<p>2. Hence my question is, is the City now obligated to return these funds?</p>	<p>Taken on notice.</p>
<p><i>[Preamble]</i> With respect to the advertising billboards at the corner of Henley Street and Canning Highway. I refer the City to their answer last week as to why the construction does not fully reflect the DAP form 1 DA approval, in that the applicant has not constructed the second storey office space. My understanding of the City’s response was that the applicant sought and was given approval for the deviation, that resulted in the construction of only the advertising billboards. I am unaware of this deviation coming back to a DAP meeting.</p>	
<p>3. Therefore could the City provide further clarification of how this approval occurred. For example by whom, with what delegated authority and the reasons for approval?</p>	<p>Taken on notice.</p>

[Preamble]

I just refer to the questions taken on notice 28 June 2022 and there was a question from Mr George Watts which talked about if the RAF didn't go ahead and what the City of South Perth would need to fund. i.e. upgrades to Collier Park Golf Course, George Burnett Leisure Centre and a pool to achieve the City's Community Strategic Plan. Let's just drop the pool for the moment but the City's response talks about self-funding these upgrades as they would be unlikely to attract private sector investment or grant funding. Recent estimates indicate that more than \$20 million dollars would be required to upgrade Collier Park Golf Course and George Burnett Leisure Centre with limited prospect of financial return. By contrast the City's investment in the RAF of \$20 million dollars would be expected to generate a return for the City and create a non-rate revenue stream. My question is, regardless of whether the RAF proceeds or not, the City would still be up to spend \$20 million dollars in capital costs without the potential for any additional revenue similar to what the Recreational Aquatic Facility may bring.

1. So essentially the City has stated that the project will not go ahead if this has the effect of a raising of rates then why do I here in the community that opponents of the RAF are saying that it will increase rates by 10-15%. Is there any truth to this accusation?

Council has always been explicit that the RAF will not lead to an increase in rates. The RAF Operational and Financial models reflect this and the City has also clearly stated on its website that the RAF will not lead to an increase in rates.

The RAF is designed to be fully self-sustaining and this includes a financial return to the City on an annual basis (i.e. revenue) and a contribution to a sinking fund to ensure the asset can be replaced/maintained over time. The RAF Operational and Financial models have been independently reviewed by Deloitte and found to be sound. The findings of the Deloitte review were endorsed by Council in March 2021.

The City has not done any calculations on potential rates increases due to the RAF or provided information to Council that would suggest rates would need to increase to cover the operations of the RAF.

Councillor Jennifer Nevard	<p>Responses to question 1 provided by: Bernadine Tucker – Manager Governance</p> <p>Response to question 2, 3 and 4 provided by: Mike Bradford - CEO</p>
<p><i>[Preamble]</i></p> <p><i>As a newish member of Council I noticed that I had received a visit from the City of South Perth to my social media LinkedIn account. I am assuming that this constitutes some kind of audit activity by the City. I was therefore quite curious about the processes.</i></p>	
<p>1. I wondered what would be the regulatory foundation for this activity, can someone explain that to me?</p>	<p>On our website there is disclaimers in relation to the use of personal information and that the City may contact people, so there is that disclaimer there and we also send out information to people who contact the City asking if they can be contacted in the future for future information or research. That is provided to people who access our data bases.</p>
<p>2. Is it a process of audit, where you look at it regularly?</p>	<p>Can I just clarify what you are asking, I think we might be talking at cross purposes here. Perhaps if you could repeat the question as I understood it to be a different thing.</p>
<p>3. My original question was that the City had visited my LinkedIn account and I was assuming that therefore the City must be undertaking an audit of anything that may relate to things that I may post on my LinkedIn account, is that correct?</p> <p><i>Mayor Greg Milner: Just to clarify, I assume what you are referring to is that I know there's a function on LinkedIn that if you click on a certain point it will say these are the people that have viewed your profile recently, is that what you are talking about?</i></p>	<p>We don't routinely check or audit LinkedIn. Having said that there may be a requirement to check to see things that are being said are consistent with the rules and laws. I would expect that perhaps we have a corporate LinkedIn account that may well have actually passed through a number of members. That is not doing anything that any member of the public could not do at any point in time.</p>
<p>4. It is not part of a procedure?</p>	<p>No.</p>

[Preamble]

After months and months of discussions over the budget there was some cuts made last minute by an amendment, these are the facts at the Ordinary Council Meeting. I do believe some of those cuts have affected the Changing Places grants that were won by the City for badly needed diversity and inclusion toilet facilities on the foreshore.

1. How much were the Changing Places grants for badly needed diversity and inclusion toilet facilities on the foreshore and are they under threat of being lost?

Council’s recent decision to remove the \$50k allocation in the 2022/23 Budget to commence planning for the South Perth Foreshore Public Toilet Project (for initial design work), before adopting the City’s 2022/23 Budget has now put this project (and the associated approved project funding) in jeopardy. In anticipation of putting a new toilet facility down there, the City was approved a \$150,000 grant (ex GST) from the Department of Communities in June 2022 to incorporate an adult ‘changing places’ facility for people with a disability into the proposed new toilet. The project aim is to increase activation of the park, which would assist in providing social and economic benefits to local residents, visitors and businesses in the area. The grant is to be paid in two instalments.

As per Clause 4 of the Grant Agreement conditions, the City is required to relinquish the grant and return any funds to the Department if the project does not proceed.

As per the Grant Agreement Schedule, the City is expected to fulfil certain project grant milestones by 30 October 2022 and onwards.

2. Just to be clear, we have received money for this grant already and from the cuts from the budget made last minute, we are actually in the red. So we are not only at risk of not getting the \$150,000 grant but also giving back \$50,000 that we have already received?

I will try to explain it as clearly as I can. The total grant from the Department of Communities is \$150,000 contribution to the overall project. We have received \$45,454 of that grant. The balance would be received when we proceed with the construction of the facility as part of the construction of the facility. If the project does not proceed at all we would have to return the \$45,454 and would not qualify for the balance. Providing we proceed within

	the next reasonable period then we would be able to retain the grant. The \$50,000 that was in the budget 2022/23 were municipal funds.
3. So there is potential that we can save this however if it is not saved then we will be repeating the same mistakes we have made before where we have to return grant money that we have received for not proceeding with projects?	If you don't proceed with the project you have to return the money for the grant.

Councillor Mary Choy

Response to question 1 provided by: Bernadine Tucker Manager Governance

Response to question 2 provided by: Garry Adams – Director Corporate Services

[Preamble]

Prior to the last Council meeting a depute advised me when they were presenting on the night.

1. I am just curious as to the procedure for deputations to Council, in that are they presented in time based order of first in first heard or is the order of presentation completely at the discretion of administration or the Presiding Member?

They are normally presented as they come in. Sometimes that might change but normally they are presented when they come in.

Additional Information

Deputations are heard in the order of Agenda items. For example deputations on Item 10.3.1 will be heard before any deputations on Item 10.3.2 and so on.

If there are multiple deputations on one item, they will be heard in the order that they come in.

This is our standard procedure however ultimately the Presiding Member has the final say on the order in which deputations are heard in accordance with the City of South Perth Standing Orders Local Law 2007.

[Preamble]

At the November 2020 Ordinary Council Meeting, Council endorsed the Business Case for the Recreation & Aquatic Facility (known as the RAF), which consisted of documents including the 'Project Definition Plan' and 'Operational Feasibility Report', as well as reliance on certain assumptions. The Project Definition Plan outlines on page 1, that it is "the central reference point to aid in decision making throughout future project phases". "The key purpose" of the Operational Feasibility Report as noted on page 5 of the Project Definition Plan, "is to inform the operational viability of the design and overall facility".

"Key Considerations" for the RAF project are outlined on page 33 of the Project Definition Plan, with the first being that Stage 2 design works do not commence until the project scope is finalised and final funding commitments (including from the State Government) are obtained. "Critical milestones" for the RAF project are identified on pages 2 and 34 of the Project Definition Plan as set out in 'Table 6: Indicative Programme Milestone Summary', that indicate that following the City's State Funding Submission to the State Government, which included the Treasury Business Case that was "prepared for this purpose", and prior to any Design activities, which includes procurements, that 'Finalisation of Project Scope' based on 'final funding commitments', including from the 'State Government', would be completed. This was reiterated as an "express" assumption, on which I would say Council was entitled to rely and has. The critical milestones are also clearly set out in the programme snapshot on page 35 'Figure 15: Indicative Programme Snapshot' and in the detailed programme in Attachment N (which I note remains confidential).

Considering these documents, that include these "key considerations, critical milestones and detailed programme", form part of that Council resolution, if Council had endorsed the City's recommendations at:

- the August Ordinary Council Meeting in 2021, to commence concept and schematic designs, which Council made the decision to defer due to the uncertainty of a State Government funding commitment; and*
- the December 2021 and June 2022 Ordinary Council Meetings respectively, for the acceptance of a tender for the provision of RAF project management services, which Council also did not accept for similar reasons.*

2. Would such decisions not have been in non-compliance with the Council resolution and as such the only way to remain compliant was as Council resolved?

Taken on notice.

Councillor Jennifer Nevard

Response to question 1 provided by: Mike Bradford – CEO

Response to question 2 provided by: Warren Giddens – Manager Strategic Planning

[Preamble]

I have noticed the shaky existence or at least demise of a couple of cafes and small enterprises in the City of South Perth community.

1. I was therefore wondering whether the new Economic Development Officer was taking a role in visiting some of these tiny businesses that seem to hang on by a thread to offer them one on one business development assistance? My question is based on the fact that in the past when training sectors were assisting very small business, they made an effort to go to fragile business. Not to call them into a business breakfast or anything of that kind because those sorts of people would not have the time available.

Our new Economic Development Officer is active in meeting as many businesses as they can. There is more than 4000 businesses in the City of South Perth and we have one person working on this but she has been actively engaging and reaching out to small businesses including restarting the e-Business newsletter. So she is working with the data base, reaching out to businesses and there are a range of activities, both calling people in and offering them services that are under consideration and implementation for the Economic Development Plan as executed by the Economic Development Officer.

2. May I just clarify, does she do one on one visits with the businesses?

Our Economic Development Officer does spend a large part of her week walking around and seeing businesses. We do what we call a business health check and we ask relevant questions in confidence of businesses to see how they are going. However one of the problems we find is we usually don't know businesses are failing until such time is that they have and it is a very delicate area to approach with them. Whether you do it via the business news that we send out or we do it in an alternative matter. Certainly over the next six months we will be running a series of educational workshops with our businesses and advertising those widely across our socials. We hope to provide through that mechanism an opportunity for people to learn more about their business and how to survive in these rather difficult times. We do sincerely make an effort to see as many businesses as we can.

Councillor Ken Manolas

Responses provided by: Mike Bradford – CEO

[Preamble]

I don't remember seeing the separate cost of changing the Collier Park Golf Course with relation to the RAF from the normal nine hole course to a short nine hole course.

1. Is it possible to have that cost if it is available?

That cost is not available. It is just part of the overall project cost for the RAF and we haven't done the detailed design or planning.

Additional Information:

There is currently no separate line item in the RAF Project Budget for redevelopment of the Lake 9. Detailed design and planning will commence in parallel with the Design Stage and Operator Procurement of the RAF Project, should Council approve the City to commence this work.

In addition, the Collier Park Golf Course is not being converted to a short nine hole course. The 27 hole golf course will be retained, with an 18 hole traditional golf course and a nine hole short course format.

DISCLAIMER

The City advises that comments recorded represent the views of the person making them and should not in any way be interpreted as representing the views of Council. The minutes are a confirmation as to the nature of comments made and provide no endorsement of such comments. Most importantly, the comments included as dot points are not purported to be a complete record of all comments made during the course of debate. Persons relying on the minutes are expressly advised that the summary of comments provided in those minutes do not reflect and should not be taken to reflect the view of the Council. The City makes no warranty as to the veracity or accuracy of the individual opinions expressed and recorded therein.

These Minutes were confirmed at the Ordinary Council Meeting held: Tuesday 23 August 2022

Signed _____

Presiding Member at the meeting at which the Minutes were confirmed