

# MINUTES.

## Ordinary Council

25 July 2017

The Mayor and Councillors

Here within are the Minutes of the Ordinary Council Meeting of the City of South Perth Council held Tuesday 25 July 2017 in the City of South Perth Council Chamber, Cnr Sandgate Street and South Terrace, South Perth.



GEOFF GLASS  
CHIEF EXECUTIVE OFFICER

28 July 2017

# Our Guiding Values

## Trust

Honesty and integrity

## Respect

Acceptance and tolerance

## Understanding

Caring and empathy

## Teamwork

Leadership and commitment

## Disclaimer

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

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

## Further Information

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

- **Council Meeting Schedule**

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

- **Minutes and Agendas**

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

- **Meet Your Council**

The City of South Perth covers an area of around 19.9km<sup>2</sup> divided into four wards. Each ward is represented by two Councillors, presided over by a popularly elected Mayor. Councillor profiles provide contact details for each Elected Member.

[www.southperth.wa.gov.au/Our-Council/](http://www.southperth.wa.gov.au/Our-Council/)

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# Ordinary Council Meeting - Minutes

Minutes of the Ordinary Council Meeting held in the City of South Perth Council Chamber, Cnr Sandgate Street and South Terrace, South Perth at 7.00pm on Tuesday 25 July 2017.

## 1. DECLARATION OF OPENING

The Presiding Member opened the meeting at 7:00pm and welcomed everyone in attendance. She then acknowledged we are meeting on the lands of the Noongar/Bibbulmun people and that we honour them as the traditional custodians of this land.

## 2. DISCLAIMER

The Presiding Member read aloud the City's Disclaimer.

## 3. ANNOUNCEMENTS FROM THE PRESIDING MEMBER

### 3.1 STANDING ORDERS LOCAL LAW 2007

This meeting is held in accordance with the City's Standing Orders Local Law which provides rules and guidelines that apply to the conduct of meetings.

### 3.2 AUDIO RECORDING OF THE COUNCIL MEETING

The Presiding Member reported that the meeting is being audio recorded in accordance with Council Policy P673 'Audio Recording of Council Meetings' and Clause 6.15 of the Standing Orders Local Law 'Recording of Proceedings'.

She then gave her permission for the Administration to record proceedings of the Council meeting and requested that all electronic devices be turned off or on to silent.

## 4. ATTENDANCE

Mayor Sue Doherty (Mayor/Presiding Member)

### Councillors

Cr Glenn Cridland	Como Ward
Cr Jessica Black	Como Ward
Cr Colin Cala	Manning Ward
Cr Sharron Hawkins-Zeeb	Manning Ward
Cr Fiona Reid	Moresby Ward
Cr Cheryle Irons	Mill Point Ward
Cr Ken Manolas	Mill Point Ward (7:46pm to 9:00pm)

### Officers

Mr Geoff Glass	Chief Executive Officer
Mr Vicki Lummer	Director Development and Community Services
Mr Colin Cameron	Director Corporate Services

Mr Mark Taylor	Director Infrastructure Services
Mr Phil McQue	Manager Governance and Marketing
Mr Stevan Rodic	Manager Development Services
Mrs Gillian Buckingham	Civic Support Officer
Ms Christine Lovett	Corporate Support Officer

### Gallery

There were approximately 34 members of the public and 1 member of the media present.

#### **4.1 APOLOGIES**

Nil

#### **4.2 LEAVE OF ABSENCE**

Councillor Travis Burrows (Moresby Ward) is on an approved Leave of Absence.

The Presiding Member advised that a request for Leave of Absence had been received from Councillor Ken Manolas (Mill Point Ward).

#### **MOTION TO ACCEPT LEAVE OF ABSENCE – COUNCILLOR KEN MANOLAS**

**Moved:** Councillor Cheryle Irons

**Seconded:** Councillor Fiona Reid

That a Leave of Absence application be approved for Cr Ken Manolas for the 25 July 2017 Ordinary Council Meeting.

**CARRIED (7/0)**

#### **4.3 WELCOME**

The Presiding Member extended a special welcome to the Salter Point Venturers who are attending this evening to observe the meeting.

### **5. DECLARATIONS OF INTEREST**

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

The Presiding Member noted that 4 Declarations of Interest had been received from:

- Cr Jessica Black in relation to Agenda Item 10.3.4 Proposed Change of Use from Office to Not Listed (Cat Boarding Facility). Lot 41 (No. 5/191) Canning Highway, South Perth.
- Cr Fiona Reid in relation to Agenda Item 10.3.4 Proposed Change of Use from Office to Not Listed (Cat Boarding Facility). Lot 41 (No. 5/191) Canning Highway, South Perth.
- Cr Ken Manolas in relation to Agenda Item 10.4.1 Reserve 34565 Management Order.
- Cr Jessica Black in relation to Agenda Item 10.7.1 Property Committee Meeting – 11 July 2017.

The Presiding Member advised that in accordance with the *Local Government (Rules of Conduct) Regulations 2007* these Declarations would be read out immediately before Items 10.3.4, 10.4.1 and 10.7.1 were discussed.

## 6. PUBLIC QUESTION TIME

### 6.1 RESPONSES TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

The Presiding Member advised that the responses to public questions taken on notice at the 27 June 2017 Ordinary Council Meeting are available in the Appendix of these Minutes.

### 6.2 PUBLIC QUESTION TIME: 25 JULY 2017

*Public Question Time is operated in accordance with Local Government Act Regulations and the City's Standing Orders Local Law.*

The Presiding Member advised the meeting that questions are to be in writing and submitted 24 hours prior to the meeting. Forms are available on the City's website and at the City's Reception. Questions can also be submitted electronically via the City's website. Questions received 24 hour prior to the meeting would be dealt with first. Questions received less than 24 hours prior to the meeting would be taken on notice and the response provided in the Minutes of the next month's Council meeting.

The Presiding Member then opened Public Question Time at 7:07pm.

Written questions were received prior to the meeting from:

- Mr Duncan MacPherson of Unit 1/197 Canning Highway, South Perth
- Mr Michael John DuCrow of U8/62 Canning Highway, South Perth
- Ms Cecilia Brooke of 8/20 Garden Street, South Perth
- Mrs Marcia Manolas of 193 Mill Point Road, South Perth
- Dr Jennifer Nevard of 195 Mill Point Road, South Perth
- Mr Brian Melhuish of 196 Douglas Avenue, Kensington
- Mr Harry Anstey of 21 River View Street, South Perth

Written questions were received at the meeting by:

- Mr Harry Anstey of 21 River View Street, South Perth

At 7:24pm the Presiding Member called for a procedural to extend Public Question Time by 15 minutes to hear the written submissions not yet heard.

#### **PROCEDURAL MOTION TO EXTEND PUBLIC QUESTION TIME AND COUNCIL DECISION**

**Moved:** Councillor Cheryle Irons

**Seconded:** Councillor Fiona Reid

That Public Question Time be extended for 15 minutes to hear written submissions not yet heard.

**CARRIED (7/0)**



A table of questions received and answers provided can be found in the **Appendix** of these Minutes.

Questions received at the meeting were Taken on Notice. The questioner will receive a written response and the question and response will be included in the Appendix of the August 2017 Ordinary Council Meeting Agenda.

The Presiding Member then closed Public Question Time at 7.40pm.

## **7. CONFIRMATION OF MINUTES AND TABLING OF NOTES OF BRIEFINGS AND OTHER MEETINGS UNDER CLAUSE 19.1**

### **7.1 MINUTES**

**7.1.1 Ordinary Council Meeting Held: 27 June 2017**

**7.1.2 Special Council Meeting Held: 10 July 2017**

**7.1.3 Property Committee Meeting Held: 11 July 2017**

#### **Officer Recommendation AND COUNCIL DECISION**

**Moved:** Councillor Colin Cala

**Seconded:** Councillor Fiona Reid

That the Minutes of the:

- Ordinary Council Meeting held 27 June 2017
- Special Council Meeting held 10 July 2017
- Property Committee Meeting held 11 July 2017

be taken as read and confirmed as a true and correct record.

**CARRIED (7/0)**

### **7.2 BRIEFINGS**

*The following Briefings are in line with the 'Best Practice' approach to Council Policy P672 "Agenda Briefings, Concept Forums and Workshops", and document to the public the subject of each Briefing. The practice of listing and commenting on briefing sessions, is recommended by the Department of Local Government and Regional Development's "Council Forums Paper" as a way of advising the public and being on public record.*

#### **7.2.1 Council Agenda Briefing 18 July 2017**

Officers of the City presented background information and answered questions on Items to be considered at the July 2017 Ordinary Council Meeting at the Council Agenda Briefing held 18 July 2017.

#### **Attachments**

**7.2.1 (a):** Council Agenda Briefing - 18 July 2017 - Notes

## 7.2.2 Concept Briefings

Councillors were provided with an overview of Development Contributions – Waterford Triangle, South Perth Station Precinct and Canning Bridge Activity Centre at a Concept Briefing held 11 July 2017.

### Attachments

7.2.2 (a): Notes - Concept Briefing - Development Contributions - 11 July 2017

### Officer Recommendation AND COUNCIL DECISION

**Moved:** Councillor Cheryle Irons

**Seconded:** Councillor Jessica Black

That the Notes of the Council Briefing held on 18 July 2017 and Concept Briefing held on 11 July 2017 be noted.

**CARRIED (7/0)**

## 8. PRESENTATIONS

### 8.1 PETITIONS

*A formal process where members of the community present a written request to Council.*

Nil

### 8.2 PRESENTATIONS

*Occasions where Awards/Gifts may be accepted by Council on behalf of Community.*

Nil

### 8.3 DEPUTATIONS

Deputations were heard at the Agenda Briefing of 18 July, 2017.

One request has been received from Mr Harry Anstey to address Council this evening in relation to Item 10.2.1 Water Management Plan 2017-2022. Due to exceptional circumstances this request has been accepted.

At 7:44pm the Presiding Member called Mr Anstey to the microphone to present his deputation to the Elected Members.

At 7:54pm the Presiding Member advised Mr Anstey that his allowed 10 minutes had concluded.

## 8.4 COUNCIL DELEGATES REPORTS

Nil

## 8.5 CONFERENCE DELEGATES REPORTS

Nil

7:44pm Councillor Ken Manolas entered the Council Chamber

## 9. METHOD OF DEALING WITH AGENDA BUSINESS

The Presiding Member advised the meeting that with the exception of the items identified to be withdrawn for discussion that the remaining reports, including the Officer Recommendations, will be adopted en bloc, i.e. all together. She then sought confirmation from the Chief Executive Officer that all the report items were discussed at the Agenda Briefing held on 18 July, 2017.

The Chief Executive Officer confirmed that this was correct.

### ITEMS WITHDRAWN FOR DISCUSSION

- Item 10.2.1 Water Management Plan 2017-2022
- Item 10.3.4 Proposed Change of Use from Office to Use Not Listed (Cat Boarding Facility). Lot 41 (No. 5/191) Canning Highway, South Perth
- Item 10.4.1 Reserve 34565 Management Order
- Item 10.7.1 Property Committee Meeting – 11 July 2017

## 9.1 EN BLOC MOTION

### COUNCIL DECISION

**Moved:** Councillor Cheryle Irons

**Seconded:** Councillor Colin Cala

That the Officer Recommendations in relation to the following Agenda Items be carried en bloc:

- Item 10.1.1 Tender 08/2017 Management of the City of South Perth Australia Day Event
- Item 10.3.1 Retrospective Additions and Alterations to Existing Residential Building. Lots 888 & 889, Nos 2 & 2A Melinga Court, Karawara
- Item 10.3.2 Proposed Telecommunications Infrastructure (Mobile Phone Base Station) - Lot. 5597 (No. 211) Douglas Avenue, Kensington (Moresby Street Reserve)
- Item 10.3.3 Proposed Change of Use from Shop to Cafe/Restaurant. Lot 100 (No. 135A) Coode Street
- Item 10.3.5 Proposed Amendment to Approved Metro Hotel Additions: Multiple Dwellings Additions to Metro Hotel. Lot 10 (No. 61) Canning Highway, South Perth
- Item 10.4.2 Reserve 33804 Proposed Millers Pool Restaurant / Cafe
- Item 10.6.1 Interim Management Account Summaries
- Item 10.6.2 Statement of Funds, Investments and Debtors at 30 June 2017
- Item 10.6.3 Listing of Payments

CARRIED (8/0)

## 10. REPORTS

### 9.1 STRATEGIC DIRECTION 1: COMMUNITY

#### 10.1.1 Tender 08/2017 Management of the City of South Perth Australia Day Event

Location:	City of South Perth
Ward:	Mill Point Ward
Applicant:	Council
File Reference:	D-17-58966
Meeting Date:	25 July 2017
Author(s):	Sandra Watson, Manager Community, Culture & Recreation
Reporting Officer (s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Community -- Create opportunities for an inclusive, connected, active and safe community
Council Strategy:	1.3 Create opportunities for social, cultural and physical activity in the City.

#### Summary

This report considers submissions received from the advertising of Tender 08/2017 for the “Management of the City of South Perth Australia Day Event”.

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

#### Officer Recommendation AND COUNCIL DECISION

**Moved:** Councillor Cheryle Irons

**Seconded:** Councillor Colin Cala

That:

- (a) Council **approves** the tender submitted by Keos Events Pty Ltd for the “Management of the City of South Perth Australia Day Event” in accordance with Tender Number 08/2017 for a period of one year, with an option for a further four years (at yearly intervals), at the City’s discretion.
- (b) the resolved tender price be included in the Minutes of this meeting.

**CARRIED EN BLOC (8/0)**

#### Background

Council will be aware that the City of South Perth has staged a large scale event on Sir James Mitchell Park on Australia Day since 2006 in support of the City of Perth ‘Skyworks’ event and to address anti-social behaviour issues that occurred at the 2004 event. Since that time and due to the size and scale of the event, the City has employed and contracted an experienced external Event Manager to manage all aspects of the Australia Day event. This arrangement has met the needs of the City, however following a recent review of City events and in the interests of

streamlined processes, probity and transparency, a tender has been issued for the management of the event from 2018 onwards.

A Request for Tender (RFT) 08/2017 for the 'Management of the City of South Perth Australia Day Event' was advertised in the West Australian newspaper on Saturday 27 May 2017 and closed at 2.00PM on Wednesday 14 June 2017.

Tenders were invited as a *Schedule of Rates / Lump Sum Contract*.

The contract is for the period 1 August 2017 – May 2018 for the 2018 Australia Day event and is subject to the City obtaining ongoing funding from Lotterywest towards the event activities and the City of Perth continuing to stage the 'Skyworks' event on Australia Day. Following the initial period of one year there is an option for a further four years at the City's discretion and as per the above conditions.

The Australia Day event is an important and high profile event on the City's calendar and for that reason, the qualitative criteria for assessment of this tender was weighted around the successful tenderer having previous large scale event experience, a well-established network of contacts and a good track record of building and maintaining stakeholder relationships.

#### Comment

At the close of the tender advertising period (4) submissions had been received and these are detailed in the table below:

TABLE A - Tender Submission

Tender Submission
1. Keos Events Pty Ltd
2. Event Services & Productions
3. JumpClimb Pty Ltd
4. Barefoot Entertainment and Events

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

TABLE B - Qualitative Criteria

Qualitative Criteria	Weighting %
1. Relevant experience	40%
2. Key personnel, skills and resources	30%
3. Demonstrated understanding	20%
4. Price	10%
<b>Total</b>	<b>100%</b>

Based on the assessment of all submissions received for Tender 8/2017 "Management of the City of South Perth Australia Day Event", it is recommended that the tender submission from Keos Pty Ltd be approved by Council.

More detailed information about the tender assessment process can be found in the Evaluation Panel Member's Report – **Confidential Attachment (a)**

### Consultation

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

### Policy and Legislative Implications

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

The following Council Policies also apply:

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

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

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

- *The City is not bound to accept the lowest or any tender and may reject any or all Tenders submitted;*
- *Tenders may be accepted, for all or part of the Requirements and may be accepted by the City either wholly or in part. The requirements stated in this document are not guaranteed; and*
- *The Tender will be accepted to a sole or panel of Tenderer(s) who best demonstrates the ability to provide quality services at a competitive price which will be deemed to be most advantageous to the City.*

### Financial Implications

All costs associated with staging the 2018 Australia Day event are reflected in the 2017/2018 Operating Budget.

### Strategic Implications

The report is consistent with the [City's Strategic Community Plan 2015-2025](#).

### Sustainability Implications

This report is aligned to the [City's Sustainability Strategy 2012-2015](#).

### Attachments

10.1.2 (a): Evaluation Panel Member's Report (*Confidential*)

## 9.2 STRATEGIC DIRECTION 2: ENVIRONMENT

### 10.2.1 Water Management Plan 2017-2022

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-17-59069
Date:	25 July 2017
Author:	Yulia Volobeuva, City Environment Coordinator
Reporting Officer:	Mark Taylor, Director Infrastructure Services
Strategic Direction:	Environment -- Enhance and develop public open spaces and manage impacts on the City's built and natural environment
Council Strategy:	2.2 Foster and promote sustainable water, waste management and energy management practices.

#### Summary

This report seeks Council's consideration of the Water Management Plan (2017-2022) developed to replace the superseded Water Action Plan (2009). The Water Management Plan has been developed to address the City's corporate and community water management issues related to water conservation and quality improvement which will guide water management into the future.

The Water Management Plan requires adoption from Council to meet requirements of the Waterwise Council Program.

#### Officer Recommendation AND COUNCIL DECISION

**Moved:** Councillor Fiona Reid

**Seconded:** Councillor Jessica Black

That the Council **endorse** the City of South Perth's Water Management Plan (2017-2022) at per Attachment (a).

**CARRIED (8/0)**

#### Background

The City of South Perth is a participant in the Waterwise Council Program. The program was developed in 2009 by the Water Corporation and the Department of Water to build a cooperative working relationship with local governments to improve water use efficiency in local government and their communities.

Since its participation in the program the City has achieved a number of milestones including gaining Gold Waterwise Council Status in 2012 due to significant progress towards best practice water efficiency above and beyond the minimum endorsement requirements.

In 2015 the Water Corporation introduced new Waterwise Council criteria for all participating and non-participating Western Australian local government agencies that include the following steps:

- Criteria 1:** Sign a MOU to participate in the Waterwise Council Program.
- Criteria 2:** Review the City's water consumption and create a water efficiency action plan (WEAP) for potable and non-potable water sources for all City operations and the community (incorporated in the Water Management Plan 2017-2022).
- Criteria 3:** Ensure appropriate staff complete Waterwise training.
- Criteria 4:** Ensure there are no breaches of groundwater licence terms or conditions set by the Department of Water, and no breaches of scheme water usage issued by Water Corporation in the past 12 months (This includes permanent water efficiency measures).
- Criteria 5:** Report annually to retain membership.

To continue to be a participant in the Waterwise program, the City must complete all of the criteria.

To date the City has:

- signed a Memorandum of Understanding (MOU) in May 2016;
- produced the Water Efficiency Action Plan (2016-21);
- provided the required Water wise training to staff;
- endeavoured to operate within groundwater licence terms; and
- provided an annual report.

In 2016 the Eastern Metropolitan Regional Council (EMRC) was commissioned to develop the City's Water Management Plan (WMP) (2017-2022) to incorporate the Water Efficiency Action Plan and to replace the superseded Water Action Plan (2009).

#### **Comment**

The WMP has been developed to address the City's corporate and community water management issues related to water conservation and water quality improvement to guide water management into the future.

The WMP contains the following information:

- Relevant City strategic documents and policies;
- A summary of actions, projects and policies implemented since 2009;
- Historical corporate and community potable and non-potable water usage;
- New corporate groundwater and scheme water conservation goals;
- New corporate and community water quality priority areas and goals;
- An action table with priority water management actions to meet current and future water needs; and
- An outline of the Cities climate change adaption in the area of corporate and community water management.

The WMP establishes water consumption and quality goals for both corporate and community sectors and includes water management actions implementation of which will enable the City to achieve its water conservation goals.

#### **Corporate Water Consumption Goal**

##### Scheme water Use



*To maintain corporate potable water consumption at or below 2014-15 levels (67,596kl) by 2021-22.*

This goal takes into consideration the expected population growth in the City, increased facility usage, and the opening of new facilities including the Manning Community Hub.

#### Groundwater Use

*To ensure that groundwater extraction does not exceed the Department of Water annual ground-water use allocations.*

The City has three licences issued by the Department of Water to extract groundwater. They are for:

- all City managed parks and reserves, excluding Sir James Mitchell Park (802,715kL per annum);
- Sir James Mitchell Park (225,000kL per annum); and
- Collier Park Golf Course (432,000kL per annum).

#### **Community Water Consumption Goal**

*To maintain total community water consumption (residential and commercial) at or below 2014-15 levels (109 kl per capita) by 2021-22 and maintain residential water consumption at or below 2014-15 levels (96kl per capita) by 2021-22.*

This goal exceeds the Water Corporation's goal to reduce community water consumption by 15% from 2007/2008 to 125kl per capita by 2030.

#### **Corporate Water Quality Goal**

*To implement at least 80% of the corporate water quality actions by 2021-22 (Section 7.3 of WMP).*

Achieving this goal requires the continuation or expansion of the City's current water quality initiatives and addressing an additional three water quality actions by 2021/22.

The City's corporate water quality priority areas are:

- Erosion Control;
- Herbicide and Pesticide Management; and
- Nutrient Management.

#### **Community Water Quality Goal**

*The City's community water quality goal is to implement 100% of the community water quality actions by 2021-22 (Section 7.4 of WMP).*

The City's community water quality priority areas are:

- Nutrient Management;
- Herbicide and Pesticide Management; and
- Gross Litter and Pollution Management.

Achieving this goal requires the continuation or expansion of the City's current water quality initiatives.

### Monitoring and Review

Section 7 of the WMP has established Table of Actions to be implemented for:

- Corporate Water Efficiency
- Community Water Efficiency
- Corporate Water Quality
- Community Water Quality

The table includes responsibility, priority, status and proposed completion dates. It will be reviewed on an annual basis to ensure the plan remains current to the City's needs and will form the basis of annual Water wise Council program reporting requirements.

The WMP is valid for a period of five years. A major review will be conducted in 2022.

The adoption of the Water Management Plan (2017-22) supports the City's commitment to best practice water management.

### Consultation

Relevant City officers have been engaged in the development of the WMP. Their feedback and recommendations were considered and incorporated into this document. The City also liaised with the Water Corporation to ensure that the Water Management Plan fulfils Water wise Council program requirements.

### Policy and Legislative Implications

The following strategic documents and policies align with the WMP

- Policy P203 Ground Water Management;
- Policy P302 General Design Guidelines for Residential Development;
- Policy P354 Storm water Drainage Requirements for Proposed Buildings;
- Policy P208 Ecologically Sustainable Building Design;
- Policy P211 Water Sensitive Urban Design (WSUD);
- Green Plan 2002;
- Integrated Catchment Management Plan 2004;
- Public Open Space Strategy 2012;
- Climate Change Strategy 2010-15; and
- Various Foreshore Management and Reserve Management Plans.

### Financial Implications

The City has allocated funds in a number of areas of water management in the 2017-2018 capital expenditure and maintenance budgets which collectively implement many of the corporate actions of the WMP. These include:

- New irrigation systems, bores and pumps (\$360k);
- Water quality monitoring program (\$50k);
- Environmental management plan development and implementation (\$200k);
- Environmental education program (\$20k);
- Design and implementation of 'hydro' and 'eco' zoning techniques for City parks and reserves (\$60k); and
- Water sensitive urban design projects (\$50k).

### Strategic Implications

This report is aligned to the City's [Strategic Community Plan 2015-2025](#).

**10.2.1 Water Management Plan 2017-2022**

**Sustainability Implications**

This report is aligned to the City's [Sustainability Strategy 2012-2015](#).

**Attachments**

**10.2.1 (a):** Water Management Plan

## 9.3 STRATEGIC DIRECTION 3: HOUSING AND LAND USES

### 10.3.1 Retrospective Additions and Alterations to Existing Residential Building. Lots 888 & 889, Nos 2 & 2A Melinga Court, Karawara .

Location:	2 & 2A Melinga Court, Karawara
Ward:	Manning Ward
Applicant:	K L Lam, H Lam, C J Guan
File Reference:	D-17-58240
DA Lodgement Date:	2 March 2017
Meeting Date:	25 July 2017
Author(s):	Matthew Andrews, Statutory Planning Officer
Reporting Officer (s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Housing and Land Uses -- Accommodate the needs of a diverse and growing population
Council Strategy:	3.3 Review and establish contemporary sustainable buildings, land use and environmental design standards.

#### Summary

To consider an application for planning approval for retrospective additions and alterations to an existing 'Residential Building' on Lots 888 and 889 (Nos. 2 & 2A) Melinga Court, Karawara. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Car parking provision	TPS6 clause 7.8(1)
Land Use (Residential Building 'DC' Use)	TPS6 clause 3.3

#### Officer Recommendation AND COUNCIL DECISION

**Moved:** Councillor Cheryle Irons

**Seconded:** Councillor Colin Cala

That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for planning approval for retrospective additions and alterations to an existing 'Residential Building' on Lots 888 and 889 (Nos. 2 & 2A) Melinga Court, Karawara **be refused** for the following reasons:

#### (a) Specific Reasons

- i. The number of car bays provided is not sufficient, having due regard to the likely demand for car parking bays generated by the use.
- ii. The lack of onsite parking has a negative impact on the function of the local street.
- iii. The intensification of the current 'Residential Building' Use is out of character and scale with the existing surrounding residential development.

#### (b) Standard Advice Notes

795B appeal rights- council decision

**(c) Specific Advice Notes**

- i. The Applicant is advised that the following works are to be carried out on Site within 60 days from the date of issue of this planning refusal, failing which the City will take necessary actions:
- ii. All unapproved building works are to be removed and the use of each room be in accordance with the approved plans dated 14 June 2006.

**CARRIED EN BLOC (8/0)****Background**

The development site details are as follows:

<b>Zoning</b>	Residential
<b>Density coding</b>	R20
<b>Lot area</b>	804 sq. metres total (343 sq. metres & 461 sq. metres)
<b>Building height limit</b>	7.0 metres

The location of the development site is shown below:



In accordance with Council Delegation DC 690, the proposal is referred to a Council meeting because it falls within the following categories described in the Delegation:

**1. Specified uses**

*(c) Residential Buildings;*

**4. Applications previously considered by Council**

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

**6. Amenity impact**

*In considering any application, the delegated officers shall take into consideration the impact of the proposal on the general amenity of the area. If*

*any significant doubt exists, the proposal shall be referred to a Council meeting for determination.*

#### 7. Neighbour comments

*In considering any application, the assigned delegate shall fully consider any comments made by any affected land owner or occupier before determining the application.*

#### Comment

##### (a) Background

An application for development approval for two 'Residential Buildings' was approved by Council in June 2005 (11.2005.219.1) with minor additions/alterations to the building being approved under delegation in June 2006 (11.2006.241.1). The dwellings on current Lots 888 and 889 were approved as 'Residential Buildings' and each contained 5 bedrooms. The conditional approvals issued in June 2005 and June 2006 can be found in **Confidential Attachments (c) and (d)** respectively.

A complaint was received by the City on 12 December 2016 in regards to the property at 2A Melinga court stating that there may be "up to seven people" residing in the house. A site visit of both 2 and 2A Melinga Court was conducted on 23 December 2016. It was found that there was, at the time, seven (7) and eight (8) persons occupying 2 & 2A Melinga Court respectively. It was also noted that all rooms excepting wet areas and casual meal areas had been modified for use as a bedroom including numbered doors with individual locks. A letter dated 5 January was sent to the owners of the properties advising them of the non-compliance with the applicable development approval. This letter is at **Attachment (b)**.

In March 2017, the City received an application for retrospective additions to two existing 'Residential Building' located on Lots 888 and 889 (Nos. 2 & 2A) Melinga Court, Karawara (the **Site**). The applicant advises in their cover letter that they propose to operate the two dwellings as lodging houses.

##### (a) Existing Development on the Subject Site

The existing development on the Site currently features two single dwellings with the land use of 'Residential Building'. The dwelling at No. 2 Melinga Court currently has eleven (11) bedrooms and No. 2A Melinga Court has twelve (12) bedrooms in accordance with the submitted plans at **Attachment (a)**. The existing plans approved by Council in June 2006 show each dwelling having five (5) bedrooms only.

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

The Site has a frontage to Melinga Court to the west, Walanna Drive to the south, and is located adjacent to residential dwellings to the north and east, as seen in **Figure 1** below:



## (c) Description of the Proposal

The proposal involves seeking retrospective approval to increase the amount of rooms listed as bedrooms from five (5) to eleven (11) and five (5) to twelve (12) at No. 2 and No. 2A respectively, as depicted in the submitted plans at **Attachment (a)**.

The proposal does not include any additional development such as parking or building works excepting those that have already been completed as detailed on the plans.

## (d) Land Use

The proposed land use of 'Residential Building' is classified as a 'DC' (Discretionary with Consultation) land use in Table 1 (Zoning - Land Use) of TPS6. In considering this discretionary with consultation use, it is observed that the Site adjoins residential land uses, in a location with a residential streetscape.

'Residential Building' is defined in the R-Codes as:

*“a building or portion of a building, together with rooms and outbuildings separate from such building but incidental thereto; such building being used or intended, adapted or designed to be used for the purpose of human habitation:*

- *temporarily by two or more persons; or*
- *permanently by seven or more persons, who do not comprise a single family, but does not include a hospital or sanatorium, a prison, a hotel, a motel or a residential school.”*

The activity on site is considered to satisfy this definition as the dwellings on site have been designed for the purpose of human habitation for seven or more persons. The use of 'Residential Building' would permit the site to be used for temporary accommodation of individual bedrooms by individual people but the definition does not accurately represent the current activity being operated on the Site.

The Use is not considered to be a ‘Tourist Accommodation’ as defined in the Scheme as it does not meet the definition in the Scheme which requires the provisions of ancillary amenities such as Café /Restaurant, laundry or cleaning services. The Use is also not considered to be ‘Student Housing’ as defined in the Scheme as it is not being provided and maintained by an Educational Establishment, religious or charitable body.

As per clause 3.3(6) of the Scheme, where a particular Use is defined in Schedule 1 it is deemed to be excluded from being classified as any other Use. A use that meets the definition of a Use in Table 1 cannot reasonably be determined as a ‘Use not listed’ in accordance with clause 3.3(7) of the Scheme. The activity onsite satisfies the definition of a ‘Residential Building’. It however, needs to be pointed out that that the activities on site also trigger consideration under the ‘Lodging House’ requirements of the *Health (Miscellaneous Provisions) Act 1911*.

A ‘Lodging-house’ is defined under the Act as:

*“any building or structure, permanent or otherwise, and any part thereof, in which provision is made for lodging or boarding more than 6 persons, exclusive of the family of the keeper thereof, for hire or reward; but the term does not include –*

- (a) premises licensed under a publican’s general licence, limited hotel licence, or wayside-house licence, granted under the Licensing Act 1911 2; or*
- (b) residential accommodation for students in a non-government school within the meaning of the School Education Act 1999; or*
- (c) any building comprising residential flats;”*

A ‘Residential Building’ land use may be considered suitable in a residential area subject to meeting the objectives of the Scheme and the matters to be considered by Local Government set out in the Deemed Provisions, taking in to consideration any comments received as part of the consultation process. The intensification of the current ‘Residential Building’ approval for the site needs to be carefully considered in the local residential context. The use of a ‘Residential Building’ for student accommodation can have negative impacts on the amenity of the area.

(e) Car Parking

Under Table 6 of the Scheme there is no specific parking requirement for the use of ‘Residential Building’ and therefore the total number of car parking bays required must be determined by Council, having due regard to the likely demand, as stated in clause 6.3(2) of the Scheme.

As prescribed in clause 5.3.3 of the R-Codes, a ‘Single House’ or ‘Grouped Dwelling’ on the Site would require one (1) car bay per dwelling to meet the deemed-to-comply requirements as it is located within 250m of a high frequency bus route (Walanna Drive).



It is considered that the current activity of 'Residential Building' would have a similar parking requirement to the use of 'Tourist Accommodation' given that individual bedrooms are being rented out on a short term basis. The parking requirement for 'Tourist Accommodation' under Table 6 of the Scheme is one (1) bay per bedroom, and one (1) bay per 5sqm of dining area. Given that this is a residential use and there is no external café/restaurant the parking requirement for dining area can be excluded.

Overall there are twenty-three (23) bedrooms across both dwellings on the site. The parking requirement when assessed against the requirements of the use of 'Tourist Accommodation' would be twenty-three 23 car bays. Each dwelling includes a double lock up garage with sufficient space to park two (2) additional cars in tandem in front of the garage. The total parking provision on site is therefore eight (8) bays, four (4) for each dwelling. This results in an overall shortfall across both lots of fifteen (15) bays.

In addition, Condition (8) of the existing approval for 'Residential Building' states that they shall not be used as 'Student Housing' unless

- (i) *The number of occupiers' car parked on the lot is limited to three per 'Residential Building'*
- (ii) *Occupiers of the Residential Buildings do not park their cars on a street or verge abutting land used for a residential purpose within a radius of 500 meters of the building*
- (iii) *One parking bay for visitors' cars is provided for each Residential Building as prescribed in Table 6; and*
- (iv) *The lot along with the 'Residential Buildings' on the lot(s) are, in the opinion of the Council, well presented and maintained at or above the standard of presentation and maintenance of the other building and lots in the same street.*

Although the Use on the Site is not 'Student Housing', the intensification of the 'Residential Building' Use will have a similar impact to that of 'Student Housing' in terms of parking implications and pure number of occupants. Parking requirements listed in the existing June 2006 approval therefore shall be taken into consideration for this intensification of Use.

The shortfall of bays is evident in the fact that comments received from neighbouring properties detail that occupants of the dwellings regularly park on the verge and in the street restricting traffic flow to the rest of the cul-de-sac. As the application is retrospective it is apparent that the parking provisions on site are not adequate for the scale of the use.

- (f) Scheme Objectives: Clause 1.6 of Town Planning Scheme No. 6  
In considering the Discretionary Use with Consultation application, the Council is required to have due regard to, and may impose conditions with respect to, matters listed in clause 1.6 of the Scheme, which are, in the opinion of the Council, relevant to the proposed development. The retrospective development is considered unsatisfactory in relation to the following matters:

- (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;*
- (g) Matters to be considered by Local Government: Clause 67 of the Deemed Provisions for Local Planning Schemes
- In considering an application for development approval, the local government is to have due regard to the matters listed in clause 67 of the Deemed Provisions to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application. The retrospective development is considered unsatisfactory in relation to the following matters:
- (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;*
  - (s) *the adequacy of –*
    - (i) *the proposed means of access to and egress from the site; and*
    - (ii) *arrangements for the loading, unloading, manoeuvring and parking of vehicles;*
  - (t) *the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system in the locality and the probable effect on traffic flow and safety;*
  - (y) *any submissions received on the application;*

#### Consultation

- (h) Community Engagement
- Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 '*Community Engagement in Planning Proposals*'. Under the 'Area 1' consultation method, individual property owners, occupiers and/or strata bodies at the properties identified within the blue outline of the below diagram were invited to inspect the plans and to submit comments during a minimum 14-day period.



During the advertising period, a total of 9 consultation notices were sent and 5 submission(s) were received, 0 in favour and 5 against the proposal. The comment(s) of the submitter(s), together with officer response(s) are summarised below.

Submitters' Comments	Officer's Responses
Adverse impact on amenity for the surrounding properties generated by increased car parking at the sites.	Parking and access are addressed in section (f) of this report. The comment is <b>NOTED</b>
Rubbish bins on the Site are always overloaded.	Waste management has been raised as an issue with the City's Environmental Health department in the past. Waste services to the site have been increased recently to fulfil the current waste demands of the occupants. Currently each site is being provided with three green bin services in lieu of the standard one. The current waste services to the site are now considered sufficient. The comment is <b>NOTED</b>
There are insufficient bathroom/kitchen/living areas to service the amount of persons on the Site.	The provision of facilities such as bathrooms, kitchen and living areas are not planning considerations. The City's Environmental Health

	department advises that compliance would be required with the <i>Health Act (Miscellaneous Provisions) Act 1911</i> and the <i>City of South Perth Health Local Laws 2002</i> , specifically in respect to the requirements of lodging-houses, should the application be approved. The comment is <b>NOTED</b>
Are the sufficient hardwired smoke alarms to satisfy the regulations in regards to a boarding house?	The provision of fire safety equipment is not a planning consideration. The City's Environmental Health department advises that compliance would be required with the <i>Health Act (Miscellaneous Provisions) Act 1911</i> and the <i>City of South Perth Health Local Laws 2002</i> should the application be approved. The comment is <b>NOTED</b>

- (i) Other City Departments  
Comments were invited from Environmental Health section of the City's administration.

The Environmental Health section provided comments with respect to the lodging-house requirements and waste management. The following comments were received:

- (i) By definition, this application will cause both properties to exceed six (6) persons and therefore will be classified as a lodging-house under the *Health Act (Miscellaneous Provisions) Act 1911*.
- (ii) Local Laws state that either a keeper or a manager approved by the Manager, Environmental Health & Regulatory Services is required to reside continuously within the lodging-house whenever there are one or more lodgers in the lodging-house.
- (iii) Compliance is required with the *Health Act (Miscellaneous Provisions) Act 1911* and the *City of South Perth Health Local Laws 2002* in respect to the requirements of lodging-houses.

The Environmental Health section considers that, subject to satisfying the requirements of relevant legislation in respect to the requirements of lodging-houses, the proposal is acceptable, subject to relevant conditions.

#### 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.

**10.3.1 Retrospective Additions and Alterations to Existing Residential Building. Lots 888 & 889, Nos 2 & 2A Melinga Court, Karawara .**

**Financial Implications**

This determination may have a financial implication if the applicant appeals the decision to refuse the application to the State Administrative Tribunal (SAT).

**Strategic Implications**

This matter relates to Strategic Direction 3 “Housing and Land Uses” identified within Council’s Strategic Plan 2015-2025 which is expressed in the following terms: *Accommodate the needs of a diverse and growing population.*

**Sustainability Implications**

Nil

**Conclusion**

It is considered that the proposal does not meet all of the relevant Scheme, R-Codes and/or Council Policy objectives and provisions due to the intensification of the current use and associated car parking and vehicle movement having a detrimental impact on adjoining residential neighbours and surrounding community. Accordingly, it is considered that the application should be refused and the dwellings being made to comply with the existing June 2006 approval.

**Attachments**

- 10.3.1 (a):** Plans for No. 2 & 2A Melinga Court
- 10.3.1 (b):** Cover Letter
- 10.3.1 (c):** 2005 Planning Approval
- 10.3.1 (d):** 2006 Planning Approval

### 10.3.2 Proposed Telecommunications Infrastructure (Mobile Phone Base Station) - Lot. 5597 (No. 211) Douglas Avenue, Kensington (Moresby Street Reserve)

Location:	Lot 5597 (No. 211) Douglas Avenue, Kensington
Ward:	Moresby Ward
Applicant:	Planning Solutions (Aust) Pty Ltd on behalf of Service Stream Mobile Communications and Optus Pty Ltd
File Reference:	D-17-58381
DA Lodgement Date:	3 April 2017
Meeting Date:	25 July 2017
Author(s):	Kevin Tang, Statutory Planning Officer
Reporting Officer (s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Housing and Land Uses -- Accommodate the needs of a diverse and growing population
Council Strategy:	3.3 Review and establish contemporary sustainable buildings, land use and environmental design standards.

#### Summary

To consider an application for development approval for a Telecommunications Infrastructure (mobile phone base station) on Lot 5597 (No. 211) Douglas Avenue, Kensington (Moresby Street Reserve). Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Purpose of the reservation	TPS6 clause 2.2
Siting (Proximity to residential buildings)	TPS6 clause 7.8(1)
Car and bicycle parking provision	TPS6 clause 7.8(1)
Installation away from existing facilities	TPS6 clause 6.15(c)
Visual impact	Council Policy P310, Clause 2(b)

#### Officer Recommendation AND COUNCIL DECISION

**Moved:** Councillor Cheryle Irons

**Seconded:** Councillor Colin Cala

That:

##### 1. Officer Recommendation

That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for development approval for Telecommunications Infrastructure (Mobile Phone Base Station) on Lot 5597 (No.211) Douglas Avenue, Kensington (Moresby Street Reserve), **be refused** due to the following reasons:

##### (a) Specific Reasons

- (i) The proposal does not conform to the purpose of the Local Scheme Reserve, as the proposal is not considered to be provided primarily to facilitate the use of Moresby Street Reserve for park and recreational

purpose.

- (ii) The proposal is located less than 300 metres from the nearest residential building, hence conflicts with Clause 6.15(a) of Town Planning Scheme No. 6. The exercise of discretion under Clause 7.8(1) is not supported as it would have an adverse impact to the occupants of the precinct.
- (iii) The proposal has a significant adverse visual impact on park users and surrounding residents, hence conflicts with Clause 2(b) Council Policy P310 “Telecommunications Infrastructure” and Clause 5.1.1(ii) State Planning Policy 5.2 “Telecommunications Infrastructure”.

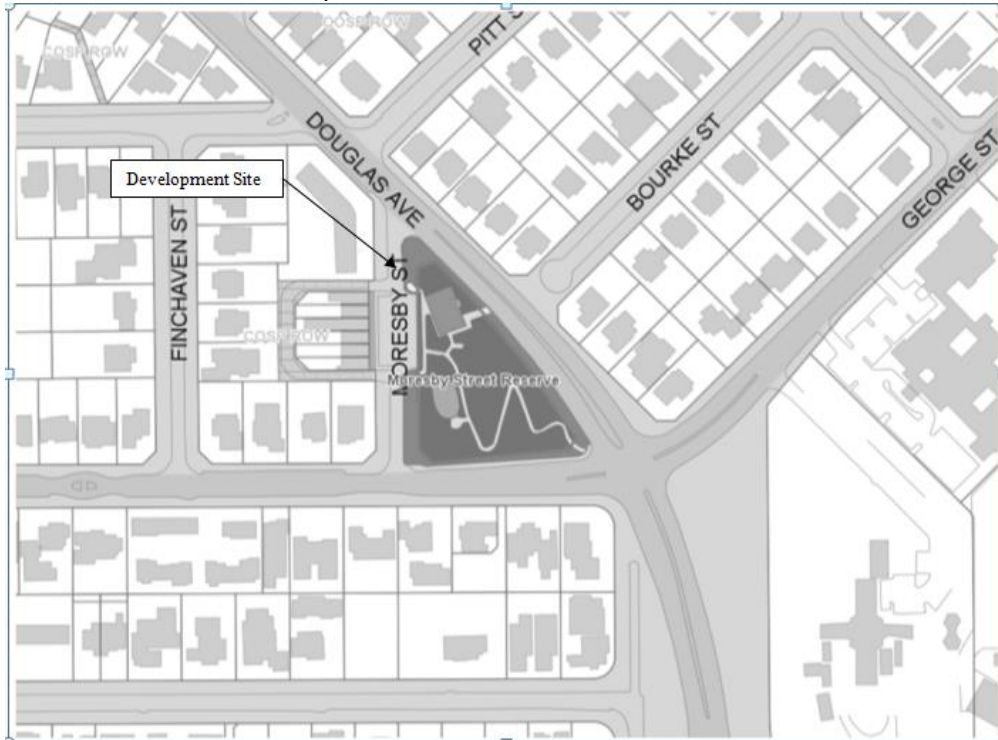
**CARRIED EN BLOC (8/0)**

**1. Background**

The development site details are as follows:

<b>Zoning</b>	None
<b>Reserve</b>	Parks and Recreation (TPS6)
<b>Density coding</b>	None
<b>Lot area</b>	4111 sq. metres
<b>Building height limit</b>	7.0 metres
<b>Development potential</b>	Development which is consistent with furthering the enhancement of the reserve and facilitating its use for park and recreational purposes.
<b>Plot ratio limit</b>	None

The location of the development site is shown below:



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

**1. Specific uses**

*(e) Telecommunications infrastructure that is not classified as a low-impact facility under the Telecommunications Act 1997.*

**2. Major developments**

*(a) Non-residential development which, in the opinion of the delegated officer, is likely to have a significant impact on the City;*

*(c) Development of the kind referred to in items (a) and (b) above, but which, in the opinion of the delegated officer, is contentious or is of significant community interest.*

**3. The exercise of a discretionary power**

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

**6. Amenity impact**

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

**7. Neighbour comments**

*In considering any application, the assigned delegate shall fully consider any comments made by any affected land owner or occupier before determining the application.*

**Comment**

**(a) Background**

In April 2017, the City received an application for Telecommunications Infrastructure on Lot 5597 (No. 211) Douglas Avenue, Kensington (the site).

In July 2012, Daly International, on behalf of Optus undertook community consultation in accordance with the Telecommunications (Low Impact Facilities) Determination 1997 and Mobile Phone Base Station Deployment Industry Code for a mobile phone base station on the subject site. Subsequently, and with the consent of the Minister for Lands, a lease agreement was entered between the City of South Perth as Lessor and Optus Mobile Pty Ltd as Lessee for a term of twenty (20) years commencing 1 November 2012.

It should be noted that the above lease agreement is a contractual arrangement and was based upon a 'low impact facility' installation. Council is not bound by the lease agreement when making a decision on this development application.

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

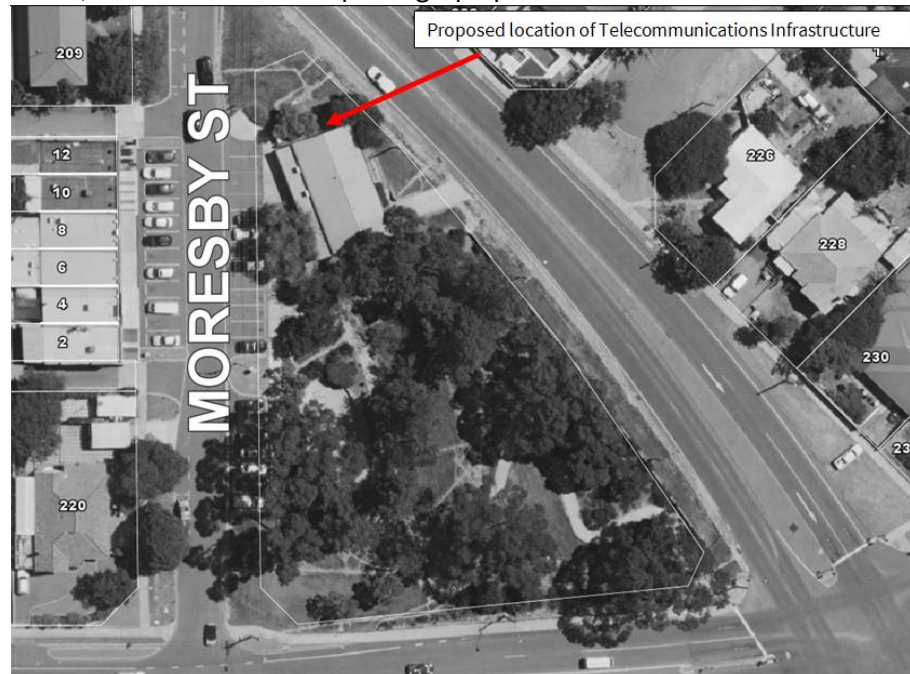
Moresby Street Reserve is primarily parkland consisting of grass, trees, footpaths, children's playground and other park related infrastructure. A community hall is currently located on the northern portion of the site.



The area around the telecommunications proposal is as depicted in the site photographs, referred to as **Attachment (a)**.

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

The site is of triangular shape and has frontages to three roads, Douglas Avenue to the northeast, Moresby Street to the west and South Terrace to the south, as seen in the aerial photograph provided below:



(d) **Description of the Proposal**

The proposal includes the construction of Telecommunications Infrastructure for the Optus network, consisting of:

- One (1) 13.51-metre monopole (16.51-metre overall height);
- Three (3) shrouded panel antennas mounted on top of the monopole;
- One (1) equipment cabinet within the basement of the community hall; and
- Cabling and ancillary equipment, including twenty-one (21) radio remote units.

The total height of the proposed structure is 16.51 metres from the ground level. The submitted planning documents are provided at **Attachment (b)**.

Additional information/justification in response to City's planning assessment is provided at **Attachment (c)**.

(e) **Land Use**

As the site is not zoned land, Table 1 (Zoning – Land use) of TPS6 does not apply. The site is however a Local Scheme Reserve for the purpose of "Parks and Recreation". The primary designated land use of the reserve is to set aside land for public open space for the enjoyment of local residents.

Clause 2.2 (2) (b) states with respect to Local Scheme Reserve in determining an application for development approval, the Council shall have regard to:

- i. the matters set out in clause 7.5 (to be replaced by clause 67 of the deemed provisions); and
- ii. the ultimate purpose intended for the reserve

If the proposal was constructed, the telecommunications services would be available to users in the park and would assist with the pursuit of some recreational activities and attendees to special events held at Moresby Street Reserve. The telecommunications services would also be available to surrounding urban land uses, mostly residences and passing traffic.

It is considered that the telecommunication services provided by the proposed mobile phone tower are more likely to be utilised by surrounding residents, workers and passing traffic than by users of Moresby Street Reserve pursuing recreational activities and attending community events.

Accordingly, the use is not regarded as complying with the purpose of the reservation.

Applicant's justification to address the land use issue is included in **Attachment (c)**.

**(f) State Planning Policy 5.2 – Telecommunications Infrastructure**

The current State Planning Policy 5.2 – Telecommunications Infrastructure (SPP5.2) was gazetted in September 2015 before the formulation of TPS6.

Clause 67 of the deemed provisions requires that in considering an application for development approval the local government is to have due regard to any approved State Planning Policy.

SPP5.2 intends to provide clear guidance pertaining to the siting, location and design of telecommunications infrastructure by using a set of land use planning policy measures, such as visual impact assessment.

**(g) Clause 6.15 of TPS6 - Telecommunications Infrastructure**

Siting – proximity to residential buildings

Mobile telephone towers and associated equipment buildings are required by Clause 6.15(a) of TPS6 to be sited not less than 300 metres from the nearest residential buildings. There are hundreds of residential properties located less than 300 metres from the proposed development, with the closest residential building along Douglas Avenue being only 36 metres away from the development site.

Applicant's justification to address this matter is included in **Attachment (c)**.

Based upon the wording used in Clause 6.15(a) of TPS6 and definition of "setback" in Appendix 1 of the Residential Design Codes, the Scheme's siting requirement is not a setback. Accordingly, the discretion available to permit

variations to setbacks by Clause 7.8(1) of TPS6 does not apply. However, the siting requirement in TPS6 is similar to the concept of a minimum horizontal distance (a component of “setback”). Therefore, discretion to permit a variation to “related matters” to setbacks is likely to be available for this proposal.

It should be noted that the SAT cases presented by the applicant in his justification all refer to an existing local planning policies where a siting or buffering distance is required. In comparison, the 300 metres siting requirement for telecommunications infrastructure contained in TPS6 is a local planning scheme provision, which may carry more legal weight.

The primary purpose of Clause 6.15(a) of TPS6 is to minimise the visual impact on nearby residential properties. In considering the discretionary clauses, as the mobile phone tower exceeds the building height limit and is visible above the tree line, the non-compliance with Clause 6.15(a) of TPS6 would have an adverse impact, primarily to the inhabitants of the precinct (the surrounding residents).

#### Installation away from existing Telecommunications Infrastructure

Any Telecommunications Infrastructure that is not classified as a low impact facility is required to be installed on or within existing Telecommunications Infrastructure, unless it can be demonstrated that these locations would result in inadequate radio frequency coverage, having regard to the carrier's existing network in accordance with Clause 6.15 (c) of TPS6.

Applicant's justification to address this matter is included at **Attachment (c)**.

For a number of technical reasons, as described by the applicant above, the alternative existing locations in South Perth appear not to be suitable, as locating additional telecommunications facilities at these existing locations does not resolve the inadequate coverage in Kensington. Accordingly, the provision of a new telecommunications facility not located on or within existing Telecommunications Infrastructure to service the surrounding area can be supported.

#### **(h) Visual impact**

In considering an application for planning approval, Clause 2(b) of Council Policy P310 “Telecommunications Infrastructure”, the City will have regard to the provisions of TPS6 and the visual impact of the proposed Telecommunications Infrastructure. The proposal will also be required to comply with Clause 5.1.1 (ii)(a) of SPP5.2, which requires a telecommunication facility to be located where it will not be prominently visible from significant viewing locations such as scenic routes, lookouts and recreation sites.

For this application, planning approval should be recommended for refusal where City is of the opinion that the proposed facility would have a significant adverse visual impact. Alternatively, City may recommend the granting of planning approval conditional upon appropriate modifications to minimise the adverse visual impact.

It is considered that the proposal fails to demonstrate compliance with the visual impact requirements of Council Policy P310 and SPP5.2, as the tower exceeds the building height limit, is taller than the surrounding trees, is substantially taller than the existing community hall, is sited less than 40 metres away from the closest residential property and would have a significant adverse visual impact to park users and surrounding residential and commercial properties.

Applicant's justification to address this matter is provided at **Attachment (c)**.

(i) **Building Height**

Under clause 6.1A, the building height limit for the site is 7.0 metres. The height of the proposed telecommunications infrastructure is 16.51 metres above the natural ground level.

The definition of 'building', as provided in Mcquarie Dictionary, is *a substantial structure with a roof and walls, as a shed, house, department store, etc.* In this instance, the mobile phone tower is not considered a 'building' and is therefore not subject to the scheme provisions. The equipment shelter however has a roof and walls and would be, by definition, classed as a building. It is noted that the proposed equipment shelter is located within the basement of the existing community building and will be compliant with the building height limit.

Notwithstanding the non-applicability of the building height limit, it is considered the proposed mobile phone tower would dominate any other built structures on this portion of the reserve and is seen to be out of keeping with the height of buildings and other structures in Moresby Street Reserve.

(j) **Health implications**

The Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) is the primary Commonwealth agency responsible for protecting the health and safety of people and the environment from the harmful effects of radiation. The ARPANSA has published a Fact Sheet regarding the health impact of mobile phone base stations, a copy of which is provided at **Attachment (d)**. The Fact Sheet states in its conclusion "no adverse health effects are expected from continuous exposure to the RF EME emitted by the antennas on mobile phone base stations".

All telecommunications carriers must comply with the Australian Communications and Media Authority *Radiocommunications Licence Conditions (Apparatus Licence) Determination 2003*, which sets mandatory limits on RF electromagnetic exposure.

The Western Australian Department of Health has the following statement on its website in relation to mobile phone base station:

*Mobile telephone towers radiate small amounts of power during communications over wide areas resulting in low intensities at ground level. Current scientific opinion suggests that harmful effects have not been*

*observed from these relatively small amounts of radiation, and the weight of current research has supported this viewpoint. The Australian Radiation Protection and Nuclear Safety Agency published a nationwide study in 2000 which found that; “the typical exposure level from mobile phone base stations is hundreds and sometimes thousands of times below the regulated limit”.*

*Many studies have used sensitive equipment for **laboratory testing** of radiofrequency radiation in order to explore interaction mechanisms at the cellular level and determine whether detrimental effects are evident in tissue. While concern from the community has looked upon radiofrequency radiation as potentially harmful to humans, current laboratory testing has not been able to provide replicated results related to health concerns. This lack of replication in international research doesn't exclude the possibility for health detriment; however it does suggest to the research community that no strong health detriment is apparent within our populations. It is hoped that future laboratory studies may help to provide better clarity with regard to long term health concerns to our population from radiofrequency radiation.*

On the basis of the information provided by the above government authorities, it is considered that the proposed development should have no significant detrimental health impacts on the surrounding residents.

**(k) Finished Ground and Floor Levels- minimum**

The required minimum finished non-habitable rooms floor level of a building is 1.75 metres above AHD. The proposed Equipment Cabinet is to be located in the basement area of the existing community hall, and the mobile phone antennae are built well above the minimum levels. According to City's mapping information system, the site is between 28 metres AHD and 22 metres AHD. Therefore, the proposed development complies with Clause 6.9 “Minimum Ground and Floor Levels” of TPS6.

**(l) Street and lot boundary setbacks**

TPS6 does not specify particular minimum street or lot boundary setbacks for developments on reserved land.

**(m) Plot ratio**

There is no plot ratio control for this site in TPS6. The proposal has no area that is defined as plot ratio.

**(n) Landscaping**

There is no minimum landscaping area for this site in TPS6. The proposal would reduce the provided landscaped area in Moresby Street Reserve by approximately 5 m<sup>2</sup>.

**(o) Car and bicycle parking**

As Telecommunications Infrastructure is not listed in Table 6 of TPS6, the number of car and bicycle parking bays shall be provided having regard to the likely demand. For this proposal, it is considered that one (1) car parking bay and no bicycle parking bays are required as the only parking demand will

be from a technician servicing the facility after the completion of the construction. There are no additional car parking bays provided as part of this proposal.

It is considered that there are reciprocal parking opportunities with park users using the nearby Moresby Street public car parks. Accordingly, the exercise of discretion under Clause 7.8(1) of TPS6 to provide no additional car parking bays is supported.

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

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

- (a) Maintain the City's predominantly residential character and amenity;*
- (e) Ensure community aspirations and concerns are addressed through Scheme controls;*
- (f) Safeguard and enhance the amenity of residential areas and ensure that new development is in harmony with the character and scale of existing residential development;*
- (g) Protect residential areas from the encroachment of inappropriate uses;*
- (l) Recognise and facilitate the continued presence of significant regional land uses within the City and minimise the conflict between such land use and local precinct planning.*

The proposed development is considered unsatisfactory in relation to all of the matters referred to above.

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

In considering an application for development approval the local government is to have due regard to matters listed in clause 67 of the Deemed Provisions to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application.

The proposed development is considered unsatisfactory in relation to a number of matters for the reasons addressed in this report.

2.

**Consultation**

**(a) Neighbour Consultation**

Neighbour consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy 301 "Community Engagement in Planning Proposals", as described below:

- 800 notices were mailed to individual property owners, occupiers and/or strata bodies located within a 500 metre radius of the proposal;
- Three (3) signs were erected on Moresby Street Reserve;
- The Southern Gazette newspaper notice on 9 May 2017;

- The City's website ("See Development Applications");

It should be pointed out that the consultation was carried out by the applicant in accordance with clause 9.2(g) of Council Policy 301. The required minimum advertising period is 21 days. On this occasion, the application was advertised from 9 May 2017 to 30 May 2017. The neighbouring local authority, Town of Victoria Park, was also consulted and offered no comment.

19 submissions and one (1) petition were received, two (2) in favour, one (1) from Water Corporation and 16 against the proposal. A summary of submissions, together with applicants' and officer response, are provided in **Attachment (e)**. A full copy of all submissions is provided in **confidential Attachment (f)**.

**(b) Internal Administration**

Comments were invited from Engineering Infrastructure, Environmental Health and City Environment section(s) of the City's administration.

- (i) Engineering Infrastructure Services is satisfied with the proposal and offers no comment
- (ii) Environmental Health Services is satisfied with the proposal and offers no comment.
- (iii) City Environment Services requests further consultation with the Parks Supervisor and Buildings and Assets Coordinator, should building works commence.

Accordingly, should Council approve this proposal, planning conditions and/or important notes are recommended to respond to the comments from the above officer(s).

**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**

Council's determination may have financial implications if the application is subject to an appeal to the State Administrative Tribunal or the Administrative Appeals Tribunal. City officers would likely be invited to participate in any mediation.

In the event that Council refuses the application, the existing lease arrangement may have to be renegotiated.

**Strategic Implications**

This matter relates to Strategic Direction 3 "Housing and Land Uses" identified within Council's Strategic Plan 2015-2025 which is expressed in the following terms:

*Accommodate the needs of a diverse and growing population.*

#### **Sustainability Implications**

The development would enhance sustainability by providing local businesses and residents improved telecommunications services. However, the proposal is seen to have a detrimental environmental impact upon Moresby Street Reserve, and social impact to park users and surrounding residents.

3.

#### **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 detrimental impact on adjoining residential neighbours and streetscape. Moresby Street Reserve is reserved for the purpose of 'Parks and Recreation' under TPS6 and provides for both passive and active recreational needs of the local community. The erection of a mobile phone base station in this reserve will have a negative impact on the amenity of the locality in particular with regard to visual impact. Accordingly, it is considered that the application should be recommended for refusal.

4.

#### **Attachments**

- 10.3.2 (a): Site Photos
- 10.3.2 (b): Development Application Document
- 10.3.2 (c): Additional justification in response to City's comment by applicant
- 10.3.2 (d): ARPANSA Fact Sheet
- 10.3.2 (e): Report on Submissions
- 10.3.2 (f): Submissions (*Confidential*)



### 10.3.3 Proposed Change of Use from Shop to Cafe/Restaurant. Lot 100 (No. 135A) Coode Street.

Location:	South Perth
Ward:	Mill Point Ward
Applicant:	Giovanni De Rosa
File Reference:	D-17-58597
DA Lodgement Date:	7 April 2017
Meeting Date:	25 July 2017
Author(s):	Valerie Gillum, Planning Officer Development Services
Reporting Officer (s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Housing and Land Uses -- Accommodate the needs of a diverse and growing population
Council Strategy:	3.3 Review and establish contemporary sustainable buildings, land use and environmental design standards.

#### Summary

To consider an application for planning approval for a Change of Use from Shop to Café/Restaurant on Lot 100 (No. 135A) Coode Street, South Perth. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Car parking provision	TPS6 clause 7.8(1)
Land Use (Café/Restaurant 'DC' Use)	TPS Clause 3.3

#### Officer Recommendation AND COUNCIL DECISION

**Moved:** Councillor Cheryle Irons

**Seconded:** Councillor Colin Cala

#### Officer Recommendation

That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for development approval for a Change of Use from Shop to Café/Restaurant on Lot 100 (No. 135A) Coode Street, South Perth **be approved** subject to the following conditions:

**(a) Standard Conditions**

Nil

**(b) Specific Conditions**

- (i) Wayfinding signage being erected indicating to patrons that parking is available at the car park to the rear of the premises off South Terrace to the satisfaction of the City.
- (ii) The development shall be in accordance with the stamped approved plans at all times.

- (iii) The hours of operation shall be limited to Tuesday to Sunday between the hours of 5.00pm and 9.30pm.
- (iv) The additional dining area shall not exceed a maximum of 29.2 square metres.
- (v) The approved signage pertains only to the signs shown on the approved plans. Any additional signage or modification of the proposed signage will require further planning approval, prior to erection.
- (vi) The proposed signage, as shown on the approved plans, shall be non-reflective and may be illuminated only within operating hours.

**(c) Standard Advice Notes**

700A building permit required 790 minor variations- seek approval  
Note 1-2 Validity (2 years)

**(d) Specific Advice Notes**

- (i) The café/restaurant shall have a maximum capacity (internal and external) of 20 patrons at any given time unless the centre's toilet facilities are upgraded to satisfy the requirements of the Building Code of Australia and Food Act 2008.
- (ii) The approved development may require the centre to incorporate additional bin storage, toilet facilities or provision of disabled access prior to occupancy to meet the requirements of some or all of the legislation listed in Advice Note (3).
- (iii) Compliance with the following legislation (as amended) is required:
  - Health Act 1911;
  - Health Act (Laundries and Bathrooms) Regulations;
  - The City of South Perth Health Local Laws 2002;
  - The City of South Perth Al Fresco Dining Local Law 2003;
  - Health (Public Buildings) Regulations 1992;
  - Food Act 2008;
  - Food Regulations 2009;
  - Australia New Zealand Food Standards Code; and
  - Australian Standard – AS 4674-2004 Design, Construction and Fit-out of Food Premises.
- (iv) All mechanical ventilation services, motors and pumps e.g. air conditioners to be located in a position so as not to create a noise nuisance as determined by the Environmental Protection Act 1986 and Environmental Protection (Noise) Regulations 1997.
- (v) The use of these premises must comply with the Environmental Protection Act 1986 & the Environmental Protection (Noise) Regulations 1997 at all times.

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

**CARRIED EN BLOC (8/0)**

1. Background

The development site details are as follows:

Zoning	Local Commercial
Density coding	R30
Lot area	1037 sq. metres
Building height limit	7.0 metres
Development potential	N/A
Plot ratio limit	N/A

The location of the development site is shown below:



2. 3. Figure 1  
4.

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

3. **The exercise of a discretionary power**

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

7. **Neighbour comments**

In considering any application, the assigned delegate shall fully consider any comments made by any affected land owner or occupier before determining the application.

**Comment****(a) Background**

In April 2017, the City received an application for a Change of Use from Local Shop to Café/Restaurant to be added to an existing use of Café/Restaurant within a single storey commercial strip building on Lot 100 (No. 135A) Coode Street, South Perth (the **Site**). The existing shop proposed to be added to Solo Pizza for additional dining area was previously being used as a hair dressing salon identified in the City's Planning Scheme as a 'Shop' use.

As a result of the additional parking demand generated for the proposed change of use, and the lack of parking thereof on the subject site, legal advice was sought to ascertain if the adjacent car park located on the stormwater sump site at No. 54 South Terrace was available in perpetuity for the use of these Local Shops. The advice confirmed that the City holds this property in freehold title and therefore it can authorise or restrict parking on the site as it wishes.

A previous approval in 1986/87 for additions to these shops acknowledged a deficit in parking which resulted in a cash-in-lieu payment being made by the owner of the subject commercial strip which contributed to the construction of the car park at No. 54 South Terrace. As the City constructed the car parking area and the payment contributed to its construction, it must be acknowledged by the City that this car parking area is for public use and must therefore always be made available for such purposes.

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

The Site contains a single storey commercial strip building divided into seven (7) commercial tenancies as follows:

- Shop 1 – Currently occupied by Millstream Café (a café/restaurant) recently approved;
- Shop 2 - Platters Catering (previously approved as a Take-away Food Outlet);
- Shop 3 – Coode Street News Agency (Local Shop);
- Shop 4 – South Perth Pet Grooming (Local Shop);
- Shop 5 - Solo Pizza (approved in 1988 as a Café/Restaurant);
- Shop 6 – Currently Vacant (previously a Local Shop “Hair Dressing Salon”) subject of this application; and
- Shop 7 - Megan Adele Alterations (Service Industry).

This is depicted in the site photographs at **Attachment (b)**. The existing commercial building was built in the Late 1940's and 1950s prior to TPS6 and was approved with a rear access laneway to be used as access and loading area as well as two (2) on-site car bays at the end of the service laneway. In 1986/87 the City budgeted for and constructed the existing parking area located on the adjacent property at No. 54 South Terrace which included construction of decking over the top of the drainage sump site to accommodate the 18 car bays that are there today.

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

The Site has a frontage to Coode Street to the East and South Terrace to the South, located adjacent to single house to the north and local commercial zoned land to the west, as seen in **Figure 1** below:



5.

(d) **Description of the Proposal**

The proposal involves the change of use from approved use of Local Shop to Café/Restaurant (additional dining area to existing café/restaurant) on Lot 2 (No. 135A) Coode Street, South Perth, as depicted in the development plans at **Attachment (a)**. The proposed Café/Restaurant includes an additional dining area of 29m<sup>2</sup> with hours of operation between 5.00pm and 9.30pm from Tuesday to Sunday. No additional car parking bays are proposed to be provided for this change of use application. Furthermore, the site photographs show the relationship of the Site with the surrounding built environment at **Attachment (b)**.

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

## (i) Parking requirements.

The proposal complies with the Scheme and relevant Council policies, with the exception of the remaining non-complying aspects, with other significant matters, all as discussed below.

**(e) Land Use**

The proposed land use of Café/Restaurant is classified as a 'DC' (Discretionary with Consultation) land use in Table 1 (Zoning-Land Use) of TPS6. The subject site is located in a traditional strip centre, which provides the local community with commercial services such as a news agent, pet grooming, clothes alterations, events catering and café/restaurant. The use of café/restaurant already exists on site with the proposal to increase the size of the tenancy. Such a use is considered appropriate in this location and adds an element of vibrancy to the strip centre. Opening hours in the evening will contribute to night time activation of the centre.

**(f) Car Parking**

The existing shops were approved in the 1940's/50's as local shops with a rear access laneway to service the needs of the local community. An additional dispensation is applicable by applying the car parking requirements of TPS6 to the existing land use of Shop. The car parking calculation is provided below:

Land Use	TPS6 Requirement	Proposed	shortfall
Existing use – Shop (Hairdresser)	1 car parking bay per 25m <sup>2</sup> GFA (47m <sup>2</sup> ) = 1.88 bays = 2 bays	0 bay	2 bays
Proposed use - Café/Restaurant	1 car parking bay per 5m <sup>2</sup> dining area (29m <sup>2</sup> ) = 5.8 bays  TPS Adjustment Factor (located within 400m from a bus stop) 5.8x0.85 = 5 (4.93 bays)	0 bay	5 bays
	Dispensation from the existing use: 2 bays		<b>-3 bays (5-2=3)</b>

*Council discretion – cl. 6.3.(4) and (5)*

**Clause 6.3 (4) of TPS6** provides Council discretion to approve a car parking deficit if it is satisfied that the **peak parking demand** for different uses on the development site is being met.

The existing single storey commercial building would contain six (6) different commercial tenancies if this use is approved; two (2) café/restaurants (including the recently approved Millstream Café), a catering shop, a news agency, a pet grooming shop and a clothing alterations shop. The opening hours or proposed opening hours of all the tenancies are identified below:

- Previous Shop 1 – One (1) Corner Shop/Supermarket (previously South Perth Family Store which opened seven (7) days per week from 6am to 10pm);
- Current Shop 1 – One (1) Café/Restaurant – Millstream Café (recently approved under delegated authority) – Open 7-days between 6am and 10pm (approved with restricted dining area);
- Shop 2 – One (1) Shop – Platters Catering and Events – open Monday to Saturday between 5.30am and 5.00pm (may have one customer per fortnight come to collect platters otherwise all platters are delivered);
- Shop 3 – One (1) Shop – Coode Street News Agency – open Monday, Wednesday and Friday between 8.00am and 5.30pm, Tuesday and Thursday between 8.00am and 6pm and Saturday between 7.30am and 6.00pm;
- Shop 4 – One (1) Shop - South Perth Pet Grooming – open Monday to Saturday 7.30am to 3.00pm;
- Shop 5 and 6 - One (1) Café/Restaurant - Solo Pizza (subject application) being open from 5.00pm to 9.30pm Tuesday through to Sunday; and
- Shop 7 – One Service Industry – Megan Adele Alterations – open Tuesday and Friday only from 8am to 4.30pm.

To apply current car parking standards in TPS6, the total demand of car bays required during the peak times when three of the tenancies above are open at the same time (Shop 1 “Millstream Café”, Shop 3 “Coode Street News Agency” and Shop 5 and 6 “Solo Pizza”) would be as follows:

- Between 5pm and 6pm – 16 bays; and
- Between 6pm and 9.30pm – 14 bays.

The rear car park at No. 54 South Terrace which has traditionally been used by patrons to this commercial strip of shops includes 18 car bays and with the two (2) car bays located on the subject site, sufficient parking is available to cater for the peak demand noted above. Furthermore, four (4) on-street car bays are provided along Coode Street directly in front of the subject site.

**Clause 6.3(5) of TPS6** also provides Council discretion to approve a car parking deficit if it is satisfied that the proposal does not increase the floor area of the existing building by more than 10%. Clause 6.3(5) states:

*“In the **Local Commercial zones**, in the case of **additions** which do not increase the existing floor area by more than **10%, or 50 square metres**, whichever is the greater, the Council is satisfied that sufficient **public parking bays are available in the vicinity** of the development site to cater for the proposed development.”*

The Change of Use is proposed as an addition to an existing use and will increase the existing dining area of that use by 29 square metres (or a floor area of 47 square metres). The available public parking bays in the vicinity are shown on the diagram below which includes the site at No. 54 South Terrace and the four (4) on-street timed car bays at the eastern frontage of the subject site.



**(g) Bicycle Parking**

In accordance with Table 6 of TPS6, the bicycle parking standard for a 'Local Commercial' Shop is one (1) per 100m<sup>2</sup> gross floor area for staff and visitors and for a Café/Restaurant is one (1) per 40m<sup>2</sup> dining area for visitors. The number of bicycle bays required for the existing development is one (1) bay and the number of bicycle bays required for the proposed additions is 0.75, requiring a total of two (2) bays.

There are currently two (2) bicycle racks at the front of the shop that can cater for up to four (4) bicycles however usage is less likely due to the hours of operation and is therefore considered appropriate to cater for the proposed use.

As bicycle bays are not required for staff under Table 6 of TPS6, no end-of-trip facilities are required for this Change of Use to Café/Restaurant.

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

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



- (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 proposed development is considered satisfactory in relation to all of these matters as the proposed addition to the existing shop will serve local aspirations and the adjacent local community and is not considered to adversely impact on adjoining residential amenity, subject to the recommended conditions such as directing traffic to park in the rear car parking area off South Terrace.

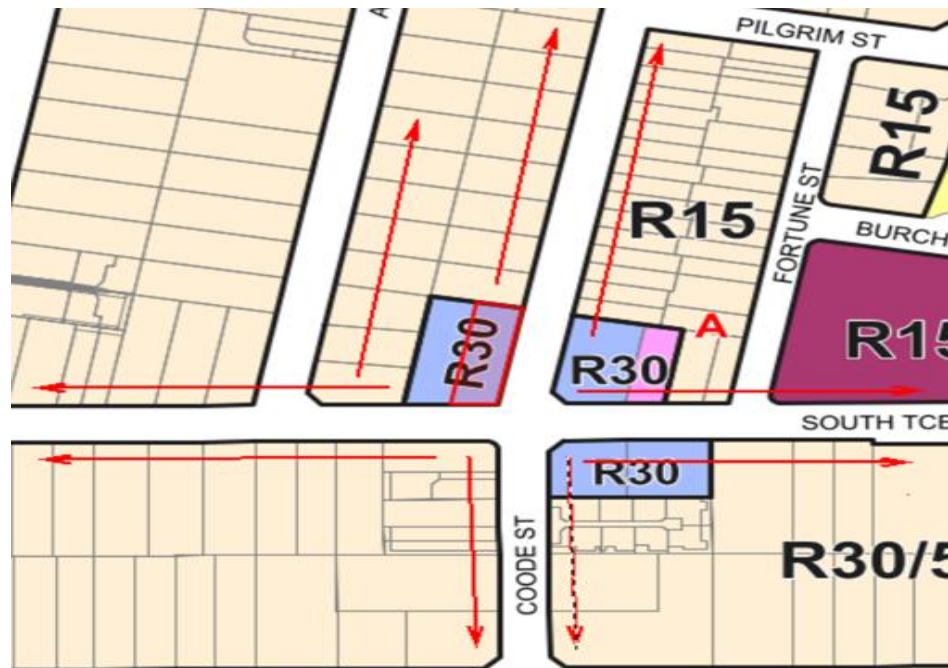
**(i) Matters to be considered by Local Government: Clause 67 of the Deemed Provisions for Local Planning Schemes**

In considering an application for development approval the local government is to have due regard to the matters listed in clause 67 of the Deemed Provisions to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application. The proposed development is considered satisfactory in relation to all of these matters addressed in this report, subject to the recommended conditions.

**Consultation**

**(a) Neighbour Consultation**

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 'Consultation for Planning Proposals'. Under the Area 2 consultation method, individual property owners, occupiers and/or strata bodies as shown on the diagram below were invited to inspect the plans and to submit comments during a minimum 21-day period (however the consultation continued until this report was finalised). In addition, a sign was placed on Site inviting comment from any other interested person.



During the advertising period, a total of 243 consultation notices were sent and two (2) submission(s) were received, one (1) in favour and one (1) against the proposal. The comments from the submitter(s), together with officer responses are summarised below.

Submitters' Comments	Officer's Responses
<p>We wish to support the application for extension of the Solo Pizza Restaurant.</p> <p>This will help to increase the activity in this restaurant/ commercial precinct of the City, which will be of benefit to the community in the area.</p>	<p><b>NOTED.</b></p>
<p>There is no increase in parking to accommodate this usage and increased patronage. These shops being located next to private residences constantly have café and shop users parking in and across driveways or not appropriately parking in designated bays. This has been discussed informally with rangers.</p>	<p>As identified Item (f) of the report, sufficient public parking is available in the immediate area to cater for the demand of the additions to the existing use during peak times.</p> <p>Parking on the street is regulated by the City's Rangers and appropriate signage for half hour parking is in place for high turnover visits directly in front of the shops on Coode Street. Parking across driveways is not regulated by the Planning Scheme and as such would be a matter for the City's Rangers.</p>

	<p>A wayfinding condition is included directing patrons to park at the rear to avoid disturbances to neighbours.</p> <p>The comment is <b>UPHELD</b> with the inclusion of the wayfinding condition.</p>
<p>Patrons of Solo Pizza occasionally knock on the neighbour's door (adjacent residence) to use their toilet as the only toilets are located at the back of the shops and currently there is no direct access.</p>	<p>The proposed addition provides direct access to the rear for use of the existing toilets that was not previously available therefore it is expected that the proposed additions will ensure this unlikely to occur. An advice note is included for inclusion in an approval that upgrading of toilet facilities will be necessary should patronage exceed 20.</p> <p>The comment is <b>UPHELD</b>.</p>
<p>Noise nuisance to neighbouring residence in relation to discussions held by patrons in the Alfresco dining area. Discussions can often be heard from the outside diners from living areas of adjacent neighbour/s.</p>	<p>Noise is regulated under the Environmental Protection Act. The City's Environmental Health Services have advised that noise from verbal discussions up to 9.30pm at night is not seen to be a concern in terms of noise intrusion. In addition, the City's Environmental Health Services have had no previous complaints of noise in respect to this tenancy.</p> <p>The comment is <b>NOT UPHELD</b>.</p>
<p>There is a bike lane immediately adjacent where patrons park to attend this venue which blocks sight lines of the nearby residences with regular near misses between egressing vehicles and bike riders using the dedicated bike lane.</p>	<p>The four on-street car bays on Coode Street are regulated parking spaces and are limited to half an hour parking at all times. The proposed additions to Solo Pizza do not change the existing situation in regards to the conflict with bike riders and on-street parking. A condition of approval will be included to ensure that patrons are directed to park in the rear car park.</p> <p>The comment is <b>NOTED</b>.</p>
<p>Please do not continue to increase congestion (pedestrian and vehicular traffic) in this area as existing residence amenity is</p>	<p>In respect to the additional pedestrian and vehicular traffic, the additional dining area would require an additional demand of</p>

<p>affected by these impacts. My house is directly against these shops and I am possibly the one most impacted by these changes.</p>	<p>three (3) car bays. To protect the neighbour's amenity, a condition is recommended so that patrons are directed to park in the rear car park so that they are either entering from the rear entry or from South Terrace.</p> <p>The comment is <b>UPHELD</b>.</p>
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**(b) Internal Administration**

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

The Environmental Health section provided comments with respect to noise from mechanical plant and equipment. This section raises no objections and their comments will be provided as an Advice Note. A new or amended food licence will be required for the additional dining area prior to operation.

- Comments were sought regarding the requirements of the Building Code of Australia relating to the fitout/alterations to the shops.

It was confirmed that as the class of building is unchanged, upgrades to the existing building in terms of compliance with the current requirements of the Building Code of Australia would not be necessary however a building permit would most likely be required should the alterations be of a structural nature.

**Policy and Legislative Implications**

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

**Financial Implications**

This determination has no financial implications.

**Strategic Implications**

This matter relates to Strategic Direction 3 "Housing and Land Uses" identified within Council's Strategic Plan 2015-2025 which is expressed in the following terms:

*Accommodate the needs of a diverse and growing population.*

**Sustainability Implications**

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

### Conclusion

The proposal is to increase the size of the existing Solo Pizza Restaurant. The proposed use of Café/Restaurant in a Local Commercial Zone is appropriate and would complement the existing strip centre. Parking provisions for traditional commercial strips is limited in many instances throughout the metropolitan area; however in this instance the availability of the car park at the rear of the site, accessible from South Terrace, provides for sufficient car parking bays to service this commercial strip centre.

It is considered that the proposal meets all of the relevant Scheme and/or Council Policy objectives and provisions, as it will not have a detrimental impact on adjoining residential neighbours and streetscape. Accordingly, it is considered that the application should be conditionally approved.

### Attachments

10.3.3 (a): Development Plans

10.3.3 (b): Site Photos

10.3.4 Proposed Change of Use from Office to Use Not Listed (Cat Boarding Facility). Lot 41 (No. 5/191) Canning Highway, South Perth

Prior to discussion on the following item, Councillor Jessica Black and Councillor Fiona Reid read aloud their Declaration of Interest:

Councillor Jessica Black

*“As per the Local Government Act, the Rules of Conduct Regulations and the Administration Regulations as well as the City’s Code of Conduct 2016, I wish to declare an impartiality interest in Agenda Item: Proposed Change of Use from Office to Use Not Listed (Cat Boarding Facility). Lot 41 (No. 5/191) Canning Highway, South Perth on the Ordinary Council meeting of 25 July 2017.*

*I declare that the veterinary clinic under consideration in this report is my personal veterinary clinic.*

*It is my intention to remain in the Council Chamber, consider this matter on its merits and vote accordingly.”*

Councillor Fiona Reid

*“As per the Local Government Act, the Rules of Conduct Regulations and the Administration Regulations as well as the City’s Code of Conduct 2016, I wish to declare an impartiality interest in Agenda Item: Proposed Change of Use from Office to Use Not Listed (Cat Boarding Facility). Lot 41 (No. 5/191) Canning Highway, South Perth on the Ordinary Council meeting of 25 July 2017.*

*I declare that the veterinary clinic under consideration in this report is my personal veterinary clinic.*

*It is my intention to remain in the Council Chamber, consider this matter on its merits and vote accordingly.”*

**10.3.4 Proposed Change of Use from Office to Use Not Listed (Cat Boarding Facility). Lot 41 (No. 5/191) Canning Highway, South Perth**

Location:	Lot 41 (No.191) Canning Highway, South Perth
Ward:	Como Ward
Applicant:	Vetwest Animal Hospitals
File Reference:	D-17-58238
DA Lodgement Date:	10 May 2017
Meeting Date:	25 July 2017
Author(s):	Victoria Madigan, Statutory Planning Officer
Reporting Officer (s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Housing and Land Uses -- Accommodate the needs of a diverse and growing population
Council Strategy:	3.3 Review and establish contemporary sustainable buildings, land use and environmental design standards.

### Summary

To consider an application for planning approval for a Change of Use from Office to Use Not Listed (Cat Boarding Facility) on Lot 41 (No.5/191) Canning Highway, South Perth. Council is being asked to exercise discretion in relation to the following:

Element on which discretion is sought	Source of discretionary power
Land Use (Use not Listed)	TPS6 Clause 3.3, Subclause 7

### Officer Recommendation AND COUNCIL DECISION

**Moved:** Councillor Colin Cala

**Seconded:** Councillor Cheryle Irons

That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for development approval for a Change of Use from Office to Use Not Listed (Cat Boarding Facility) on Lot 41, Unit 5 (No./191) Canning Highway, South Perth be approved subject to the following conditions:

#### (a) Standard Conditions

- 352 car bays- marked and visible
- 353 visitor bays- marked and visible
- 354 car bays- maintained
- 660 expiry of approval

#### (b) Specific Conditions

- (i) No additional staff is to operate from the subject site as a result of the cat boarding facility at unit 5 No. 191 Canning Highway, South Perth.
- (ii) The number of staff approved to operate from the premises shall not exceed six (6) at any given time.
- (iii) No additional staff shall be provided as a result of the cat boarding facility.
- (iv) The operational practise shall not exceed four (4) customers at any given time.
- (v) The cat boarding facility shall operate in accordance with the management plan submitted to the City by Australian Animal Hospitals dated June 2017. Specific attention is drawn to the appointment system
- (vi) The Cat Boarding Facility shall not board more than thirty six (36) cats at any given time.
- (vii) No earthworks shall encroach onto the Canning Highway reserve.
- (viii) No stormwater drainage shall be discharged onto the Canning Highway reserve.
- (ix) Illuminated signs must be of a low-level not exceeding 300cd/m<sup>2</sup>, not flash, pulsate or chase.
- (x) Any signage shall not contain fluorescent, reflective or retro reflective colours or materials.
- (xi) Main Roads agreement is to be obtained prior to any future modifications.
- (xii) In the event that the site where the signs are located is needed for future roadworks, the applicant shall upon receipt of a notice from Main Roads, relocate or remove the sign at their own expense.

- (xiii) The driveway and parking area to be line marked and signed to indicate that vehicles should enter from Renwick Street and exit onto Canning Highway.

**(c) Standard Advice Notes**

700A	building licence required	790	minor variations- seek approval
720	strata note- comply with that Act	795B	appeal rights- council decision

**(d) Specific Advice Notes**

The applicant is advised that:

- (i) The number of staff approved to operate from the premises shall not exceed six (6) at any given time.
- (ii) All mechanical ventilation services, motors and pumps e.g. air conditioners to be located in a position so as not to create a noise nuisance as determined by the Environmental Protection Act 1986 and Environmental Protection (Noise) Regulations 1997.
- (iii) This proposal will require approval by Water Corporations Building Services section prior to commencement of works. Infrastructure contributions and fees may be required to be paid prior to approval being issued.
- (iv) The property is affected by land reserved under the Metropolitan Region Scheme and will be required for road purposes at some time in the future.
- (v) The project for the upgrading/widening of Canning Highway is not in Main Roads current 4-year forward estimated construction program and all projects not listed are considered long term. Please be aware that timing information is subject to change and that Main Roads assumes no liability whatsoever for the information provided.

**CARRIED (8/0)**

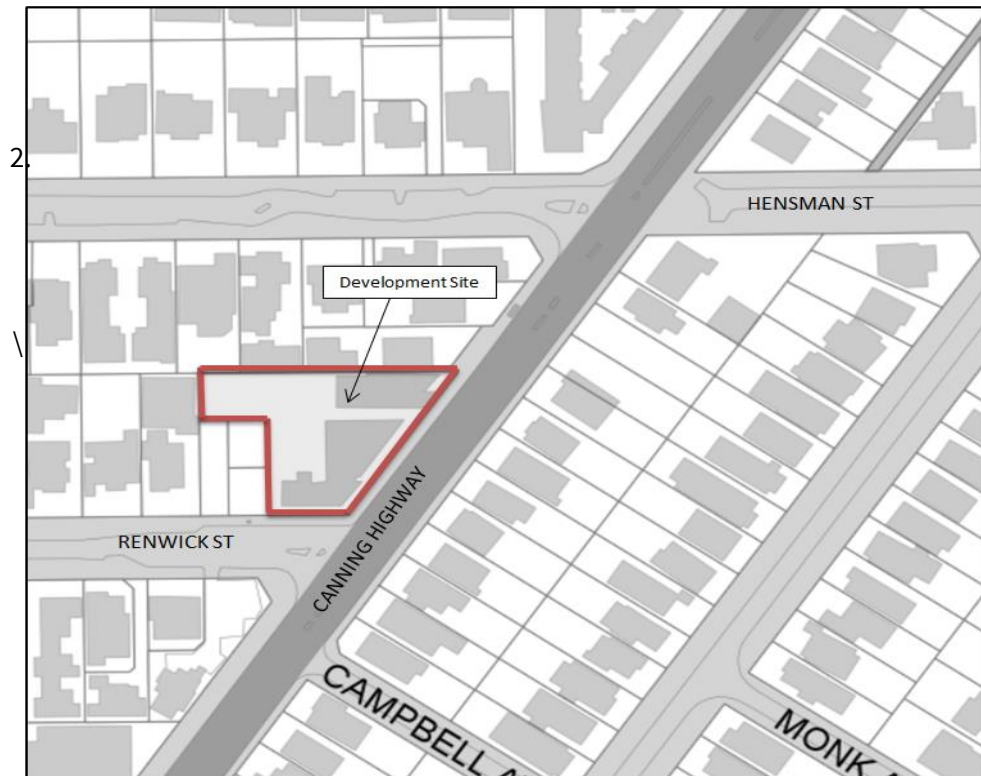
**1. Background**

The development site details are as follows:

<b>Zoning</b>	Highway Commercial
<b>Density coding</b>	R80
<b>Lot area</b>	155 sq. metres

The location of the development site is shown below:





**Figure 1: Development Site**

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

**1. Specified uses**

*(h) Uses not listed in Table 1 of the Scheme being considered under Clause 3.3(7) of the Scheme;*

**Comment**

**(a) Background**

In May 2017, the City received an application for a proposed Change of Use from Office to Use Not Listed (Cat Boarding Facility) and associated signage at Lot 41 (No.5/191) Canning Highway, South Perth (**the Site**). Units 3 and 4 are currently operating as a Veterinary Clinic and are proposing to open and facilitate a Cat Boarding Facility in the current in vacant unit 5 tenancy.

In 1990 a Veterinary Clinic was approved to operate from unit 2 with the condition of 1 practitioner. However additions to the Veterinary Clinic in 2005 proposed an increase of 8 staff in total and conversion of an office to veterinary clinic in Unit 4.

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

The existing development on the Site currently features a two storey building with commercial land uses of Office, Shop and a Veterinary Clinic across units 1 – 6 and a vacant lot at Lot 41, Unit 5 (No. 191) Canning Highway as depicted in the site photographs at **Attachment (a)**. The lots are strata titled.

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

The site has a frontage to Canning Highway to the east, and is located adjacent to residential dwellings to the north and west. Additionally, to the west of the development site are three vacant blocks also zoned highway commercial as seen in **Figure 2** below:



**Figure 2 – Aerial of the Development Site**

3.

(d) **Description of the Proposal**

The proposal involves changing the use of existing office to a proposed Use Not Listed (Cat Boarding Facility) at Lot 41, Unit 5 (No.191) Canning Highway, South Perth as depicted in the submitted plans at **Attachment (b)**.

The applicant proposes to convert the existing vacant office at unit 5 to a Cat Boarding Facility. The facility will be run by the staff from the existing Vetwest Hospital, at units 3 and 4. The operating hours proposed is between the hours of 8am to 7pm corresponding with the operational hours of the Vetwest. No additional staff are proposed as a result of the Cat Boarding Facility. The Applicant's cover letter and Management Plan, **Attachment (c and d)**, describes the proposal in more detail.

(e) **Land Use**

The proposed 'Cat Boarding Facility' is a Use Not Listed in Table 1 of the *City of South Perth Town Planning Scheme No. 6 (TPS6)*. In accordance with Clause 3.3 (7) of TPS6, a Use Not Listed may only be permitted to be approved following neighbour consultation. Neighbour consultation has been undertaken in accordance with the relevant TPS6 provision and City policy. This aspect will be discussed in further detail in the report.

A 'Cat Boarding Facility' compliments the existing veterinary clinic adjoining the subject site. The subject site is zoned highway commercial and the use is considered appropriate in this location.

In considering this use, Council shall have regard to the objectives listed in Clause 1.6 of TPS6 and the relevant matters listed in Clause 67 Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015*. The proposal is not considered to be inconsistent with these clauses and will be discussed in further detail below. It is further noted that there is a sump already adjoining the subject site nearby, providing a buffer to the residential dwellings to the west.

**(f) Car Parking**

The existing development on site provides 23 car parking bays as outlined in the Car Parking Plan (refer to **Attachment (m)**) for the 6 tenancies. Clause 6.3 (4) of TPS6 stipulates:

*“Council may grant planning approval for non – residential land Uses proposing a lesser number of car parking bays than prescribed in Table 6, provided that the proposed number of car parking bays is sufficient having regard to the peak parking demand generated by the Use or Uses and any opportunities for reciprocal parking arrangements”.*

The applicant has provided justification in relation to the likely demand of car parks generated by the additional use as evident in the Management Plan as depicted in **Attachment (d)**. Additionally, it is noted the 23 car bays are for the exclusive use of all tenancies, on a first in first served basis.

The table below outlines the likely demand based on the applicants management plan of car parking for the proposed Use Not Listed:

<b>Hours Open</b>	8am to 7pm ( 11 hours)
<b>Average Time of Visit (To Drop Off/ Pick Up Cat)</b>	10 – 15 minutes
<b>Average Number of Cats Boarding Each Night</b>	12 on average = 24 visits
<b>Turnover of Car Bay</b>	15 minute visits = 4 visits per hour 4 visits per hour x 11 hours of operation = 44 visits accommodated through one car parking bay.
<b>Surplus time of car bays all day</b>	one car bay could accommodate 44 visits = 20 extra visits using one car bay.

Based on the current car parking supply it is assumed two car bays would satisfactorily manage the above demand. It is noted that the above table demonstrates that 2 parking bays could only be needed however there would be peaks in drop off and pick-ups at different times of the day. The applicants management plan outlines a booking system to monitor the peak demand for drop offs and pick-ups. Additionally, it is noted the parking

demand would be less than what the previous office use would have generated based on the likely Scheme requirements and predicted usage.

It is noted, assuming Vetwest has three tenancies equating to 50% of the tenancies on the site, they could potentially use 50% of the car parking bays (11.5 bays). As a result, the City considers that the provided number of car parking bays is sufficient and this component of the application should be supported.

**(g) Signage**

This application includes the provision of signage located on the building as depicted in the development plans at **Attachment (b)**. The signage proposal is considered to be satisfactory in relation to the City's TPS6 and relevant policies.

The application was referred to Main Roads, as the lot is located adjacent to Canning Highway. Main Roads had no objections however recommended specific conditions and advice notes be placed on the approval accordingly, as depicted in **Attachment (j)**.

As a result, the City considers the proposed signage is sufficient and this component of the application should be supported.

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

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

- (d) Establish a community identity and 'sense of community' both at a City and precinct level and to encourage more community consultation in the decision-making process;*
- (e) Ensure community aspirations and concerns are addressed through Scheme controls;*
- (i) Create a hierarchy of commercial centres according to their respective designated functions, so as to meet the various shopping and other commercial needs of the community;*
- (j) In all commercial centres, promote an appropriate range of land uses consistent with:*
  - (i) the designated function of each centre as set out in the Local Commercial Strategy; and*
  - (ii) the preservation of the amenity of the locality;*

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

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

In considering an application for development approval, the local government is to have due regard to the matters listed in clause 67 of the Deemed Provisions to the extent that, in the opinion of the local government,

those matters are relevant to the development the subject of the application. The proposed development is considered satisfactory in relation to all of these matters as addressed in this report, subject to the recommended conditions.

4. Consultation

(a) Neighbour Consultation

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 'Consultation for Planning Proposals'. Under the 'Area 1' consultation method, individual property owners, occupiers and/or strata bodies as evident in **Figure 3** below were invited to inspect the plans and to submit comments during a minimum 14-day period (however the consultation continued until this report was finalised).



Figure 3 – Matrix of Consultation

During the advertising period, a total of 54 consultation notices were sent and 1 submission(s) was received, against the proposal. The comments from the submitter(s), together with officer responses are summarised below.

Submitters' Comments	Officer's Responses
<p>We own a unit on the site and have recently been advised that we currently apply for a change of use from warehouse to office in one of the upstairs units. The building renovation is currently incomplete owing to a lack of funds.</p>	<p>The City has not received a recent application for development approval for the proposed unit therefore no assessment or determination has been undertaken as a result of the submitter's comments.</p>
<p>We understand there is currently no provision for car parking allocated for the proposed cattery, whereas the Vet Clinic requires 1 bay per 19m<sup>2</sup> and office requires 1 bay 25m<sup>2</sup>.</p>	<p>The strata manager has provided a letter consenting to the proposed Cat Boarding Facility and has clarified with the City the strata and parking arrangements between the units as evident in <b>Attachment (f)</b>.</p>
<p>There is a new bus stop installed outside No. 197 Canning Highway last year that reduces the requirement for car bays by a factor of .85%.</p>	<p>A building permit was issued in 2009 for construction of a warehouse, additions and alterations to the existing unit; no notice of completion has been received for this permit.</p>
<p>We are also seeking a change of use from warehouse to office and ask for a determination based on this planning proposal.</p>	<p>The comment is <b>NOT UPHELD</b>.</p>
<p>To date we do not have strata approval for the proposed cattery and that will largely depend on the determination in favour of car bay reductions allowing these changes.</p>	
<p>As second floor additions have not been completed, these have not be calculated in the cattery proposal and clearly require due consideration when making this determination.</p>	

**(b) Internal Administration**

Comments were invited from Ranger Services, Engineering Infrastructure and the Environmental Health section of the City's administration.

The Environmental Health section provided comments with respect to noise. This section raises no objections and has provided recommended important notes as evident in **Attachment (g)**.

The City's Engineering Infrastructure department provided comment on the access to and from the site via Canning Highway and Renwick Street as a result of a sign indicating access from Canning Highway was permitted. Infrastructure has provided the following condition to prevent congestion of cars on Canning Highway entering the site as depicted in **Attachment (l)**:

*"The driveway and parking area to be line marked and signed to indicate that vehicles should enter from Renwick Street and exit onto Canning Highway".*

The City's Animal Care Facility Officer, Ranger Services provided comment with respect to the procedures for visits to and from the facility and the average time it takes to check in an animal at the City's Animal Boarding Facility as evident in **Attachment (h)**.

The Manager, Ranger Services provided comments with respect to the Cat Local Laws and raises no objections as evident in **Attachment (i)**.

Accordingly, planning conditions and/or important notes are recommended to respond to the comments from the above officer(s).

**(c) External Agencies**

Comments were also invited from Main Roads and Water Corporation as the property is located along Canning Highway.

Main Roads provided comments with respect to signage, earthworks, stormwater and future road widening. The agency raises no objections and recommends standard conditions be placed on the approval as evident in **Attachment (j)**.

The Water Corporation provided comments in relation to water and waste water. The agency raises no objections and recommends advice notes be placed on the approval as evident in **Attachment (k)**.

Accordingly, planning conditions and/or important notes are recommended to respond to the comments from the above officer(s).

**Policy and Legislative Implications**

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

**Financial Implications**

This determination has no financial implications.

**Strategic Implications**

This matter relates to Strategic Direction 3 "Housing and Land Uses" identified within Council's Strategic Plan 2015-2025 which is expressed in the following terms:

*Accommodate the needs of a diverse and growing population.*

**Sustainability Implications**

**10.3.4 Proposed Change of Use from Office to Use Not Listed (Cat Boarding Facility). Lot 41 (No. 5/191) Canning Highway, South Perth**

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

5.

**Conclusion**

It is considered that the proposal meets all of the relevant Scheme and/or Council Policy objectives and provisions, as it will not have a detrimental impact on adjoining residential neighbours and streetscape. The Cat Boarding Facility will complement the existing veterinary clinic adjoining the site. Provided that relevant conditions and advice notes are applied as recommended, it is considered that the application should be conditionally approved.

6.

**Attachments**

- 10.3.4 (a):** Site Photos
- 10.3.4 (b):** Development Plans
- 10.3.4 (c):** Applicant Cover Letter
- 10.3.4 (d):** Management Plan
- 10.3.4 (e):** Previous Car Parking Approval
- 10.3.4 (f):** Amended Strata Consent
- 10.3.4 (g):** Health Referral
- 10.3.4 (h):** Animal Care Facility Officer Referral
- 10.3.4 (i):** Ranger Services Referral
- 10.3.4 (j):** Main Roads Referral
- 10.3.4 (k):** WaterCorp Referral
- 10.3.4 (l):** Engineering Referral
- 10.3.4 (m):** Additional Attachment - Car Parking Layout by Applicant



### 10.3.5 Proposed Amendment to Approved Metro Hotel Additions: Multiple Dwellings Additions to Metro Hotel. Lot 10 (No. 61) Canning Highway, South Perth.

Location:	Lot 10 (No. 61) Canning Highway, South Perth
Ward:	Mill Point Ward
Applicant:	Celtic Properties c/- Hart Architects
File Reference:	D-17-58407
DA Lodgement Date:	29 March 2017
Meeting Date:	25 July 2017
Author(s):	Cameron Howell, Senior Statutory Planning Officer
Reporting Officer (s):	Vicki Lummer, Director Development and Community Services
Strategic Direction:	Housing and Land Uses -- Accommodate the needs of a diverse and growing population
Council Strategy:	3.3 Review and establish contemporary sustainable buildings, land use and environmental design standards.

#### Summary

This report seeks Council's consideration of an application for development approval to amend the Multiple Dwellings component of the approved 'Metro Inn' development that was approved by Council on 25 May 2010 (ID No. 11.2009.424.1), located at Lot 10 (No. 61) Canning Highway, South Perth. The Metro Hotel redevelopment has been staged over 3 stages – the first two stages (hotel refurbishment and hotel additions) have now been completed with this Multiple Dwellings component being the final stage of the redevelopment.

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

Element on which discretion is sought	Source of discretionary power
Substantial change to the development approved	'Deemed Provisions' cl. 77(1)(c)
Land use	TPS6 cl. 3.3 and Table 1
Plot ratio	TPS6 cl. 7.8
Street setback	TPS6 cl. 7.8
Landscaping	TPS6 cl. 7.8 and R-Codes cl. 6.3.2 P2
Building height	'Deemed Provisions' cl. 77(1)(c)
Maximum floor levels	TPS6 cl. 6.10
Open space	R-Codes cl. 6.1.5 P5
Street surveillance	R-Codes cl. 6.2.1 P1.1-P1.2
Building appearance	R-Codes cl. 6.2.4 P4.1-P4.2 and 'Deemed Provisions' cl. 67(m)
Outdoor living areas	R-Codes cl. 6.3.1 P1
Design of car parking spaces	R-Codes cl. 6.3.4 P4
Vehicular access	R-Codes cl. 6.3.5 P5
Dwelling size	R-Codes cl. 6.4.3 P3
Utilities and facilities	R-Codes cl. 6.4.6 P6
Mechanical parking devices	Council Policy P350.03 cl. 8.4

**Officer Recommendation AND COUNCIL DECISION****Moved:** Councillor Cheryle Irons**Seconded:** Councillor Colin Cala

1. That Council accepts that this application is appropriate for consideration in accordance with Schedule 2 clause 77 of the *Planning and Development (Local Planning Schemes) Regulations 2015*;
2. That pursuant to the provisions of the *City of South Perth Town Planning Scheme No. 6* and the *Metropolitan Region Scheme*, this application for development approval for the Proposed Amendment to Approved Metro Hotel Additions: Multiple Dwellings Additions to Metro Hotel on Lot 10 (No. 61) Canning Highway, South Perth **be approved** subject to:

**(a) Deleted Conditions**

Condition 17(i) of the approval granted on 25 May 2010 being deleted, as the amended development plans in this application comply with the requirements of Condition 17(i).

*(17) Revised drawings shall be submitted, and such drawings shall incorporate the following:*

- (i) in accordance with the comments from the Design Architect Consultants, architectural treatments shall be added to the residential portion of the development along Canning Highway; and ...*

**(b) Additional Conditions**

- (24) Prior to the submission of a Building Permit for the residential component of the approved development, a detailed Car and Bicycle Parking Management Plan shall be submitted and approved by the City. This plan shall address all general parking considerations; this includes but is not limited to matters relating to obtaining legal access to the residential carpark through hotel carpark, the operation of the car stacker systems (incorporating independent access to every car parking space), obtaining access to the visitor parking bays and traffic management on the single width ramp to the lower car park. The approved plan shall be implemented, unless otherwise approved by the City.
- (25) Prior to the submission of a Building Permit for the residential component of the approved development, a Construction Management Plan shall be submitted and approved by the City. The management plan shall include but not limited to dilapidation survey report of adjoining buildings, protection of public & adjoining buildings and traffic management, noise & vibration from demolition and construction activities, dust from demolition & construction works, stormwater runoff, removal of hazardous materials, waste water and construction traffic. The approved plan shall be implemented, unless otherwise approved by the City.
- (26) Prior to the submission of a Building Permit for the residential

component of the approved development, a Waste Management Plan shall be submitted and approved by the City. The approved plan shall be implemented, unless otherwise approved by the City.

- (27) Prior to the submission of a Building Permit for the residential component of the approved development, the applicant is to submit documentation from the Green Building Council of Australia certifying that the residential component of the development achieves a Green Star rating of at least 4 Stars or alternatively, documentation provided from another rating tool/system that achieves equivalent or greater performance standards than required by Green Star, shall be submitted to the City. All sustainable design features proposed in the development shall be implemented.
- (28) Prior to the submission of a Building Permit for the residential component of the approved development, an acoustic report prepared in accordance with State Planning Policy 5.4 'Road and Rail Transport Noise and Freight Considerations in Land Use Planning' shall be submitted to the City, demonstrating that the residential component of the development achieves an acoustic rating not exceeding the maximum noise targets. All acoustic design features proposed in the development shall be implemented.
- (29) Prior to the occupation of the residential component of the approved development, a notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the proposed lot(s). Notice of this notification is to be included on the strata plan. The notification is to state as follows:

"The lot/s is/are situated in the vicinity of a transport corridor and is currently affected, or may in the future be affected by transport noise."
- (30) Prior to the occupation of the residential component of the approved development, a public art concept for the subject development, or elsewhere in the City, with a minimum value of 1% of the total estimated development cost of all building permits for the residential component of the development, shall be submitted to the City for endorsement. The approved public art concept shall be implemented to the satisfaction of the City prior to the occupation of the residential component of the development.
- (31) The car stackers shall be able to accommodate vehicles up to 2,000kg and 2.1 metres in height at both the upper and lower levels. Certification by a qualified consultant demonstrating compliance with this condition must be submitted to the City prior to the occupation of the residential component of the development.
- (32) Prior to the occupation of the residential component of the approved development, a notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the certificate(s) of title of the affected proposed lot(s). Notice of this notification is to be included on the strata plan. The notification is to state the height and weight bearing restrictions of the car stacker system.
- (33) An easement to be provided over the proposed lot(s) to be set aside

for the benefit of the remaining lot(s) for the purpose of providing vehicular access, right of footway, water, sewer, drainage, gas, electricity, television, telecommunications and other necessary service infrastructure, to the extent required for the development to operate in accordance with this development approval, with the easements being lodged on the certificate(s) of title of the proposed lot(s) at the full expense of the landowner/applicant, prior to the occupation of the residential component of the development. An alternative easement mechanism which achieves the above criteria could be considered by the City.

- (34) The proposed driveway gradient exceeds that which will normally be accepted by the City. The driveway gradient is acceptable if a letter is received from the property owner, prior to the submission of a building permit, which acknowledges responsibility for any access difficulties that may arise, without any future recourse to the City.
- (35) To meet the intent of Clause 6.4.5 of the R-Codes, external fixtures such as air conditioning infrastructure, shall be integrated into the design of the building so as to not be visually obtrusive when viewed from the street and to protect the visual amenity of residents in neighbouring properties, to the satisfaction of the City.
- (36) As advised by Main Roads WA:
- (i) No vehicle access shall be permitted to or from Canning Highway road reserve from Lot 10. A restrictive covenant, to the benefit of Main Roads Western Australia pursuant to Section 129BA of the *Transfer of Land Act 1893* is to be placed on the Certificate of Title of the lots advising of the existence of a restriction on the use of the land as a restrictive covenant for the benefit of Main Roads WA at the expense of the applicant.
  - (ii) All access to the proposed development is to be taken from, Hovia Terrace as shown in drawing numbered: 13051 SK1506 Revision C, dated 27/4/16.
  - (iii) As Canning Highway is identified as a Primary Freight Road in schedule 1 of the State Planning Policy 5.4. The applicant is required to undertake a Noise Assessment Report in accordance with the guidelines of the WAPC State Planning Policy 5.4 "Road and Rail transport Noise and Freight Considerations in Land Use Planning". The noise assessment is to be completed prior to construction works on the site, thus enabling any changes necessary to be managed prior to completion of the development.
  - (iv) The applicant is to implement all recommendations as specified in the Noise Assessment Report. The applicant shall be responsible for all costs.
  - (v) No earthworks shall encroach onto the Canning Highway road reserve.
  - (vi) No stormwater drainage shall be discharged onto the Canning Highway road reserve.

- (vii) Any footings for the retaining wall along the Canning Highway boundary must be wholly contained within Lot 10.
- (viii) The applicant shall make good any damage to the existing verge vegetation, within the Canning Highway road reservation.
- (ix) Waste collection is to be taken internally within the development; collection is not permitted from Hovia Terrace or the Canning Highway road reserves.

These are to be carried out to the satisfaction of the City.

**(c) Additional Important Notes**

- (11) Car park ventilation to be designed to ensure that the carbon monoxide build up in the parking area does not exceed 50 ppm per hour in accordance with the *Health Act (Carbon Monoxide) Regulations 1975*.
- (12) As advised by Main Roads WA:
  - (i) In relation to Main Roads Condition (i), implementation of this condition is subject to the survey strata application (WAPC Reference 45-16) remaining incomplete or expiring. Condition required to be completed in retrospect.
  - (ii) The project for the upgrading/widening of Canning Highway is not in Main Roads current 4-year forward estimated construction program and all projects not listed are considered long term. Please be aware that timing information is subject to change and that Main Roads assumes no liability whatsoever for the information provided.

**(d) Approved Plans**

The Tourist Accommodation component of the development plans approved on 25 May 2010 remains unchanged and is not affected by this approval. The residential component of the development plans approved on 25 May 2010 are deleted and the amended development plans in this application become the approved plans for the residential component of the development.

All other conditions and requirements detailed on the previous approval dated 25 May 2010 and amended on 17 June 2011 shall remain unless altered by this application.

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

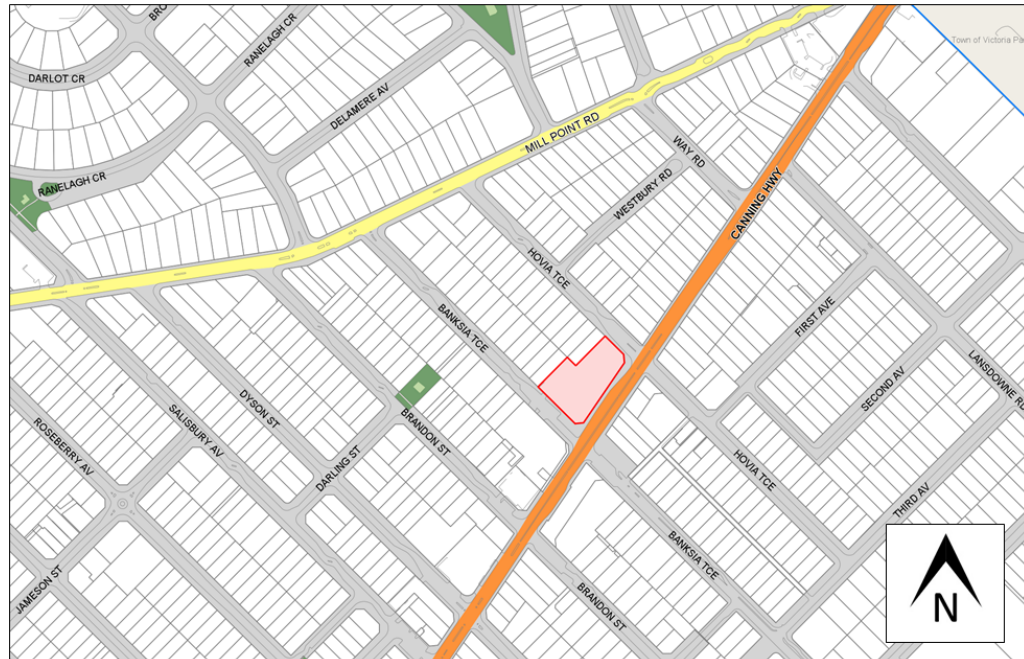
**CARRIED EN BLOC (8/0)**

**Background**

The development site details are as follows:

<b>Zoning</b>	Highway Commercial
<b>Density coding</b>	R80
<b>Lot area</b>	3,834 sq. metres
<b>Building height limit</b>	10.5 metres
<b>Development potential</b>	Permissible residential and non-residential land uses
<b>Plot ratio limit</b>	0.50 (TPS6 Table 3)

The location of the development site is shown below:



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

2. **Major developments**
  - (b) Residential development which is 9.0 metres high or higher, or comprises 10 or more dwellings; and
3. **The exercise of a discretionary power**
  - (b) Applications which in the opinion of the delegated officer, represents a significant departure from the Scheme, the Residential Design Codes or relevant Planning Policies.
4. **Applications previously considered by Council**

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

#### Comment

##### (a) Background

The Council granted conditional planning approval on 25 May 2010 for proposed Change of Use of 'Metro Inn' – Existing Tourist Accommodation to

Mixed Development by Addition of Tourist Accommodation and Multiple Dwellings. In essence, this application approved the construction of:

- additions to the original 10-storey Metro Inn development, being a 4-storey Tourist Accommodation building adjacent to Banksia Terrace; and
- a 6-storey plus roof terrace Multiple Dwelling building adjacent to Hovia Terrace.

A 12 month extension to the original 24 months validity period to substantially commence construction (Condition 23) was granted by the City on 17 June 2011.

The approved development commenced construction in 2013. The new 4-storey Tourist Accommodation component of the approved development and the refurbishments to the original 10-storey building have been completed. As the approved development substantially commenced construction within the 36 month validity period, the remaining components of the approved development that have yet to be constructed, being the Multiple Dwelling building and a new swimming pool and deck for the hotel, still have a valid planning approval.

Substantially commenced is defined in the *Planning and Development (Local Planning Schemes) Regulations 2015* and “means that some substantial part of work in respect of a development approved under a planning scheme or under an interim development order has been performed”.

Prior to lodging the application, the applicant had engaged with the City and the later the Design Advisory Consultants in relation to the design requirements to satisfy the revised plans condition of approval (Condition 17(i)) and the proposed amended design. In March 2017, an application to amend the 2010 planning approval was submitted to the City.

The property is in the process of being strata titled into 2 two lots, to create separate titles for the Tourist Accommodation and Multiple Dwelling uses. The City has issued a BA16 Building Approval Certificate – Strata under the *Building Act 2011*.

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

The existing development on this site consists of a Tourist Accommodation development (the Metro Hotel) within a 10-storey and 4-storey building along with the accompanying 2 level car park and an external amenity area containing a swimming pool.

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

The site has a frontage to Canning Highway to the south east, Banksia Terrace to the south west and Hovia Terrace to the north east. The neighbouring properties are primarily residential, consisting of Single Houses, Grouped Dwellings and Multiple Dwellings, as seen in the aerial photograph below:

**(d) Description of the Proposal**

The proposal involves amendments to the previously approved 6-storey plus roof terrace Multiple Dwellings building on the site. To facilitate this component, the demolition of a remnant 2-storey section of the Metro Hotel building and the swimming pool area is required. The currently approved development plans are contained in **Attachment (a)**, while the submitted plans containing the subject proposal are contained in **Attachment (c)**.

**(e) Planning Assessment**'Deemed Provisions for Local Planning Schemes'

Item	Requirement	Proposal	Compliance
Substantial Change to the Development Approved	An application can propose "to amend an aspect of the development approved which, if amended, would not substantially change the development approved". ▪ cl. 77(1)(c)	Redesign of the Multiple Dwelling component of the approval.	The application is considered to not substantially change the development approved.

Local Planning Scheme: TPS6

Item	Requirement	Proposal	Compliance
Land Use	▪ cl. 3.3 and Table 1	Multiple Dwelling: 'D' Discretionary.	Acceptable – no changes to the approved land uses are proposed.
Plot Ratio	Maximum 0.50 (1917m <sup>2</sup> ).	<u>11.2009.424.1 Plot Ratio Calculation:</u>	Acceptable – lesser plot ratio



	<ul style="list-style-type: none"> <li>▪ cl. 5.1 and Table 3</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Existing Metro Inn:</u> 4304.2m<sup>2</sup> (1.12).</li> <li>• <u>New Metro Inn:</u> 1394.0m<sup>2</sup> (0.36).</li> <li>• <u>New Residential:</u> 1992.9m<sup>2</sup> (0.52).</li> <li>• <u>Total:</u> 7691.1m<sup>2</sup> (2.01).</li> </ul> <p>Proposed Amendment:</p> <ul style="list-style-type: none"> <li>• <u>New Residential:</u> 1954.8m<sup>2</sup> (0.51).</li> <li>• <u>Total:</u> 7653.0m<sup>2</sup> (2.00).</li> </ul>	area proposed and satisfies the discretionary provisions.
Street Setback	<p><u>Canning Highway:</u> Minimum 1.5m.</p> <p><u>Hovia Terrace:</u> Not stated.</p> <ul style="list-style-type: none"> <li>▪ cl. 5.1, 5.3 and Tables 3 and 5</li> </ul>	<p><u>Canning Highway:</u></p> <ul style="list-style-type: none"> <li>• Minimum Nil (carpark levels).</li> <li>• Minimum 1.5m (Levels 1 and above).</li> </ul> <p><u>Hovia Terrace:</u></p> <ul style="list-style-type: none"> <li>• Minimum Nil (carpark levels).</li> <li>• Minimum Nil (balconies).</li> <li>• Minimum 2.0m (main building, Levels 1 and above).</li> </ul>	Acceptable – satisfies the discretionary provisions.
Landscaping	<p>Minimum 15% (575.1m<sup>2</sup>).</p> <ul style="list-style-type: none"> <li>▪ cl. 5.1 and 5.3</li> </ul>	<p><u>Residential component:</u> 48m<sup>2</sup>.</p> <ul style="list-style-type: none"> <li>• 15m<sup>2</sup> at ground level.</li> <li>• 33m<sup>2</sup> on roof terrace (garden beds).</li> </ul>	Acceptable – satisfies the discretionary provisions.
Building Height	<p>Maximum 10.5m.</p> <ul style="list-style-type: none"> <li>▪ cl. 6.1A</li> </ul>	Same wall height as the approved development (10.5m above the highest natural ground level under the whole building).	Acceptable – lesser maximum building height proposed.
Car Parking Dimensions	<p><u>Car Bays:</u> Minimum 2.4m width and 5.4m depth.</p> <p><u>Accessways:</u> Minimum 5.8m.</p> <ul style="list-style-type: none"> <li>▪ cl. 6.3(8) and AS2890.1</li> </ul>	Compliant.	Compliant.

Levels	<ul style="list-style-type: none"> <li>▪ cl. 6.10</li> </ul>	<ul style="list-style-type: none"> <li>• Level 1 floor level approx. 2.5m above 'equal cut and fill' calculation.</li> <li>• Driveway gradients are steeper than the scheme requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• The proposed floor level is considered to satisfy the discretionary provisions.</li> <li>• The driveway gradient is consistent with the local planning policy subject to the receipt of an indemnity letter.</li> </ul>
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R-Codes

Item	Requirement	Proposal	Compliance
Lot Boundary Setbacks (South West)	<u>Level 4 and below:</u> Minimum 14.5m. <u>Level 5:</u> Minimum 16.5m. <ul style="list-style-type: none"> <li>▪ 6.1.4 C4.1</li> </ul>	<u>Level 4:</u> 15.3m. <u>Level 5:</u> 19.3m.	Satisfies the deemed-to-comply requirements.
Open Space	<ul style="list-style-type: none"> <li>▪ 6.1.5 P5</li> </ul>	<u>Residential open space:</u> <ul style="list-style-type: none"> <li>• <u>Roof terrace:</u> 368m<sup>2</sup> total; 278m<sup>2</sup> uncovered.</li> <li>• <u>Canning Highway setback area:</u> 47m<sup>2</sup> total; 34m<sup>2</sup> uncovered.</li> </ul>	Demonstrates compliance with the design principles.
Street Surveillance	<ul style="list-style-type: none"> <li>• Building to address the street.</li> <li>• Windows or balconies facing the street.</li> <li>• Basement parking less than 1m above natural ground level.</li> <li>▪ 6.2.1 C1.1-1.3</li> </ul>	<ul style="list-style-type: none"> <li>• The street elevations address the street and provide required passive surveillance.</li> <li>• Up to 3.8m height of the car park is above natural ground level as viewed from the street.</li> </ul>	<ul style="list-style-type: none"> <li>• Building street surveillance satisfies the deemed-to-comply requirements.</li> <li>• The car park is screened and demonstrates compliance with the design principles.</li> </ul>
Sightlines	Street corner and driveway visual truncations provided. <ul style="list-style-type: none"> <li>▪ 6.2.3 / P350.07</li> </ul>	Sight lines provided.	Compliant. Adequately addressed by Condition 5.

Building Appearance	<ul style="list-style-type: none"> <li>▪ 6.2.4</li> </ul>	Refer to DAC comments and development plans.	Acceptable.
Outdoor Living Areas	<p>Minimum 2.4m dimension and 10m<sup>2</sup> area balcony or equivalent.</p> <ul style="list-style-type: none"> <li>▪ 6.3.1 C3</li> </ul>	Some balconies are undersized.	Demonstrates compliance with the design principles.
Landscaping	<p>Provided landscaping to meet the listed requirements.</p> <ul style="list-style-type: none"> <li>▪ 6.3.2 C2</li> </ul>	Landscaping proposed adjacent to the front entrance and on the roof terrace.	Demonstrates compliance with the design principles.
Parking	<p>Minimum 36 car bays and 13 bicycle bays.</p> <ul style="list-style-type: none"> <li>▪ 6.3.3 C3.1-3.2</li> </ul>	43 car bays and 13 bicycle bays.	Satisfies the deemed-to-comply requirements, subject to visitor access.
Design of Car Parking Spaces	<p>Visitor parking bay location and car bay concealment.</p> <ul style="list-style-type: none"> <li>▪ 6.3.4 C4.2 and C4.4</li> </ul>	Visitor parking is located behind a barrier. Parking concealed from the street by a metal screen.	Demonstrates compliance with the design principles, subject to visitor access.
Vehicular Access	<p>Design and location requirements for vehicle access.</p> <ul style="list-style-type: none"> <li>▪ 6.3.5 C5.1-5.4</li> </ul>	Mostly compliant. Two-way vehicle access not fully provided on site.	A condition is required to demonstrate compliance with the design principles.
Visual Privacy (South West)	<p>Minimum 3-6m setback.</p> <ul style="list-style-type: none"> <li>▪ 6.4.1 C1.1-1.2</li> </ul>	Minimum 15.3m setback.	Satisfies the deemed-to-comply requirements.
Solar Access	<ul style="list-style-type: none"> <li>▪ 6.4.2 C2.1-2</li> </ul>	No overshadowing of adjoining properties (shadow cast over Canning Highway).	Satisfies the deemed-to-comply requirements.
Dwelling Size	<ul style="list-style-type: none"> <li>• <u>1 Bedroom:</u> Minimum 20% (6) and Maximum 50% (14).</li> <li>• <u>2 Bedroom:</u> Minimum 40% (12).</li> <li>• Minimum 40m<sup>2</sup> plot ratio area.</li> <li>▪ 6.4.3 C3.1-3.2</li> </ul>	<p><u>Dwelling diversity:</u></p> <ul style="list-style-type: none"> <li>• 20x 1 Bedroom</li> <li>• 6x 2 Bedroom</li> <li>• 2x 3 Bedroom</li> </ul> <p>Minimum size compliant.</p>	<ul style="list-style-type: none"> <li>• Dwelling diversity demonstrates compliance with the design principles.</li> <li>• Dwelling sizes satisfy the deemed-to-comply requirements.</li> </ul>
Utilities and Facilities	<p>Store, waste management, clothes drying.</p>	Stores and bin areas provided.	<ul style="list-style-type: none"> <li>• Store provision demonstrates compliance</li> </ul>

	<ul style="list-style-type: none"> <li>▪ 6.4.6 C6.1-6.3</li> </ul>		<p>with the design principles.</p> <ul style="list-style-type: none"> <li>• Waste management conditions are required.</li> <li>• Clothes drying adequately addressed by Condition 13.</li> </ul>
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#### State Planning Policies

Item	Requirement	Proposal	Compliance
Transport Noise	<p>Mitigate noise impacts from Canning Highway traffic.</p> <ul style="list-style-type: none"> <li>▪ SPP 5.4</li> </ul>	Applicant to prepare an acoustic report.	Condition of approval required.

#### Local Planning Policies

Item	Requirement	Proposal	Compliance
Public Art	<p>Minimum 1% public art contribution.</p> <ul style="list-style-type: none"> <li>▪ P316</li> </ul>	Concept proposal shown on plans.	Condition of approval required.
Sustainability	<p>Minimum 4 star Green Star.</p> <ul style="list-style-type: none"> <li>▪ P350.01</li> </ul>	Applicant to engage an environmental consultant.	Condition of approval required.
Car Stackers	<p>Minimum specifications:</p> <ul style="list-style-type: none"> <li>• 2.5m width.</li> <li>• 5.5m length.</li> <li>• 2.1m height.</li> <li>• 2600kg.</li> </ul> <ul style="list-style-type: none"> <li>▪ P350.03 cl. 8.1</li> </ul>	<p>Minimum specifications:</p> <ul style="list-style-type: none"> <li>• 2.5m width.</li> <li>• 5.4m length.</li> <li>• 2.1m height.</li> <li>• 2000kg.</li> </ul>	Minor variation to length and weight bearing capacity.
Car Stackers	<p>Maximum 20% total car bays provided without requiring use of a mechanical parking device.</p> <ul style="list-style-type: none"> <li>▪ P350.03 cl. 8.2</li> </ul>	17 bays of 43 residential bays are not in a car stacker (40%).	Compliant.
Significant Views	<p>Consideration of views impacts from an adjoining property.</p> <ul style="list-style-type: none"> <li>▪ P350.09</li> </ul>	The two adjoining properties are located to the south west of the site. The proposal has no impact upon city views to these properties.	Compliant.

#### Draft Planning Instruments that are 'Seriously Entertained'

There are no draft planning instruments that are ‘seriously entertained’ that affect the determination of this application.

The Council initiated a ‘basic amendment’ (Amendment 54) on 23 May 2017 for the purpose of modifying TPS6 to be consistent with Schedule 2 of the Regulations, State legislation and the R-Codes. These minor amendments do not affect the assessment or determination of this application.

The #ShapeOurPlace project for Canning Highway has not reached a stage that would satisfy the ‘seriously entertained’ requirement.

**(f) Substantial Change to the Development Approved**

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

Accordingly, the local government needs to determine whether or not the proposed changes in this application constitute a substantial change to the approval granted on 25 May 2010.

Specific comments on the relevant planning considerations are provided in the summary tables above and the officer comments as follows. However, the proposed amendments are considered to be capable of determination by Council as an amendment application.

**(g) Plot Ratio**

TPS6 Table 3 specifies a maximum 0.50 plot ratio (1917m<sup>2</sup>) for this site, which is applicable as the whole development is a Mixed Development, a non-residential land use. A greater plot ratio than listed in TPS6 Table 3 can be approved if the development satisfies the discretionary provisions in TPS6 cl. 7.8.

The following table identifies the proposed changes to plot ratio:

Item	Approved (11.2009.424.1)	Proposal (11.2009.424.2)	Amendment
Definition	<i>R-Codes 2008</i>	<i>R-Codes 2015</i>	Enclosed balconies are now exempt from plot ratio area calculation.
Existing 10-storey Metro Hotel building	4304.2m <sup>2</sup> (1.12).	As approved.	No change.
New 4-storey Metro Hotel building	1394.0m <sup>2</sup> (0.36).	As approved.	No change.
Multiple Dwellings	1992.9m <sup>2</sup> (0.52).	1954.8m <sup>2</sup> (0.51).	▼ 38.1m <sup>2</sup> (0.01).
<b>Total</b>	<b>7691.1m<sup>2</sup> (2.01).</b>	<b>7653.0m<sup>2</sup> (2.00).</b>	<b>▼ 38.1m<sup>2</sup> (0.01).</b>

As the proposed amendments result in a slightly lesser plot ratio calculation than the approved development and a similar bulk and scale impact as the approved development, the proposed plot ratio is considered to not pose an adverse amenity impact on the locality and is consistent with the scheme's discretionary provisions.

**(g) Street Setback**

TPS6 Tables 3 and 5 specifies a minimum 1.5 metre setback from Canning Highway, which is applicable as the whole development is a Mixed Development, a non-residential land use. No specific setback is listed for Hovia Terrace. A lesser setback than listed in TPS6 Tables 3 and 5 can be approved if the development satisfies the discretionary provisions in TPS6 cl. 7.8.

The following table identifies the proposed changes to street setbacks for the residential component:

Item	Approved (11.2009.424.1)	Proposal (11.2009.424.2)	Amendment
Canning Highway – Parking Levels	Minimum nil.	Minimum nil.	No substantial change.
Canning Highway – Apartment Levels	Minimum 1.5m.	Minimum 1.5m.	No substantial change.
Hovia Terrace – Parking Levels	Minimum nil.	Minimum nil.	No substantial change.
Hovia Terrace – Apartment Levels	Minimum nil (balconies). Minimum 2.0m (main building).	Minimum nil (balconies). Minimum 2.0m (main building).	No substantial change.

As the proposed amendments result in a similar visual impact as the approved development, the proposed street setbacks are considered to not pose an adverse amenity impact on the locality and are consistent with the scheme's discretionary provisions.

**(h) Landscaping**

TPS6 Table 3 specifies a minimum 15% landscaped area (575.1m<sup>2</sup>) for this site, which is applicable as the whole development is a Mixed Development, a non-residential land use. A lesser landscaped area than listed in TPS6 Table 3 can be approved if the development satisfies the discretionary provisions in TPS6 cl. 7.8.

The following table identifies the proposed landscaping changes:

Item	Approved (11.2009.424.1)	Proposal (11.2009.424.2)	Amendment
Tourist Accommodation	Approx. 280m <sup>2</sup> .	<i>As approved.</i>	No change.
Residential	Approx. 445m <sup>2</sup> (Roof terrace).	11m <sup>2</sup> (Ground). 33m <sup>2</sup> (Roof terrace garden beds).	Higher proportion of hard surfaces proposed e.g. paving and artificial turf.
<b>Total</b>	<b>708m<sup>2</sup> (18.5%)</b>	<b>Approx. 324m<sup>2</sup> (8.5%)</b>	<b>▼ Approx. 384m<sup>2</sup> (10%).</b>

The reduction in landscaping is largely as a result in the changes to the roof terrace, from a largely private area with a high proportion of greenery to a communal open space with a high proportion of hard surfaces. However, the area of functional space between the approved development and the proposal are similar. It is noted that in addition to onsite landscaping, the applicant is intending to landscape the Canning Highway verge. As the proposed amendments result in a similar visual impact as the approved development, the proposed landscaping is considered to not pose an adverse amenity impact on the locality and is consistent with the scheme's discretionary provisions.

Additionally, R-Codes cl. 6.3.2 specifies requirements for landscaping. The proposal mostly complies with the deemed-to-comply requirements, with the exception of the provision of car parking and maximum 50% hard surfaces in the street setback area. Most of the street setback area at ground level consists of hard surfaces and the car bays from the car parking levels protrude into the street setback area, though these bays are screened as viewed from the street. A variation can be permitted if the development demonstrates compliance with the corresponding design principles.

The proposed amendments to the provision of landscaping and car bays within the street setback area are considered to be relatively minor compared to the approved development. The provision of landscaping within the portion of this site is considered to be sufficient and hence the proposal is seen to be compliant with the design principles.

(i) **Building Height**

TPS6 specifies a maximum 10.5 metre Building Height Limit for this site. Based on the RL18.94m highest ground level under the whole building, the building height limit (horizontal plane) is RL29.44m. TPS6 cl. 6.1A(5) lists permissible projections above this 10.5m height limit.

The following table identifies the proposed changes to building:

Item	Approved (11.2009.424.1)	Proposal (11.2009.424.2)	Amendment
Method of measurement	cl. 6.2	cl. 6.1A	Additional clarification and requirements.
Multiple Dwellings	RL34.3m maximum height.	RL29.44m BHL wall. RL32.3m maximum height.	▼ 2.0m maximum height.

The method of measuring building height has been amended since Council granted approval in May 2010, with the gazettal of TPS6 Amendment No. 17 on 30 July 2013. Most significant to this site is the introduction of a new 'buildings on sloping sites' requirement (cl. 6.1A(7)). This provision would reduce the building height limit for the residential component to RL25.94m, due to natural ground level under this section of the building being more than 3.5m below the RL18.94m highest ground level under the whole building.

Using the building height limit (horizontal plane) applicable to the approved development, the 'BHL wall' of the proposal does not exceed this height. All projections above this height are contained within the permitted 25 degree roof shape referenced in cl. 6.1A(5), or are exempt from the height limit calculation (such as the roof terrace pergolas).

As the application is an amendment to an approved development, it is considered that the local government has the ability to approve this height, as the proposal's overall height is lower than the approved development and the building in the proposed amended form would have no greater impact than currently approved. Having regard to the above, the proposed building height is supported.

**(j) Finished Floor Levels**

TPS6 cl. 6.10(1) generally specifies that the finished floor level should achieve equal cutting below and filling above the natural ground level. Variations can be approved if the development satisfies the discretionary provisions in TPS6 cl. 6.10(1)(b).

The following table identifies the proposed changes to building:

Item	Approved (11.2009.424.1)	Proposal (11.2009.424.2)	Amendment
Finished Floor Level	RL18.8m (Level 1). RL15.8m (Foyer).	RL17.8m (Level 1, including Foyer).	▼ 1.0m (Level 1).

The 'equal cut and fill' plus 100mm calculation for the proposed building is approx. RL15.34m. Accordingly, the proposed floor level of the lowest habitable floor level is approx. 2.47m above the 'equal cut and fill' calculation.

The proposed floor level is not seen to pose adverse visual impacts to any neighbouring property or cause any overshadowing impacts. As the proposed finished level is lower than the approved development, the impact on the streetscape is considered to be acceptable. Accordingly, the finished floor level is considered to comply with the discretionary provisions.

Additionally, TPS6 cl. 6.10(2) specifies a maximum driveway gradient, being 1:12 within 3.6m of the street alignment and 1:8 for the remainder of the driveway. The steepest driveway gradient in the proposal is 1:6. Policy P350.03 permits this steeper gradient subject to the receipt of an indemnity letter for any access difficulties. Therefore, this proposal is compliant subject to the provision of this letter by the owner and/or applicant.

**(k) Open Space**

R-Codes cl. 6.1.5 P5 specifies an open space design principle that the development needs to demonstrate compliance with – "open space respects existing or preferred neighbourhood character and responds to the features of the site". As this site is not subject to a local development plan or local structure plan, R-Codes Table 4 does not specify a minimum open space requirement for the R80 density coding and hence there is no deemed-to-comply requirement applicable.

The following table identifies the proposed open space changes:



Item	Approved (11.2009.424.1)	Proposal (11.2009.424.2)	Amendment
Tourist Accommodation	Approx. 2000m <sup>2</sup> (mostly car park)	<i>As approved.</i>	No change.
Residential	Approx. 40m <sup>2</sup> , 30m <sup>2</sup> uncovered (Ground). Approx. 400m <sup>2</sup> , 315m <sup>2</sup> uncovered (Roof terrace).	47m <sup>2</sup> , 34m <sup>2</sup> uncovered (Ground). 368m <sup>2</sup> , 278m <sup>2</sup> uncovered (Roof terrace).	▼ Approx. 25m <sup>2</sup> (1%) total. ▼ Approx. 33m <sup>2</sup> uncovered.
<b>Total</b>	<b>Approx. 2440m<sup>2</sup> (64%)</b>	<b>Approx. 2415m<sup>2</sup> (63%)</b>	<b>▼ Approx. 25m<sup>2</sup> (1%).</b>

The proposed amendment to open space is considered to be relatively minor and hence the proposal is seen to be compliant with the design principles.

**(l) Street Surveillance (Basement Parking Structures)**

R-Codes cl. 6.2.1 C1.3 requires the basement parking structure between the street frontage and front elevation to be no more than 1m above natural ground level. The height of the upper car park above natural ground level varies due to the sloping site, though the maximum height on the site is 3.8m, adjacent to Hovia Terrace. Screens are proposed adjacent to the street boundaries to visually screen this parking area from the street. A variation can be permitted if the development demonstrates compliance with the corresponding design principles.

The parking areas within the approved development are elevated more than 1m above natural ground level, particularly towards the Hovia Terrace side of the property. Accordingly, the proposal has a similar design outcome as the approved development.

The proposal provides an active frontage on the levels above the car park levels, with many passive surveillance opportunities over the adjacent streets from apartment balconies and windows. Hence the proposal is seen to be compliant with the design principles.

**(m) Outdoor Living Areas**

R-Codes cl. 6.3.1 C1 requires each dwelling to be provided with a balcony (or equivalent) that is at least 10m<sup>2</sup> and has a minimum dimension of 2.4m, accessed directly from a habitable room. Every apartment in the proposal achieves the minimum area and accessibility requirement. None of the apartments achieve the minimum dimension, though each balcony is at least 2.0m in depth. A variation can be permitted if the development demonstrates compliance with the corresponding design principles.

The approved development had 11 of 12 balconies with a depth of at least 2.4m and all balconies met the minimum area and accessibility requirements. The roof terrace was provided as a private space for two of the apartments.

The applicant's justification in relation to this matter makes reference that the balconies in the proposal are large enough to accommodate a table setting

and the provision of the large communal roof terrace. Having regard to these factors, the proposal is seen to be compliant with the design principles.

**(n) Parking & Design of Car Parking Spaces (Visitor Parking Access)**

R-Codes cl. 6.3.3 C3.1 and C3.2 specify minimum numbers of car and bicycle parking spaces for the development. The provided number of bays satisfies the deemed-to-comply requirement, as long as the visitor bays can be accessed by visitors. Additionally, R-Codes cl. 6.3.4 C4.2 requires the visitor car bays to be marked, close/visible to the point of entry, outside a security barrier and provide an accessible path of travel for people with disabilities. A variation can be permitted if the development demonstrates compliance with the corresponding design principles.

The following table identifies the proposed changes:

Item	Approved (11.2009.424.1)	Proposal (11.2009.424.2)	Amendment
Residential Car Visitor Parking	<ul style="list-style-type: none"> <li>• 3 bays (12 dwellings).</li> <li>• In front of sliding gate (upper level).</li> <li>• Accessed through lower level hotel car park.</li> <li>• Marked (Condition 7 of approval).</li> </ul>	<ul style="list-style-type: none"> <li>• 7 bays (28 dwellings).</li> <li>• Behind sliding gate (lower level).</li> <li>• Accessed through lower level hotel car park.</li> <li>• Marked (Condition 7 of approval).</li> </ul>	Visitor bays are relocated into a secure area.
Residential Bicycle Visitor Parking	<ul style="list-style-type: none"> <li>• None provided (12 dwellings).</li> </ul>	<ul style="list-style-type: none"> <li>• 3 bays (28 dwellings).</li> <li>• Behind roller door (upper level).</li> </ul>	Visitor bays are provided, located within a secure area.

A variation is being sought in relation to the visitor bays being located inside a security barrier. In addition to the R-Codes, Council Policy P350.03 cl. 4.4 provides guidance to assist the assessment of this matter. Further comment is contained in the following table:

Policy P350.03 cl. 4.4	Compliance
... Considers that the proposed location of bays would better serve visitors' convenience.	Acceptable.
(i) Visitors shall have convenient access outside the security barrier to an electronic communication system linked to each dwelling.	An electronic communication system is not identified on the plans, though it can be provided. A condition of approval is required to comply.
(ii) A dedicated embayed standing area shall be provided exclusively for use in conjunction with the electronic communications system.	Not provided.
(iii) The electronic communications system embayment shall be located wholly on the development site in a position where it will not obstruct the	An electronic communication system is not identified on the plans, though it can be provided in an acceptable location.

communal street.	
(iv) At least two visitors' bays are to be provided outside the security barrier in the case of Multiple Dwellings....	Not provided.

In this instance, while the proposal is not fully compliant with the policy provisions, these matters can be addressed in a satisfactory manner through a parking management plan. Subject to the provision of an acceptable parking management plan, the proposal is considered to demonstrate compliance with the R-Codes design principles.

**(o) Vehicular Access**

R-Codes cl. 6.3.5 C5.3 requires the driveways to be designed to allow two way access for vehicles. A variation can be permitted if the development demonstrates compliance with the corresponding design principles. A variation is proposed for the access ramp to the lower level carpark, which is single width. The plans identify an oncoming traffic indicator light at both ends of the ramp, to provide a warning when oncoming vehicles are present, to prevent vehicles collisions on or adjacent to this ramp. The approved development also had single width access ramps.

In this instance, the proposal is considered to be compliant with the design principles.

**(p) Dwelling Size (Dwelling Diversity)**

R-Codes cl. 6.4.3 C3.1 requires the development to provide a diversity of dwelling types, with minimum numbers of 1 and 2 bedroom dwellings and a maximum number of 1 bedroom dwellings. A variation is being sought in relation to the maximum provision of 1 bedroom dwellings and the minimum provision of 2 bedroom dwellings. A variation can be permitted if the development demonstrates compliance with the corresponding design principles.

The following table identifies the proposed changes:

Item	Approved (11.2009.424.1)	Proposal (11.2009.424.2)	Amendment
Requirement	<i>R-Codes 2008</i> had no dwelling diversity requirements.	<i>R-Codes 2015</i> cl. 6.4.3 C3.1: <u>1 Bedroom:</u> Min. 6 and Max. 14. <u>2 Bedroom:</u> Min. 12.	New requirement.
1 Bedroom	0 (0%).	20 (71%).	▲ 20.
2 Bedrooms	1 (8%).	6 (21%).	▲ 5.
3 Bedrooms	7 (58%).	2 (7%).	▼ 5.
4 Bedrooms	4 (33%).	0 (0%).	▼ 4.

The applicant's justification in relation to this matter makes reference to the anticipated higher number of single person households within the proposed development, due to the site's proximity to the Perth Central Business District and Curtin University, proximity to bus routes to these locations and the need to provide affordable housing.

The proposal is seen to provide an adequate diversity in dwelling types and sizes and as a result is considered to demonstrate compliance with the design principles.

**(q) Utilities and Facilities (Storage Areas)**

R-Codes cl. 6.4.6 C6.1 requires the development to provide a storage area of minimum specifications for each dwelling. A variation is being sought in relation to the minimum 1.5m dimension, affecting the storage areas provided for 6 dwellings within the proposal. A variation can be permitted if the development demonstrates compliance with the corresponding design principles.

The variations are minor and the affect storage areas are seen to provide a functional storage space for these residents. Accordingly, the proposal is considered to demonstrate compliance with the design principles.

**(r) Mechanical Parking Devices (Car Stackers) Specifications**

Council Policy P350.03 cl. 8.1 specifies minimum specifications for car stacker systems. The local government is required to have due regard to the policy but is not bound by its provisions. A variation is being sought in relation to the car bay depth (0.1m shortfall) and weight bearing capacity (600kg shortfall). The approved development did not contain any car stacker systems.

The variations are minor and the car bays are considered to be functional for the users of this development, as many vehicle models can utilise these bays. Accordingly, the proposal is considered to be acceptable in this regard.

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

In considering the application, the local government 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 local government, relevant to the proposed development. Of the 12 listed matters, the following are particularly relevant to the current application and require careful consideration:

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

- (l) *Recognise and facilitate the continued presence of significant regional land uses within the City and minimise the conflict between such land use and local precinct planning.*

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

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

In considering an application for development approval the local government is to have due regard to the matters listed in clause 67 of the 'Deemed Provisions' to the extent that, in the opinion of the local government, those matters are relevant to the development the subject of the application. The proposed development is considered satisfactory in relation to all of these matters, subject to the recommended conditions.

**Consultation**

**(a) Design Advisory Consultants' Comments**

The approved development is subject to a revised drawing condition in relation to building design, as follows:

- (17) *Revised drawings shall be submitted, and such drawings shall incorporate the following:*

- (i) *in accordance with the comments from the Design Architect Consultants, architectural treatments shall be added to the residential portion of the development along Canning Highway;...*

The design of the proposal was considered by the City's Design Advisory Consultants (DAC) at their meeting held in June 2017, following pre-lodgement reviews in August and September 2016. The proposal was favourably received by the Consultants. Their comments and responses from the Applicant and the City are summarised below.

DAC Comments	Applicant's Responses	Officer's Comments
The projection of the fire escape stairs to the roof terrace, outside of the building envelope is an unsatisfactory design outcome within the streetscape. Applicant to discuss this matter further with City officers in relation to permitted building height controls in conjunction with minor projections. Possibility of a design solution to align with the rest of the building.	In regard to the projection of the fire escape stairs, every attempt has been made to lower this element, however, by way of explanation, the inclined roof is the result of having to provide stair access to the roof-deck and the design mimics the stair flight under. The fire escape stair element does not encroach into the building height limit.	The plans have not been amended as recommended by the DAC. The comment is <b>NOTED</b> .
The panel suggest the applicant subdue the roof	The side wall colour of the abovementioned fire	The applicant has amended the plans as

top level colour (white walls shown on the development plans) to a deeper tone, to reduce the visual impact of this component of the development.	escape stairs has been modified and this is depicted on the revised elevations.	recommended by the DAC. The comment is <b>UPHELD</b> .
The particular green render shown on the external elevations is somewhat disappointing; the panel suggest the applicant respond with a more considered colour palette.	The elevations have been revised to show a colour in line with the taupe used on the hotel extension on Banksia Terrace. The colour palette on the external elevations has been updated to include a more subdued colour. The proposed deeper colour will be submitted as part of the building permit.	The applicant has amended the plans as recommended by the DAC. The comment is <b>UPHELD</b> .

In addition to the above, the DAC has indicated that the revised drawing requirements from the approved development have been adequately addressed in the proposal.

**(b) Neighbour Consultation**

Neighbour Consultation has been undertaken for this proposal to the extent and in the manner required by Council Policy P301 'Consultation for Planning Proposals'. Under the 'Area 2' consultation method, individual property owners, occupiers and/or strata bodies within 150m on Banksia Terrace, Canning Highway and Hovia Terrace were invited to inspect the plans and to submit comments during a minimum 21-day period. In addition, signs were placed on the site inviting comment from any other interested person.

During the advertising period, a total of 245 consultation notices were sent and 3 submissions were received, all against the proposal. Additionally, the text of a petition that the organiser intends to formally lodge prior to Council's determination of this application has been received. The main comments of the submitters, together with officer responses are summarised below.

<b>Submitters' Comments</b>	<b>Officer's Responses</b>
Visual impact of building.	The proposed amendments have a similar visual impact as the approved development. The comment is <b>NOT UPHELD</b> .
Extent of landscaping, particularly at street level.	The proposed amendments have a similar extent of landscaping at street level as the approved development. The comment is <b>NOT UPHELD</b> .
Traffic impact of additional dwellings.	The increase in the number of dwellings is anticipated to have a minor impact and should not pose an adverse amenity impact to neighbouring properties. The comment is <b>NOTED</b> .
City views impact – loss of	The Council's policy only applies to neighbouring

views.	sites that share a lot boundary with the development site. The proposal has a similar impact upon views as the approved development. The comment is <b>NOT UPHELD.</b>
Visual privacy.	The proposal meets the visual privacy deemed-to-comply requirements of the R-Codes. The comment is <b>NOT UPHELD.</b>
Car parking provision.	The proposal meets the car parking deemed-to-comply requirements of the R-Codes. The comment is <b>NOT UPHELD.</b>

The applicant has separately provided responses to the public submissions. A copy of the public submissions are contained in **Attachment (e)**.

**(c) Engineering Infrastructure**

Engineering Infrastructure was invited to comment on a range of issues relating to car parking and traffic, arising from the proposal. Comments have been received relating to the car stacker systems, vehicle crossovers and stormwater. A copy of these comments are contained in **Attachment (f)**.

**(d) Environmental Health**

Environmental Health was invited to comment on a range of issues relating to the proposal. Comments have been received relating to the car park ventilation and waste management. A copy of these comments are contained in **Attachment (g)**.

**(e) Main Roads WA**

As required by the local government delegation from the Western Australian Planning Commission to determination this application, the proposal was referred to Main Roads WA as the site is adjacent to a Primary Regional Roads reservation (Canning Highway).

Main Roads has no objection to the proposal and a recommended a number of conditions and advice notes. A copy of the recommendation is contained in **Attachment (h)**.

In the event Council finds the Main Roads recommendation is not acceptable, the City will need to refer this application to the Western Australian Planning Commission for determination.

**Policy and Legislative Implications**

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

**Financial Implications**

This determination could have significant financial implications should the application be refused, in the event an appeal to the State Administrative Tribunal is lodged by the applicant.

**Strategic Implications**

This matter relates to Strategic Direction 3 “Housing and Land Uses” identified within Council’s Strategic Plan 2015-2025 which is expressed in the following terms: *Accommodate the needs of a diverse and growing population.*

### **Sustainability Implications**

The inclusion of a minimum 4 star Green Star rating condition will satisfactorily address the Council’s sustainability expectations.

### **Conclusion**

It is considered that the proposal constitutes an amendment that does not substantially change the development approved by Council in 2010. Overall, the proposal is similar in scale and bulk to the approved development. The proposal is considered to satisfy all of the relevant planning objectives and provisions. Accordingly, it is considered that the application should be approved subject to the recommended conditions.

### **Attachments**

- 10.3.5 (a):** Planning Approval 25 May 2010, Amended 17 June 2011 - Lot 10 (No. 61) Canning Highway, South Perth - 11.2009.424.1
- 10.3.5 (b):** Advertised Plans - Lot 10 (No. 61) Canning Highway, South Perth - 11.2009.424.2
- 10.3.5 (c):** Amended Development Plans - Lot 10 (No. 61) Canning Highway, South Perth - 11.2009.424.2
- 10.3.5 (d):** Applicant's Reports - Lot 10 (No. 61) Canning Highway, South Perth - 11.2009.424.2
- 10.3.5 (e):** Neighbour Consultation Submissions - Lot 10 (No. 61) Canning Highway, South Perth - 11.2009.424.2
- 10.3.5 (f):** Engineering Infrastructure Comments - Lot 10 (No. 61) Canning Highway, South Perth - 11.2009.424.2
- 10.3.5 (g):** Environmental Health Comments - Lot 10 (No. 61) Canning Highway, South Perth - 11.2009.424.2
- 10.3.5 (h):** Main Roads WA Comments - Lot 10 (No. 61) Canning Highway, South Perth - 11.2009.424.2



## 9.4 STRATEGIC DIRECTION 4: PLACES

Prior to discussion on the following item, Councillor Ken Manolas read aloud his Declaration of Interest:

*"I wish to declare an impartiality interest in Item 10.4.1 Reserve 34565 Management Order on the Ordinary Council Meeting of 25 July, 2017. I declare that I reside at and am joint owner of 193 Mill Point Road, and that, the proximity of this property to the South Perth Foreshore could lead to a perception that my impartiality on this item may be affected.*

*In accordance with requirements set out in section 5.65 of the Local Government Act, I acknowledge that there also may be a perception that I have a proximity interest and/or a financial interest in item 10.4.1 regarding the Reserve 34565 Management order to be discussed at the Ordinary Council Meeting 25 July, 2017.*

*In accordance with Section 5.60 B of the Local Government Act 1995, I wish to declare that I do not have a proximity interest as my property does not adjoin or have a common boundary with the proposed location of Reserve 34565.*

*In accordance with Section 5.60A of the Local Government Act 1995, I wish to declare that I do not have a financial interest as I do not believe that the proposed Management Reserve Order 34565 proceeding would result in a financial impact (negative or positive) on the value of my property.*

*It is also my view that the proposed Reserve 34565 Management Order is an item that is common with a significant number of electors and/or ratepayers – 5.63 (1) (a) of the Local Government Act 1994.*

*In the event that council do not concur with the above declarations, I request that Council to allow me to participate in item 10.4.1 Reserve 34565 Management order in accordance with section 5.68 of the Local Government Act 1995."*

### 10.4.1 Reserve 34565 Management Order

Location:	South Perth
Ward:	Mill Point Ward
Applicant:	City of South Perth
File Ref:	D-17-58975
Date:	25 July 2017
Author:	Phil McQue, Manager Governance and Marketing
Reporting Officer:	Geoff Glass, Chief Executive Officer
Strategic Direction:	Community -- Create opportunities for an inclusive, connected, active and safe community
Council Strategy:	1.3 Create opportunities for social, cultural and physical activity in the City.

#### Summary

This report considers the use of Reserve 34565 by the City for temporary functions and events and recommends that the designated purpose of a portion of this Reserve be amended to include *'impermanent food, beverage and the entertainment events'* to allow for temporary events and functions to be continue to be held on this Reserve.

**Amended Motion Recommendation**

**Moved:** Councillor Colin Cala

**Seconded:** Councillor Sharon Hawkins-Zeeb

That the Council resolve to **authorise** the City to make an application to the Department of Lands requesting that the Department change the designated purpose of a portion of Reserve 34565 to:

- (a) Recreation; and
- (b) Impermanent food, beverage and other entertainment events **and in accordance with Council Resolution 10.0.1 of June 2017.**

**LOST ON CASTING VOTE**

**Officer Recommendation AND COUNCIL DECISION**

**Moved:** Councillor Fiona Reid

**Seconded:** Mayor Sue Doherty

That the Council resolve to **authorise** the City to make an application to the Department of Lands requesting that the Department change the designated purpose of a portion of Reserve 34565 to:

- (a) Recreation; and
- (b) Impermanent food, beverage and other entertainment events.

**CARRIED (5/3)**

**Background**

Reserve 34565 (shown as I in the map below) comprises a portion of Crown Land within Sir James Mitchell Park, primarily being reclaimed land that adjoins the City's freehold land.



The Management Order for Reserve 34565 in the map below, vests the care, control and management of the Reserve in the City, subject to the condition that the Reserve be used for the designated purpose of 'recreation' and for purposes 'ancillary or beneficial to recreation'.

### Comment

The term 'recreation' has no legal authority in Western Australia, and there is no case law relevant. The City and its solicitors met with the Department of Lands (Department) to clarify the purpose of use that is permitted under 'recreation' and what is meant by 'ancillary or beneficial' to the purpose of recreation.

The Department noted that the 'recreation' purpose of use had changed over time from general passive recreation activities to now include social and leisure activities.

The Department advised it was arguable whether some of the temporary functions and events previously approved by the City fell within the 'recreation' purpose of use. These temporary events include functions such as the 40 under 40, Oil and Gas Function, Dinner in the Sky, Embargo, Melbourne Cup events, corporate Christmas parties, etc. Other factors taken into account include 'duration' of use and whether the proposal involves 'exclusive use' of a part of the reserve.

The Department recommended that the City consider requesting the Minister for Lands to amend the purpose of the reserve to include 'entertainment', to allow for temporary functions and events to fall within the designated purpose specified in the Management Order. The Department advised that it is supportive of activating Reserve 34565 and making it attractive to users.

The City considers the 'entertainment' purpose of use too broad and that it may result in public interest issues if the purpose is too different to the current purpose. The City is recommending to Council the purpose of use '*impermanent food, beverage and other entertainment events*', as this has a narrower and more defined intent. It would clarify to the community that the City is not seeking to, nor proposing to hold temporary events and functions dissimilar to what has been held in the past.

This description:

- retains the existing designated purpose of 'recreation';
- expands the existing designated purpose to capture the type of events that have been authorised previously on the Reserve (i.e. food and beverage events);
- extends widely enough to capture other types of entertainment events that the City might want to consider using the reserve for in the future (i.e. garden show, caravan show, etc); and
- identifies that the use of the Reserve for these events will not be a permanent use of the Reserve.

Should the Council agree to this recommendation, the City would seek approval from the Minister for Lands to extract this portion of the Reserve from the wider Reserve and seek that the Minister issue a new management order for the portion, with a designated purpose suited to facilitating temporary uses of the Reserve.

The City has identified the relevant portion of Reserve 34565 that would be suitable for a change in the designated purpose. The area is shown cross hatched on the maps attached to this report as **Attachment (a)**.

## 10.6.1 Interim Management Account Summaries

The City is of the view that this proposal is entirely consistent with the South Perth Foreshore Strategy and Management Plan (SPFSMP), inclusive of the 2012 survey which found that a majority of respondents (82%) wanted to see temporary events on the South Perth foreshore.

This proposal also meets Objective Number One of the SPFSMP, which is to '*create opportunities for increased social activity*'. The SPFSMP also recommends that the City develop a strategy for short term activation and events on the foreshore, and this proposal will facilitate such a strategy being developed.

It must be noted that where the City will be issuing a licence for a larger temporary function or event of a commercial nature, such as Dinner in the Sky or a pop up bar, it will also require the consent of the Minister for Lands under section 18 of the *Land Administration Act 1997*.

### Consultation

In order to have the designated purpose of a portion of the Reserve 34565 changed, the City will need to make a written submission to the Department in support of its application. This will include consultation with interested parties, such as the Swan River Trust.

The Department may also consult with interested parties in considering this application.

The City and its solicitors Jackson McDonald have consulted with the Department of Lands on this matter.

Jackson McDonald has also presented on this matter to a Councillor Briefing on 14 June 2017.

### Policy and Legislative Implications

The *Land Administration Act 1997* and *Swan and Canning Rivers Management Act 2006* are applicable to Reserve 34565 and its uses.

### Financial Implications

The City receives approximately \$100,000 per annum in fees and charges for temporary functions and events held on Reserve 34565.

### Strategic Implications

This report is aligned to the City's [Strategic Community Plan 2015-2025](#).

### Sustainability Implications

This report is aligned to the City's [Sustainability Strategy 2012-2015](#).

### Attachments

10.4.1 (a): Reserve 34565 Map

### 10.4.2 Reserve 33804 Proposed Millers Pool Restaurant / Cafe

Location:	South Perth
Ward:	Mill Point Ward
Applicant:	City of South Perth
File Ref:	D-17-58976
Date:	25 July 2017
Author:	Phil McQue, Manager Governance and Marketing
Reporting Officer:	Geoff Glass, Chief Executive Officer
Strategic Direction:	Places -- Develop, plan and facilitate vibrant and sustainable community and commercial places
Council Strategy:	4.4 Engage the community to develop a plan for vibrant activities and uses on and near foreshore areas and reserves around the City.

#### Summary

This report considers the City's proposal to develop a portion of Reserve 33804 for the purpose of a permanent café / restaurant, to be known as Millers Pool Café.

#### Officer Recommendation AND COUNCIL DECISION

**Moved:** Councillor Cheryle Irons

**Seconded:** Councillor Colin Cala

That the Council resolve to authorise the City to proceed to:

- a) Commence community consultation for a six week period in relation to the Millers Pool Café proposal;
- b) Commence consultation with relevant Government Agencies in relation to the Millers Pool Café proposal;
- c) Undertake an expression of interest process, inclusive of a business case, from parties interested in developing and operating Millers Pool Café; and
- d) Report back to Council on the consultation and expression of interest process.

**CARRIED EN BLOC (8/0)**

#### Background

Reserve 33804 comprises a portion of Crown Land near Millers Pool, primarily being reclaimed land. The care, control and management of Reserve 33804 has been vested in the City pursuant to Management Order 1697600, subject to the condition that the Reserve is to be used for the designated purpose of 'recreation', and for purposes 'ancillary or beneficial to recreation'.

The Management Order does not grant the City a power to lease or licence the whole or any portion of the reserve.

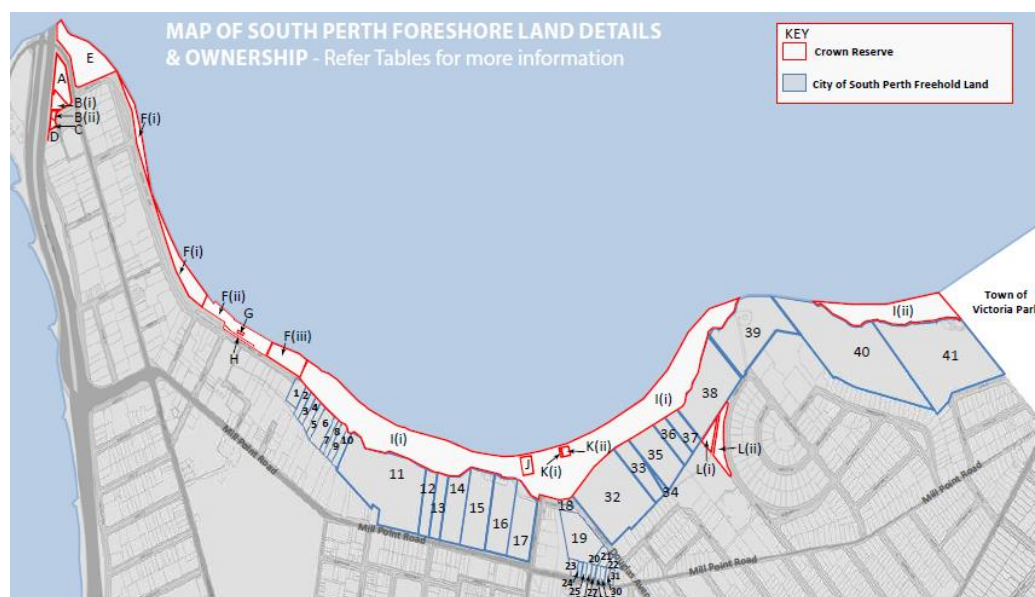
**Comment**

The City is proposing to develop a portion of Reserve 33804 for the purpose of a permanent café / restaurant, to be known as Millers Pool Café.

The South Perth Foreshore Strategy and Management Plan (SPFSMP) is the strategic document that guides the use, development and management of the South Perth Foreshore.

The SPFSMP contemplates a permanent drink/food stop being located at “Foreshore Node 5: Mill Point” (Strategy N5.3), which is located on Reserve 33804.

Reserve 33804 identified as ‘E’ is shown below, extracted from Appendix 08 of the SPFSMP.



Millers Pool Café is initiative 4.1.7 of the 2015-2019 Corporate Business Plan, being ‘*Millers Pool Café / Restaurant – Develop and conduct an Expression of Interest / Tender process*’.

The concept for Millers Pool Café has previously been presented to Council as part of the Mill Point Node 5 Development Concept in 2015 (Stage 2), and was also the subject of extensive community consultation from July 2015 to September 2015.

The Council adopted the Mill Point Node 5 Development Concept in October 2015, where the following was noted:

*There was considerable discussion at the public information session, concerning the proposed café/restaurant, which is part of Stage 2 and not currently funded but shown on the Concept plan. The City was very clear about the possibility of a potential future café/restaurant and most of the feedback to this proposal was positive – although the community were clear for their preferences:*

- *To ensure that it catered for casual/informal dining – not only formal / higher end;*
- *A single storey and ‘appropriate’ building for the area close to the river*

The City engaged JBA Survey’s to undertake a site survey of the proposed land shown at **Attachment (a)**. The preliminary site drawings identify:

### 10.6.1 Interim Management Account Summaries

- the boundaries of the café land (791m<sup>2</sup>); and
- the boundaries of a proposed easement (368m<sup>2</sup>) to provide road access to the site.

The City commissioned concepts of what the proposed Millers Pool Café could possibly look like, shown below.



In April 2017, the City met with representatives from the Department of Lands (Department) to discuss the low impact single storey café proposal at Millers Pool.

The Department advised when a ‘use’ of a reserve may no longer be considered to be consistent with the designated purpose of ‘recreation’, including where:

- the use of the reserve is for a permanent commercial activity, such as a café; and
- the commercial activity, such as a café, is the purpose for a person visiting the reserve so that the commercial activity cannot be described as ‘ancillary’ to the designated purpose of ‘recreation’ for the reserve.

The Department indicated that in this situation, the portion of the reserve required for the proposed permanent café would be required to be ‘excised’ from the wider reserve and leased to the City for a commercial purpose pursuant to section 79 of the *Land Administration Act 1997*. A sub-lease arrangement would then be entered into between the City and the successful applicant of the expression of interest process. This process was undertaken in respect of the Boatshed Café, also located on the South Perth Foreshore.

Having regard to the Department’s observations set out above, to facilitate the Millers Pool Café at this site, the following action is required:

- excision from Reserve 33804; and
- leasing to the City for the purposes of a café/restaurant together with the power to sub-lease (in a manner similar to the Boatshed Café).

## 10.6.1 Interim Management Account Summaries

The City required the Department's 'in principle' approval to progress this proposal and present it to Council for consideration. This 'in principle' approval was received on 5 July 2017, subject to the City providing the following in due course:

- details of the development to be carried out (i.e. concept plans, site details, details regarding the business to be operated from the site, etc);
- details of the terms on which the site will be leased (i.e. proposed lessee, permitted use, term, rent, etc);
- details regarding any applicable liquor licensing arrangements;
- copy of the Business Case from the successful applicant;
- outcome of community consultation in relation to the Millers Pool Café proposal; and
- outcome of consultation with relevant Government Agencies in relation to the Millers Pool Café proposal.

### Consultation

As noted above, the City is required to undertake community consultation in relation to the Millers Pool Café proposal, which will be for a six week period. The City is also required to consult with relevant Governance Agencies. The outcome of this consultation will be the subject of a further report to Council.

The Mill Point Node 5 Development Concept, inclusive of the café, was previously the subject of extensive community consultation from July 2015 to September 2015, prior to being adopted by the Council in October 2015.

The City has consulted with the Department of Lands on this matter.

This proposal was also the subject of a Councillor Briefing on 14 June 2017.

### Policy and Legislative Implications

The *Land Administration Act 1997* and the *Swan and Canning Rivers Management Act 2006* are applicable to Reserve 33804 and its uses.

### Financial Implications

The City commissioned a commercial feasibility study on the proposed café development in 2015. The analysis covered development costs, revenue, funding and finance options tenure and operation models based upon facility design and operations. Two designs were considered, the curved café and a bathing box café, with the bathing box café demonstrating the strongest economic outcome.

The Department of Lands have advised the City that the appropriate terms, rental amount and conditions of the leasing arrangement will be in accordance with State Government policies, procedures and legislation.

### Strategic Implications

This report is aligned to the City's [Strategic Community Plan 2015-2025](#).

### Sustainability Implications

This report is aligned to the City's [Sustainability Strategy 2012-2015](#).

### Attachments

10.4.2 (a): Site Survey



9.6 STRATEGIC DIRECTION 6: GOVERNANCE, ADVOCACY AND CORPORATE MANAGEMENT

10.6.1 Interim Management Account Summaries

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-17-58479
Date:	25 July 2017
Author:	Andre Brandis, Manager Finance
Reporting Officer:	Colin Cameron, Director Corporate Services
Strategic Direction:	Governance, Advocacy and Corporate Management -- Ensure that the City has the organisational capacity, advocacy and governance framework and systems to deliver the priorities identified in the Strategic Community Plan
Council Strategy:	6.2 Develop and maintain a robust Integrated Planning and Reporting Framework (in accordance with legislative requirements).

**Summary**

The Interim Monthly Management Account Summaries have been prepared, acknowledging numerous year end processes are yet to be completed. These processes will significantly alter final balances presented in the Annual Financial Statements, particularly relating to Asset Values. These summaries are presented to Council as Interim information, with comment provided on the significant financial variances, noting 2016/17 Annual Financial Statements will be presented to Council in November 2017.

**Officer Recommendation AND COUNCIL DECISION**

**Moved:** Councillor Cheryle Irons

**Seconded:** Councillor Colin Cala

That:

- (a) Council adopts a definition of 'significant variances' as being \$5,000 or 5% of the project or line item value (whichever is the greater)
- (b) the Interim Monthly Statement of Financial Position and Interim Financial Summaries for June 2017 provided as **Attachment (a) - (e)** be received
- (c) the Interim Schedule of Significant Variances for June 2017 provided as **Attachment (f)** be accepted as having discharged Council's statutory obligations under Local Government (Financial Management) Regulation 34
- (d) the Schedule of Movements between the Adopted & Amended Budget for June 2017 provided as **Attachment (g) & (h)** be received.
- (e) the Interim Rate Setting Statement for June 2017 provided as **Attachment (i)** be received.

CARRIED EN BLOC (8/0)

### Background

Local Government (Financial Management) Regulation 1996, Regulation 34 requires the City to present monthly financial reports to Council in a format reflecting relevant accounting principles.

The Summary of Operating Revenues and Expenditures with the Summary of Capital Items gives a consolidated view of all operations under Council's control - reflecting the City's actual financial performance against budget targets.

Local Government (Financial Management) Regulation 35 requires significant variances between budgeted and actual results include commentary. The City adopted a definition of 'significant variances' as being \$5,000 or 5% of the project or line item value (whichever is the greater) for 2016/17. The 2017/18 Budget, adopted on 10 July 2017 has increased the amount to \$10,000 or 10% for the 2017/18 financial year.

A monthly Statement of Financial Position detailing the City's assets and liabilities and giving a comparison of the value of those assets and liabilities with the relevant values for the equivalent time in the previous year is also provided.

The Interim Monthly Management Account Summaries have been prepared, acknowledging numerous year end processes are yet to be completed. These processes will significantly alter final balances presented in the Annual Financial Statements, particularly relating to asset values. These summaries are presented to Council as Interim information, with comment provided on the significant financial variances, noting 2016/17 Annual Financial Statements will be presented to Council in November 2017.

### Comment

The components of the monthly management account summaries presented are:

- Statement of Financial Position - **Attachments (a) & (b)**
- Summary of Non Infrastructure Operating Revenue and Expenditure **Attachment (c)**
- Summary of Operating Revenue & Expenditure - Infrastructure Service **Attachment (d)**
- Summary of Capital Items - **Attachment (e)**
- Schedule of Significant Variances - **Attachment (f)**
- Reconciliation of Budget Movements - **Attachments (g) & (h)**
- Rate Setting Statement - **Attachment (i)**

Operating Revenue to 30 June 2017 is \$54.85M which represents 100% of the \$54.76M year to date budget. Revenue performance is close to budget in most areas other than items identified below.

Rates revenue is on budget, whilst Investment revenues are 31% under budget. Parking revenue is 5% behind budget targets following a quieter than expected third and fourth quarters.

Planning revenues are 30% under budget (despite downwards budget revisions) due to the slowing of activity particularly in the station precinct. Building Services revenue is currently above budget by 2%.

## 10.6.1 Interim Management Account Summaries

Waste management revenues are on budget expectations and Collier Park Golf Course revenue continues to track at 6% under budget following a downwards revision in the Q2 Budget Review.

Comment on the specific items contributing to the revenue variances may be found in the Schedule of Significant Variances - **Attachment (f)**.

Operating Expenditure to 30 June 2017 is \$53.74M which represents 97% of the year to date budget of \$55.41M. Operating Expenditure shows as 5% under budget in the Administration area. Operating costs are 7% under budget for the golf course and show as being 1% under budget in the Infrastructure Services area.

In addition to the differences specifically identified in the Schedule of Significant Variances, the variances in operating expenditures in the administration area largely relate to timing differences on billing by suppliers, savings on consultancy or vacant staff positions.

In the Infrastructure Services operations area, there are some favourable variances at the end of the month that relate to timing differences on maintenance activities.

Fleet operations currently show that whilst cash costs are being effectively managed well within budget, recovery of plant charge-out against jobs remains problematic. A different strategy is being progressively implemented to try to better understand and manage plant charge recoveries.

Comment on the specific items contributing to the operating expenditure variances may be found in the Schedule of Significant Variances - **Attachment (f)**.

Where appropriate, relevant expenditure adjustments were made in the Q2 Budget Review.

Capital Revenue is disclosed as \$5.09M at 30 June which exceeds the year to date budget of \$5.03M by 1%. Capital Expenditure to 30 June is \$19.82M representing 79% of the (revised) year to date budget of \$25.21M.

The table reflecting capital expenditure progress versus the year to date budget by directorate is presented from October onwards each year once the final Carry Forward Works are confirmed after completion of the annual financial statements.

**TABLE 1 - CAPITAL EXPENDITURE BY SERVICE AREA GROUPING**

Directorate	YTD Budget	YTD Actual	% YTD Budget	Total Budget
CEO Office	1,214,000	300,188	25%	1,214,000
Major Community Projects	5,500,000	5,316,570	97%	5,500,000
Financial & Information	1,760,000	771,071	44%	1,760,000
Development	250,000	348,756	140%	250,000
Community Services	725,000	752,278	104%	725,000
Infrastructure Services	14,164,505	11,412,343	81%	14,164,505

## 10.6.1 Interim Management Account Summaries

Waste Management	665,000	288,359	43%	665,000
Golf Course	936,612	626,682	67%	936,612
<b>Total</b>	<b>25,215,117</b>	<b>19,846,458</b>	<b>79%</b>	<b>25,215,117</b>

A Schedule showing the movements in the budget since adoption is also presented from the November meetings onwards.

### Consultation

This financial report is prepared to provide financial information to Council and to evidence the soundness of the administration's financial management. It also provides information about corrective strategies being employed to address any significant variances and it discharges accountability to the City's ratepayers.

### Policy and Legislative Implications

This report is in accordance with the requirements of the Section 6.4 of the *Local Government Act* and Local Government Financial Management Regulation 34.

### Financial Implications

The attachments to the financial reports compare actual financial performance to budgeted financial performance for the period. This provides for timely identification of variances which in turn promotes dynamic and prudent financial management.

### Strategic Implications

This report is aligned to the City's [Strategic Community Plan 2015-2025](#).

### Sustainability Implications

This report is aligned to the City's [Sustainability Strategy 2012-2015](#). Financial reports address the 'financial' dimension of sustainability by promoting accountability for resource use through a historical reporting of performance - emphasising pro-active identification and response to apparent financial variances.

Furthermore, through the City exercising disciplined financial management practices and responsible forward financial planning, we can ensure that the consequences of our financial decisions are sustainable into the future.

### Attachments

- 10.6.1 (a): Statement of Financial Position
- 10.6.1 (b): Statement of Financial Position
- 10.6.1 (c): Summary of Non Infrastructure Operating Revenue and Expenditure
- 10.6.1 (d): Summary of Operating Revenue and Expenditure - Infrastructure Services
- 10.6.1 (e): Summary of Capital
- 10.6.1 (f): Schedule of Significant Variances

**10.6.1 Interim Management Account Summaries**

- 10.6.1 (g): Reconciliation of Budget Movements
- 10.6.1 (h): Reconciliation of Budget Movements
- 10.6.1 (i): Rate Setting Statement

## 10.6.2 Statement of Funds, Investments and Debtors at 30 June 2017

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-17-58480
Date:	25 July 2017
Author:	Andre Brandis, Manager Finance
Reporting Officer:	Colin Cameron, Director Corporate Services
Strategic Direction:	Governance, Advocacy and Corporate Management -- Ensure that the City has the organisational capacity, advocacy and governance framework and systems to deliver the priorities identified in the Strategic Community Plan
Council Strategy:	6.2 Develop and maintain a robust Integrated Planning and Reporting Framework (in accordance with legislative requirements).

### Summary

This report presents to Council a statement summarising the effectiveness of treasury management for the month including:

- the level of controlled Municipal, Trust and Reserve funds at month end
- an analysis of the City's investments in suitable money market instruments to demonstrate the diversification strategy across financial institutions
- statistical information regarding the level of outstanding Rates & Debtors

### Officer Recommendation AND COUNCIL DECISION

**Moved:** Councillor Cheryle Irons

**Seconded:** Councillor Colin Cala

That Council receives the 30 June 2017 Statement of Funds, Investment & Debtors comprising:

- Summary of All Council Funds as per **Attachment (a)**
- Summary of Cash Investments as per **Attachment (b)**
- Statement of Major Debtor Categories as per **Attachment (c)**

**CARRIED EN BLOC (8/0)**

### Background

Effective cash management is an integral part of proper business management. The monthly report is presented detailing the levels of cash holdings on behalf of the Municipal and Trust Funds as well as funds held in 'cash backed' Reserves. As significant holdings of money market instruments are involved, an analysis of cash holdings showing the relative levels of investment with each financial institution is also provided.

## 10.6.2 Statement of Funds, Investments and Debtors at 30 June 2017

A comparative analysis of the levels of outstanding rates and general debtors relative to the same stage of the previous year is provided to monitor the effectiveness of cash collections and to highlight any emerging trends that may impact on future cash flows.

### Comment

#### (a) Cash Holdings

Total funds at month end are \$62.72M which compares unfavourably to \$66.61M at the equivalent time last year. This is largely the result of planned drawdowns from Reserves as contributions towards the Manning Hub project. Last month, total funds were \$65.98.

Municipal funds represent \$10.46M of this total, with a further \$51.12M being Reserve Funds. The balance of \$1.13M relates to monies held in Trust.

In July 2015, the previous 24 reserves were consolidated into just 15 with this consolidation being effected with the transfer of funds from the Future Municipal Works Reserve and Future Building Works Reserve into the Major Community Facilities Reserve; from the Parks and Streetscapes Reserve into the Reticulation & Pump Reserve; and from the Paths and Transport Reserve into the Sustainable Infrastructure Reserve.

The only significant reserve movements since 30 June 2016 have related to movements of leaseholder funds associated with the Collier Park Village and transfers reflecting the operating results of the Collier Park Village and Golf Course.

The largest Reserve balance is the Major Community Facilities Reserve, but the land sale proceeds currently quarantined in that reserve do not represent 'surplus cash'. These funds are being progressively utilised as part of carefully constructed funding models for future major discretionary capital projects. These funding models are detailed in the City's Long Term Financial Plan.

Details of cash holdings (disclosed by fund) are presented as **Attachment (a)**.

#### (b) Investments

Total investment in money market instruments at month end was \$60.69M compared to \$63.78M at the same time last year.

Funds are invested in secure Australian Authorised Deposit-taking Institutions (ADIs) to generate interest until those monies are required to fund operations and projects during the year.

The portfolio currently comprises at-call cash and term deposits only. Although bank accepted bills are permitted, they are not currently used given the volatility of the global financial and corporate environment.

The City's investment policy requires that at least 80% of investments are held in securities having an S&P rating of A1. This ensures that credit quality is maintained. Investments are made in accordance with Policy P603 and the Department of Local Government Operational Guidelines for investments.

## 10.6.2 Statement of Funds, Investments and Debtors at 30 June 2017

Analysis of the composition of the investment portfolio shows that at reporting date, 91% of the funds were invested in securities having a S&P rating of A1 (short term) or better.

The City also holds a portion of its funds in financial institutions that do not invest in fossil fuels. Investment in this market segment is contingent upon all of the other investment criteria of Policy P603 being met. Currently the City holds 51% of its investments in such institutions.

In meeting this objective, the City has necessarily invested 9.3% of its funds in investments rated at BBB+.

All investments currently have a term to maturity of less than one year - which is considered prudent both to facilitate effective cash management and to respond in the event of future positive changes in rates.

Invested funds are responsibly spread across various approved financial institutions to diversify counterparty risk. Holdings with each financial institution are required to be within the 25% maximum limit prescribed in Policy P603. At month end the portfolio was within the prescribed limits. Counterparty mix is regularly monitored and the portfolio re-balanced as required depending on market conditions. The counter-party mix across the portfolio is shown in **Attachment (b)**.

Interest revenue (received and accrued) for the year totals \$1.86M. This compares to \$2.23M at the same time last year as a consequence of the historically low interest rates. The prevailing interest rates appear likely to continue at current low levels in the short to medium term. Investment performance will be closely monitored to ensure that we pro-actively identify secure, but higher yielding investment opportunities, as well as recognising any potential adverse impact on the budget closing position.

Throughout the year, we re-balance the portfolio between short and longer term investments to ensure that the City can responsibly meet its operational cash flow needs. Current Department of Local Government guidelines prevent investment of funds for periods longer than one year.

Treasury funds are actively managed to pursue responsible, low risk investment opportunities that generate additional interest revenue to supplement our rates income whilst ensuring that capital is preserved.

The weighted average rate of return on financial instruments for the year to date is a modest 2.46%. At call cash deposits used to balance daily operational cash needs have been providing a very modest return of 1.25% since the 3 August 2016 RBA decision.

Currently Department of Local Government Guidelines (presently withdrawn for revision) provide very limited opportunities for investment diversity as they emphasise preservation of capital. Unfortunately, there is a large pool of local government investment funds and a rather limited demand for deposits - so investment opportunities are both modest and scarce.



**(c) Major Debtor Classifications**

Effective debtor management to convert debts to cash is an important aspect of good cash-flow management. Details are provided below of each major debtor category classification (rates and general debtors).

**(i) Rates**

The level of outstanding Local Government rates relative to the same time last year is shown in **Attachment (c)**. Rates collections to the end of May 2017 (1 instalment remaining) represent 97.36% of rates collectible (excluding pension deferrals) compared to 98.10% at the same time last year.

**(ii) General Debtors**

General debtors stand at \$1.96M at the end of the month (\$1.49M last year). Last month debtors were \$1.84M. Most debtor balances are not materially different.

Continuing positive collection results are important to effectively maintaining our cash liquidity. Currently, the majority of the outstanding amounts are government & semi government grants, rebates or refunds (other than infringements) and as such, they are considered collectible and represent a timing issue rather than any risk of default.

**Consultation**

This financial report is prepared to provide evidence of the soundness of the financial management being employed by the City whilst discharging our accountability to our ratepayers.

**Policy and Legislative Implications**

The cash management initiatives which are the subject of this report are consistent with the requirements of Policy P603 - Investment of Surplus Funds and Delegation DC603. Local Government (Financial Management) Regulation 19, 28 & 49 are also relevant to this report - as is the DOLG Operational Guideline 19.

**Financial Implications**

The financial implications of this report are as noted in part (a) to (c) of the Comment section of the report. Overall, the conclusion can be drawn that appropriate and responsible measures are in place to protect the City's financial assets and to ensure the collectability of debts.

**Strategic Implications**

This report is aligned to the City's [Strategic Community Plan 2015-2025](#). This report addresses the 'financial' dimension of sustainability by ensuring that the City exercises prudent but dynamic treasury management to effectively manage and grow our cash resources and convert debt into cash in a timely manner.

## **10.6.2 Statement of Funds, Investments and Debtors at 30 June 2017**

### **Sustainability Implications**

This report is aligned to the City's [Sustainability Strategy 2012-2015](#). This report addresses the 'financial' dimension of sustainability by ensuring that the City exercises prudent but dynamic treasury management to effectively manage and grow our cash resources and convert debt into cash in a timely manner.

### **Attachments**

**10.6.2 (a):** Statement of All Council Funds

**10.6.2 (b):** Summary of Cash Investments

**10.6.2 (c):** Statement of Major Debtors

### 10.6.3 Listing of Payments

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-17-58481
Date:	25 July 2017
Author:	Andre Brandis, Manager Finance
Reporting Officer:	Colin Cameron, Director Corporate Services
Strategic Direction:	Governance, Advocacy and Corporate Management -- Ensure that the City has the organisational capacity, advocacy and governance framework and systems to deliver the priorities identified in the Strategic Community Plan
Council Strategy:	6.2 Develop and maintain a robust Integrated Planning and Reporting Framework (in accordance with legislative requirements).

#### Summary

A list of accounts paid under delegated authority (Delegation DC602) between 1 June 2017 and 30 June 2017 is presented to Council for information. During the reporting period, the City made the following payments:

EFT Payments to Creditors	(465)	\$4,870,924.15
Cheque Payment to Creditors	(34)	\$94,869.19
<b>Total Monthly Payments to Creditors</b>	<b>(499)</b>	<b>\$4,965,793.34</b>
Cheque Payments to Non Creditors	(78)	\$89,836.32
<b>Total Payments</b>	<b>(577)</b>	<b>\$5,055,629.66</b>

#### Officer Recommendation AND COUNCIL DECISION

**Moved:** Councillor Cheryle Irons

**Seconded:** Councillor Colin Cala

That the Listing of Payments for the month of June 2017 as detailed in **Attachment (a)**, be received

**CARRIED EN BLOC (8/0)**

#### Background

Local Government Financial Management Regulation 11 requires a local government to develop procedures to ensure the proper approval and authorisation of accounts for payment. These controls relate to the organisational purchasing and invoice approval procedures documented in the City's Policy P605 - Purchasing and Invoice Approval.

### 10.6.3 Listing of Payments

They are supported by Delegation DM605 which sets the authorised purchasing approval limits for individual officers. These processes and their application are subjected to detailed scrutiny by the City's auditors each year during the conduct of the annual audit.

After an invoice is approved for payment by an authorised officer, payment to the relevant party must be made and the transaction recorded in the City's financial records. All payments, however made (EFT or Cheque) are recorded in the City's financial system irrespective of whether the transaction is a Creditor (regular supplier) or Non Creditor (once only supply) payment.

Payments in the attached listing are supported by vouchers and invoices. All invoices have been duly certified by the authorised officers as to the receipt of goods or provision of services. Prices, computations, GST treatments and costing have been checked and validated. Council Members have access to the Listing and are given opportunity to ask questions in relation to payments prior to the Council meeting.

#### Comment

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

It is important to acknowledge that the presentation of this list of payments is for information purposes only as part of the responsible discharge of accountability. Payments made under this delegation cannot be individually debated or withdrawn.

Reflecting contemporary practice, the report records payments classified as:

- **Creditor Payments**

*(regular suppliers with whom the City transacts business)*

These include payments by both Cheque and EFT. Cheque payments show both the unique Cheque Number assigned to each one and the assigned Creditor Number that applies to all payments made to that party throughout the duration of our trading relationship with them. EFT payments show both the EFT Batch Number in which the payment was made and also the assigned Creditor Number that applies to all payments made to that party.

For instance, an EFT payment reference of 738.76357 reflects that EFT Batch 738 included a payment to Creditor number 76357 (Australian Taxation Office).

- **Non Creditor Payments**

*(one-off payments to individuals / suppliers who are not listed as regular suppliers in the City's Creditor Masterfile in the database).*

Because of the one-off nature of these payments, the listing reflects only the unique Cheque Number and the Payee Name - as there is no permanent creditor address / business details held in the creditor's masterfile. A permanent record does, of course, exist in the City's financial records of both the payment and the payee - even if the recipient of the payment is a non-creditor.

### **10.6.3 Listing of Payments**

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

These transactions are of course subject to proper scrutiny by the City's auditors during the conduct of the annual audit.

In accordance with feedback from Council Members, the attachment to this report has been modified to recognise a re-categorisation such that for both creditors and non-creditor payments, EFT and cheque payments are separately identified. This provides the opportunity to recognise the extent of payments being made electronically versus by cheque.

The payments made are also listed according to the quantum of the payment from largest to smallest - allowing Council Members to focus their attention on the larger cash outflows. This initiative facilitates more effective governance from lesser Council Member effort.

#### **Consultation**

This financial report is prepared to provide financial information to Council and the administration and to provide evidence of the soundness of financial management being employed. It also provides information and discharges financial accountability to the City's ratepayers.

#### **Policy and Legislative Implications**

Consistent with Policy P605 - Purchasing and Invoice Approval and Delegation DM605.

#### **Financial Implications**

This report presents details of payment of authorised amounts within existing budget provisions.

#### **Strategic Implications**

This report is aligned to the City's [Strategic Community Plan 2015-2025](#).

#### **Sustainability Implications**

This report is aligned to the City's [Sustainability Strategy 2012-2015](#). This report contributes to the City's financial sustainability by promoting accountability for the use of the City's financial resources.

#### **Attachments**

**10.6.3 (a):** Listing of Payments

## 9.7 MATTERS REFERRED FROM COMMITTEE MEETINGS

Prior to discussion on the following item, Councillor Jessica Black read aloud her Declaration of Interest:

*“As per the Local Government Act, the Rules of Conduct Regulations and the Administration Regulations as well as the City’s Code of Conduct 2016, I wish to declare a financial interest in Agenda Item: 10.7.1 Property Committee Meeting – 11 July 2017 on the Ordinary Council meeting of 25 July 2017.*

*I declare that my employer is providing professional services for South Perth Hospital, whose interest are discussed in the report.*

*It is my intention to vacate the Chamber before the Item is discussed and voted on.”*

At 8:53pm and prior to discussion and voting on the Item, Councillor Black vacated the chamber and returned after voting concluded.

### 10.7.1 Property Committee Meeting - 11 July 2017

Location:	City of South Perth
Ward:	Not Applicable
Applicant:	Council
File Ref:	D-17-58824
Date:	25 July 2017
Author:	
Reporting Officer:	Sharron Kent, Governance Officer
Strategic Direction:	Governance, Advocacy and Corporate Management -- Ensure that the City has the organisational capacity, advocacy and governance framework and systems to deliver the priorities identified in the Strategic Community Plan
Council Strategy:	6.1 Develop and implement innovative management and governance systems to improve culture, capability, capacity and performance.

#### Summary

The purpose of this report is to provide the recommendations from the Property Committee meeting held on 11 July 2017 for Council’s consideration. The Minutes and Attachments of which can be found at **Attachments (a) and (b)**.

#### Officer Recommendation AND COUNCIL DECISION

**Moved:** Councillor Colin Cala

**Seconded:** Councillor Cheryle Irons

That Council adopt the following recommendations of the Property Committee held on 11 July 2017:

#### 6.1 57 Angelo Street South Perth

That the Property Committee recommends to Council that it note that Lot 747 (57) Angelo Street will be leased until 30 June 2018, prior to disposal in July 2018,

as per the Council resolution of April 2017.

**6.2 49 & 51 Angelo Street South Perth (confidential)**

That the Property Committee note the preliminary concept design.

**6.3 Property Asset Management Review**

That the Property Committee recommends to Council that it endorse the Property Asset Management Review Work Plan.

**CARRIED (8/0)**

**Background**

The Property Committee meeting was held on 11 July 2017 with the following Items listed for consideration on the Agenda:

- 57 Angelo Street, South Perth
- 49 & Angelo Street, South Perth
- Property Asset Management Review

**Comment**

The Property Committee considered the following Items on 11 July 2017:

**6.157 Angelo Street South Perth**

This report notes that Lot 747 (57) Angelo Street South Perth will be leased until 30 June 2018, prior to disposal as per the Council resolution of April 2017.

**6.249 & 51 Angelo Street South Perth**

This report considers a preliminary concept design.

**6.3 Property Asset Management Review**

This report recommends a work plan of action for dealing with various property assets over the next two years under the oversight of the Property Committee.

**Consultation**

The 3 Items were the subject of consideration at the 11 July 2017 Property Committee meeting.

**Policy and Legislative Implications**

The Property Committee meetings are held under the prescribed requirements of *the Local Government (Administration) Regulations 1996*.

**Financial Implications**

Nil.

**Sustainability Implications**

This report is aligned to the City's [Sustainability Strategy 2012-2015](#).

**Attachments**

- 10.7.1 (a):** 11 July 2017 - Property Committee Meeting - Minutes  
**10.7.1 (b):** 11 July 2017 - Council Agenda Briefing - Attachments

## 10. APPLICATIONS FOR A LEAVE OF ABSENCE

The following Leave of Absence applications were received:

- Councillor Sharron Hawkins-Zeeb for the period 5 August – 14 August 2017, inclusive;
- Councillor Fiona Reid for 6 September, 2017.

### Committee Recommendations AND COUNCIL DECISION

**Moved:** Councillor Colin Cala

**Seconded:** Councillor Cheryl Irons

That the Leave of Absence applications received from:

- Councillor Sharron Hawkins-Zeeb for the period 5 August – 14 August 2017, inclusive;
- Councillor Fiona Reid for 6 September, 2017.

**CARRIED (8/0)**

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

## 12. QUESTIONS FROM MEMBERS

### 12.1 RESPONSE TO PREVIOUS QUESTIONS FROM MEMBERS TAKEN ON NOTICE

At the June 2017 Ordinary Council Meeting there were no questions from Members Taken on Notice.

### 12.2 QUESTIONS FROM MEMBERS 25 JULY 2017

Questions were received from:

- Cr Fiona Reid relating to Moresby Street Reserve
- Cr Glen Cridland relating to:
  - Dewatering at development sites
  - Property Committee and Comer Reserve
  - Standing Orders Local Law to be referred to the next Audit, Risk and Governance Committee
  - Request for upgrade to Jan-Doo Park

A table of questions received and answers provided can be found in the **Appendix** of these Minutes.

## 13. 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 9:07pm.

## 17. RECORD OF VOTING

### 4.2 Leave of Absence Request

For Cr Glenn Cridland, Cr Jessica Black, Cr Colin Cala, Cr Fiona Reid, Mayor Sue Doherty, Cr Sharron Hawkins-Zeeb, Cr Cheryle Irons

Absent: Cr Travis Burrows, Cr Ken Manolas

### 6.2 Extend Public Question time

For Cr Glenn Cridland, Cr Jessica Black, Cr Colin Cala, Cr Fiona Reid, Mayor Sue Doherty, Cr Sharron Hawkins-Zeeb, Cr Cheryle Irons

Absent: Cr Travis Burrows, Cr Ken Manolas

### 7.1 Confirmation of Minutes

7.1.1 Ordinary Council Meeting Held: 27/06/2017

7.1.2 Special Council Meeting Held: 10/07/2017

7.1.3 Property Committee Meeting Held: 11/07/2017

For Cr Glenn Cridland, Cr Jessica Black, Cr Colin Cala, Cr Fiona Reid, Mayor Sue Doherty, Cr Sharron Hawkins-Zeeb, Cr Cheryle Irons

Absent: Cr Travis Burrows, Cr Ken Manolas

### 7.2.1 Council Agenda Briefing Notes

For Cr Glenn Cridland, Cr Jessica Black, Cr Colin Cala, Cr Fiona Reid, Mayor Sue Doherty, Cr Sharron Hawkins-Zeeb, Cr Cheryle Irons

Absent: Cr Travis Burrows, Cr Ken Manolas

### 7.2.2 Concept Briefings Notes

For Cr Glenn Cridland, Cr Jessica Black, Cr Colin Cala, Cr Fiona Reid, Mayor Sue Doherty, Cr Sharron Hawkins-Zeeb, Cr Cheryle Irons

Absent: Cr Travis Burrows, Cr Ken Manolas

### 9.1 En Bloc Motion

For Cr Glenn Cridland, Cr Jessica Black, Cr Colin Cala, Cr Fiona Reid, Mayor Sue Doherty, Cr Sharron Hawkins-Zeeb, Cr Cheryle Irons, Cr Ken Manolas

Absent: Cr Travis Burrows,

### 10.2.1 Water Management Plan 2017-2022

For Cr Glenn Cridland, Cr Jessica Black, Cr Colin Cala, Cr Fiona Reid, Mayor Sue Doherty, Cr Sharron Hawkins-Zeeb, Cr Cheryle Irons, Cr Ken Manolas

Absent: Cr Travis Burrows,

10.3.4 Proposed Change of Use from Office to Use Not Listed (Cat Boarding Facility).  
Lot 41 (No. 5/191)

Canning Highway, South Perth -

For Cr Glenn Cridland, Cr Jessica Black, Cr Colin Cala, Cr Fiona Reid, Mayor Sue Doherty, Cr Sharron Hawkins-Zeeb, Cr Cheryle Irons, Cr Ken Manolas

Absent: Cr Travis Burrows,

10.4.1 Reserve 34565 Management Order Amended Motion Recommendation

For Cr Colin Cala, Cr Sharron Hawkins-Zeeb, Cr Cheryle Irons, Cr Ken Manolas

Against: Cr Glenn Cridland, Cr Jessica Black, Cr Fiona Reid, Mayor Sue Doherty, Casting Vote

Absent: Cr Travis Burrows,

10.4.1 Reserve 34565 Management Order Officer Recommendation

For: Cr Glenn Cridland, Cr Jessica Black, Cr Fiona Reid, Mayor Sue Doherty, Cr Colin Cala

Against Cr Sharron Hawkins-Zeeb, Cr Cheryle Irons, Cr Ken Manolas

Absent: Cr Travis Burrows,

10.7.1 Property Committee Meeting - 11 July 2017

For Cr Glenn Cridland, Cr Colin Cala, Cr Fiona Reid, Mayor Sue Doherty, Cr Sharron Hawkins-Zeeb, Cr Cheryle Irons, Cr Ken Manolas

Absent: Cr Travis Burrows, Cr Jessica Black,

## APPENDICES

### 6.2 PUBLIC QUESTION TIME: 25 July 2017

<p>1. Mr Duncan MacPherson of Unit 1/197 Canning Highway, South Perth</p>	<p>Response provided by: Stevan Rodic, MDS</p>
<p><i>[Preamble] Item 10.3.4 – Proposed Change of Use from Office to Use Not Listed (Cat Boarding Facility). Lot 41 (No. 5/191) Canning Highway, South Perth</i></p>	
<p>1. Can strata give approval to change of use without a quorum of owners' consent?</p>	<p>The City does not administer the <i>Strata Title Act 1985</i>. It is the responsibility of the strata company to comply with this Act.</p>
<p>2. Can Council give clarity on the change of use with regard to the number of bays required:</p> <ul style="list-style-type: none"> <li>a) For office to cattery</li> <li>b) Bay reduction with the inclusion of a bus stop</li> </ul>	<p>a) A 'Cat Boarding Facility' is a Use not listed under the City's Town Planning No.6 and therefore the Scheme does not stipulate a minimum car parking requirement. The Council, in determining the suitable parking provision for this Use must have due regard to the likely demand for car parking bays generated by the Use.</p> <p>b) The property falls within 400 metres of a bus stop and therefore under the City's Policy P315 'Car Parking Reductions for Non-Residential Development', a 15 percent reduction in the number of car parking bays required for a development is applicable.</p>
<p>3. Is Council satisfied due process has been followed under the Strata Act?</p>	<p>As previously stated the City does not administer the <i>Strata Title Act 1985</i>. As part of a development approval that requires use of common property, such as the car parking area at 191 Canning Highway, the City requires strata company consent. This consent was obtained.</p> <p>It should be noted that the City has included an Advice Note as part of the recommendation for Development Approval advising the applicant of their need to comply with the relevant requirements of the <i>Strata Titles Act 1985</i>.</p>
<p>2. Mr Michael John DuCrow of U8/62 Canning Highway, South Perth</p>	<p>Response provided by: Stevan Rodic MDS</p>

<i>[Preamble] Item: 10.3.5 Proposed Amendment to Approved Metro Hotel Additions: Multiple Dwellings Additions to Metro Hotel. Lot 10 (No. 61) Canning Highway, South Perth</i>	
<p>1. At the briefing meeting 18 July I asked about when my wife spoke to your Senior Building Surveyor in October 2013, he said buildings on river side of Canning Highway can only go two levels high. In 2016 Metro Hotel built rooms on Corner of Banksia Terrace that went four levels high.</p> <p>An answer was not given as asked, can you please explain?</p>	<p>I have discussed this alleged conversation with the City's Senior Building Surveyor who cannot recall meeting Mrs DuCrow or discussing any planning related matters at the front counter in October 2013.</p> <p>The role of a senior building surveyor is to provide advice in relation to building related matters under the Building Act 2011. It is unlikely that any building surveyor would have the expertise to confirm the specific planning requirements and the level of details that was described in your letter submission on the development proposal.</p> <p>It needs to be noted that the City have available a duty planner who can advise and discuss planning related matters with customers.</p>
<p>2. I also advised I had extra signatures on our petition of the initial petition I had to hand into Cameron Howell by June 9<sup>th</sup>. I had those extra petition signatures which totalled 117 from 55 on the 18<sup>th</sup> meeting. I offered that paperwork to the Councillors, but no one asked for it.</p> <p>Can you explain why please?</p>	<p>The public consultation period for the development concluded on the 9 June 2017. The report addresses the text of the petition that was submitted by Mr DuCrow.</p> <p>The petition included 2 pages of signatures.</p> <p>Councillors were made aware of the extra signatories to the petition at the Agenda Briefing.</p>
<p>3. Has any consideration been given to the effect this project will have on such things as vibrations during construction, particularly underground car parks, the noise factor to all local residents and the extra parking difficulties on which is already a problem in the area as was mentioned at the meeting 18th July.</p>	<p>The short answer to this question is YES.</p> <p>The officer recommendation includes a condition relating to the requirement to submit a Construction Management Plan prior to the issue of a building permit. The Plan will need to cover issues such as noise and vibration impacts and traffic management. The approved plan will need to be implemented to the City's satisfaction during the construction period. In addition construction noise is controlled by the Environmental Protection (Noise) Regulations 1997. The City's Environmental Health Officers are responsible for ensuring these Regulations are complied with.</p>
<p><b>3. Ms Cecilia Brooke of 8/20 Garden Street, South Perth</b></p>	<p><b>Response provided by: Vicki Lummer, DCDP</b></p>

<p>1. How much profit did Council make from leasing the foreshore area out to Embargo for the 2016 period, after all costs are deducted including making good the grassed area where the Embargo Bar and food stalls were set up and the grassed area restored that was provided for parking during this period of time. And was this figure considered a full commercial return?</p>	<p>In order to satisfactorily answer this question, some background detail is required. In March 2015 the ephemeral art installation, 'Intrude', was supported by a temporary bar operated by Bar Pop on Sir James Mitchell Park between the Coode Street Car Park and the Flagpole area. This event received significant positive feedback from the community and as a result, the City began investigating further opportunities for short-medium term bar installations in the same area.</p> <p>Following the success of their setup at Elizabeth Quay, Embargo Bar were invited to conduct a trial activation on the foreshore as part of the 2016/2017 event season. Embargo Bar understood the laid back, family friendly environment the City aimed to achieve through the activation</p> <p>It was evident that the installation had a largely positive impact on the City's residents, workers and visitors with 13 supportive letters received by the City, in addition to a number of emails plus numerous phone calls and face to face comments from residents, local business owners and visitors.</p> <p>This feedback included comments from long term residents (30-40 years) about the progressive use of the space, requests for the event to return and/or similar events to be facilitated on the foreshore, and the tourism benefit it presented for visiting national/international family members and friends from other suburbs who may not visit South Perth otherwise.</p> <p>The South Perth Foreshore 'brand' also benefited from the trial, with Embargo Bar related posts reaching over 27,500 users on Facebook throughout the installation. Much of the engagements facilitated through the City's social media accounts were positive and highlighted the South Perth foreshore as a great place to visit over the 2016/17 summer season.</p> <p>This positive reputational and activation benefit was the real value to the City. The trial was never intended to be a commercially profitable leasing opportunity. However, there was a small monetary profit to the City of around \$4000.</p>
<p>4. Mrs Marcia Manolas of 193 Mill Point Road, South Perth</p>	<p>Response provided by: Geoff Glass, CEO</p>
<p><i>[Preamble] Item : 10.4.1 Reserve 34565 Management Order</i>  <i>Last month Council passed a Resolution 10.0.1 Foreshore Node 9: Flagpole - stating</i></p>	

*Sir James Mitchell Park and its foreshore at Node 9 should be public open space for recreation with no permanent commercial buildings and further, resolved to progress The South Perth Foreshore Strategy and Management Plan for Node 9 in accordance with the Strategies identified in the Plan as a Landscape Architectural expression and in consultation with the community.*

*I ask the following three questions:*

<p>1. Does Recommendation 10.4.1 Reserve 34565 Management Order, also refer to Node 9 Flagpole area, as the Flagpole area is cross hatched for an application to be made to the Department of Lands requesting change the designated purpose of a portion of 34565 to:</p> <ul style="list-style-type: none"> <li>a. Recreation and</li> <li>b. Impermanent food, beverage and other entertainment events.</li> </ul>	<p>Yes.</p>
<p>2. If so, why, when Resolution 10.0.1 was passed at the June 2017 Ordinary Council Meeting identifying the progression of “purpose of use - Recreation” for that area to remain “public Open Space for recreation with no permanent commercial buildings and to progress to implement the South Perth Strategy Management Plan Node for 9 as a Landscape Architectural expression in consultation with the community”?</p>	<p>The recommendation at Report 10.4.1 does not relate to, propose nor facilitate any permanent commercial buildings.</p> <p>It relates to a change of use in the Management Order for temporary / impermanent events and functions.</p>
<p>3. As Recommendation 10.4.1 Reserve 34565 does not have in the wording inserted “no permanent buildings”, will this enable Council to use the current Recommendation to apply to the Department of Lands for permanent buildings to be erected? I note the summary refers to temporary events and functions, however, this is not stated in Recommendation 10.4.1 to indicate it is for temporary</p>	<p>As previously stated, the change of use for the Management Order relates to the use of the reserve for temporary / impermanent events and functions.</p> <p>Nevertheless, the Council has resolved In June 2017 that there be no permanent commercial buildings at Flagpole 9.</p>

buildings for use at temporary events.	
<b>Note: At this point the allocated 15 minutes for Public Question Time was exhausted. Council resolved to extend Public Question Time for a further 15 minutes.</b>	
<b>5. Dr Jennifer Nevard of 195 Mill Point Road, South Perth</b>	<b>Response provided by: Geoff Glass, CEO</b>
<i>[Preamble] With regard to Agenda Item 10.4.1 25th July 2017 Reserve 34565 Management Order The portion of Crown Land within Sir James Mitchell Park that the City of South Perth proposes to adjust the Management Order on, incorporates a lengthy section of pedestrian and cycling paths. These are used daily for recreation and low impact transport commutes across our City.</i>	
1. What will be the constraints applied by the City for any event on the Crown land referred to in the Agenda Item, if walking and cycling paths are obstructed for the event's duration?	Generally, the City will continue to make walking and cycling paths accessible and available during events, on an event by event basis in line with risk management plans.
2. What will be the constraints applied by the City for any event if off street parking is required by the event and will the City charge the hirer for parking area?	The City's Policy, Management Practices and Procedures for use and hire of facilities and reserves prescribe the requirements for event parking, inclusive of a fee for any area set aside for off street parking.
3. What will be the maximum duration of any event that provides open public access; and for an event that has restricted entry?	The City is not able to give a definitive answer as this is dependant on the type of event and function involved.
<b>6. Brian Donald Melhuish of 196 Douglas Avenue, Kensington</b>	<b>Response provided by: Stevan Rodic. MDS</b>
<i>[Preamble] With regard to Agenda Item 10.3.2</i>	
1. Why should the residents of Kensington have to accept a base station amidst their housing when a State Government Department refused to allow it near their office staff for 7 hours per day, 5 days a week?	The officer's recommendation pertaining to this Item 10.3.2 for telecommunications infrastructure is for refusal. The item will be decided upon tonight.
<b>7. Mr Harry Anstey of 21 River View Street, South Perth</b>	<b>Response provided by: Mayor Sue Doherty</b>
<i>[Preamble] Item 7.1.1 Ordinary Council Meeting Held: 27 June 2017</i>	



1. Item 10.0.2 of The Minutes of the Ordinary Council Meeting of 27 June records the Officer Recommendation and Council DECISION concerning the Special Elector's Meeting of 8 June that (2) the Council note the five Elector's Motions passed at the Special Council Meeting.

- In the section "Comment" the summary is made "All five Electors' motions passed at the Special Electors Meeting primarily relate to the Council's Westralian Centre Concept..."

The 2<sup>nd</sup> Motion clearly relates to the whole entity of the Sir James Mitchell Park and NOT just Node 9. It was concerned that without promptly amending existing Policies and Procedures as details, that Westralian Centre type concepts would be developed elsewhere on the foreshore, money expended inappropriately and without the due processes.

This SEM Motion was intended to at least ensure those criteria of Motions 2 and 4 were met before rates were spent on future concepts which lack clarity, specific prior community involvement and support.

The Officer recommendations at Items 10.4.1 and 10.4.2 are totally inconsistent with the Special Electors' Meeting Motions so I urge Councillors to defer both of these items until all the due processes required by the SEM have been complied with.

The Council considered the motions from the 8 June 2017 Council meeting as required under the *Local Government Act 1995*.

The Council resolved only to note all five motions, with no further action resolved to be undertaken.

*[Preamble] Item 10.4 Strategic Direction 4: Places*

*Council documentation recognizes the South Perth Foreshore (SPF) as "an extensive area of public open space that occupies approximately 62 hectares of Swan River foreshore land. It stretches from the Narrows Bridge in the west to Ellam St in the east .... A large part is known as Sir James Mitchell Park, with the western end along South Perth Esplanade known as The Esplanade Reserve, along with Clydesdale Reserve bounding Mill Point Road near Douglas Avenue."*

*I suggest, however, that most residents, ratepayers and the public generally do not differentiate between the eastern and western ends of the foreshore parkland nor recognize that these eastern and western areas may not be (technically) part of the Sir James Mitchell Park.*

*Council documentation reinforces this lay interpretation. For example, the Sir James Mitchell Park Function Sites lists 3 Zones, west of the Mend St Jetty to Queen St, available to book. They are called the Sir James Mitchell Park Zones 1, 2 & 3. (This Item suggests Council should identify them as "The Esplanade Reserve Zones 1, 2 & 3".)*

*Furthermore, The City's Local Heritage Inventory SPCnt 5 describes "Sir James Mitchell Park and Clydesdale Park is a large open space of approximately 65 hectares on the foreshore of the Swan River." Council rates the SPCnt 5 area as Heritage Management Category 8 - Considerable Significance". The Location Map (page 17) clearly outlines in red the Digital Cadastral Data supplied by Landgate, WA, P295, as extending from Mill Point Close in the west to Ellan St in the east.*

*For these reasons I find it most disturbing that Council is presented with the Officer Recommendations at Items 10.4.1 and 10.4.2 after the very strong opposition to any change to the current classifications of the South Perth Foreshore. The June Special Electors' Meeting was particularly concerned at any attempt by Council to lessen the recreational use requirement for the South Perth foreshore area.*

*The specifics of these 2 items have not been made public previously. No previous Council documentation suggests a need to separate the Foreshore Parkland to achieve the Management Planned for recreational uses, permanent or temporary. There has been no appropriate opportunity for public consultation of this totally new proposal which is totally inconsistent with Motions 1, 2 & 4 of the SEM and the associated prior community "consultation.*

*These two items seem to be challenging Electors to call yet another Special Electors Meeting to clarify and confirm the June Special Electors' Meeting motions in even stronger and clearer technical language for Council Officers.*

2. Is this what Councillors require? – Yet another petition, for yet another Special Elector’s Meeting to clarify and confirm the June Special Electors’ meeting, to address the inconsistencies of Council’s various descriptions of whether the Sir James Mitchell Park includes all the South Perth Foreshore from the Freeway in the west to Ellam St in the East so the SEM Motions cannot be ignored?

Mr Anstey, I do not accept the accuracy of a number of your statements that make up your preamble. Nevertheless, if in your question you are indicating the requirement for another Special Electors’ Meeting, than that is your prerogative.

However in relation to the Items 10.4.1 and 10.4.2 you refer to, these are to be considered by the Council tonight.

*[Preamble] Item 7.1.1 Ordinary Council Meeting Held: 27 June 2017*

It has just come to my attention that despite my lodging 3 written questions, as per the requirements for the Special Elector's Meeting of the 8 June and acknowledged by Ms S Kent, that those questions (with foreshadowed motions) are not recorded in the Minutes of the Special Electors' Meeting at Item 5.3, nor responded to in the Appendix. Nor noted in the OCM Minutes of 27 June.

The SEM Minutes recorded my presence but as not reading my questions. The Minutes do not note that the Presiding Member prevented my reading the preface to those questions, hence rendering the questions less clear. It was only after unsuccessfully challenging this (impromptu) interpretation of the Standing Orders that I returned to my seat. (There was no suggestion made that the 3 questions would then be ignored or not formally answered.)

I suggest that the Council's Standing Orders do not enable validly submitted and received questions from being recorded in the Minutes nor responded to by Council.

As the Presiding Member's Statement did not foreshadow any such variation to the Standing Orders or treatment of speakers, I respectfully request that my questions be recorded, the answers provided, the Minutes revised and re-issued accordingly.

The *Local Government Act 1995* and *(Administration) Regulations 1996 - Regulation 18 - Procedures at meetings*, provides that the Presiding Member determines the procedure of the Special Electors' Meeting.

As the Presiding Member, I did not allow for your questions to be received or tabled at the meeting, and therefore they are not recorded in the Minutes of that meeting.

## 13.2 QUESTIONS FROM MEMBERS 25 July 2017

<p><b>Councillor Fiona Reid</b></p>	<p><b>Response provided by: Phil McQue MGM</b></p>
<p>4. What is the status of the purported Optus Lease at the Moresby Street Reserve?</p>	<p>We have received legal advice this week that the City does not have a valid lease with Optus. The City does not have a valid lease because the management order for the reserve does not give the City authority to enter into a lease.</p> <p>The Minister has also not given approval for the City to enter into a lease and the Moresby Street reserve purpose of 'recreation parks' is inconsistent with telecommunications facilities being located at this site.</p>
<p><b>Councillor Glen Cridland</b></p>	<p><b>Response provided by: Mark Taylor DIS and Stevan Rodic MDS</b></p>
<p><i>[Preamble] Issues described as serious issues in respect of trees and the Aurelia site and dewatering.</i></p>	
<p>1. What sort of progress or plan do you have for arriving at policies or procedures to help us, to the extent you can; to avoid any further recurrences of the very sad loss of trees in that area and the absence it seems of anyone responsible for monitoring dewatering impacts?</p>	<p><b>Mark Taylor</b></p> <p>In the first instance in answer to your question, Mr Rodic and myself are working on a revised policy for Council but more importantly some procedures in a management practice for officers, particularly in the Planning Department in assessing these applications and how the dewatering plan comes into the mix; before the approval or not.</p> <p>We need some advice from other areas; we need to get to the bottom of responsibility factor here. The City has had to request the reports in regards to the ground water motoring.</p> <p>I can't sit here and guarantee that we can stop what happened at Aurelia. I will need to talk to Council a bit later when we have more facts, but it appears to me that Aurelia far exceeded what was originally envisaged in the dewatering management plan.</p>

When this process commenced it is very difficult to stop because the dewatering has to go somewhere, and it's either in the stormwater which ends up in the river and you have to deal with the Department of Parks and Wildlife. They have regulations about water quality into the river. The sewer system is also potentially available, which has a limited capacity and even then there were problems with the sewer at the Aurelia site, or you infiltrate into the ground which is what they did with most of the dewatering at Aurelia, or the fourth option is to truck it away.

In the end there was a combination of these factors, however we ended up with what appears to be quite a serious ground water mounding that occurred as a result of the Aurelia site.

Now obviously that is denied by Finbar and we don't have definitive proof that is the case, but that is what appears to have happened.

Whether that can be stopped in the future I don't know, that's something we have to assess, but we want to do is ensure that whatever policies and practices we have in place the City has more control in the planning stage. We can at least then provide some peer review on the dewatering plan when it comes up and make some decisions in the Planning Department accordingly.

**Stevan Rodic**

That was very well said, the only point I would make in terms of dewatering management plans and how we deal with these upfront, is that the process will involve the co-operation with the responsible State Government agencies.

Our legal advice from the start was that the City isn't responsible for the monitoring of ground water quality. We facilitated the condition placed on the 'Aurelia' development by the Development Assessment Panel; on advice from the Swan River Trust.

	<p>We will be in front of the game in terms of how we manage dewatering activities, but we will still be reliant on other state agencies taking responsibility through this process. I've written numerous letters to heads of these Departments and it is welcoming that a number of those are looking at their processes; because no one was aware of what could happen. The current situation has highlighted the limitations of these Departments own statues in terms of prosecuting someone for damaging the water environment.</p> <p>We will have a management practice which will deal with our applications, but it is not going to stop with the City, other Departments will have to look at how they deal with this issue as well.</p>
<b>Councillor Glen Cridland</b>	<b>Response provided by: Geoff Glass, CEO</b>
<i>[Preamble] We've just considered the minutes of the Property Committee meeting which unfortunately I wasn't at and it talks about a way forward and a plan of things to be done. Some relate to dealing with reserves and transfers with State Government Departments of land for land as I understand it</i>	
<p>2. What is the best way to refer the issue of the Comer Reserve freehold owned by the City to the Property Committee?</p>	<p>There was a general discussion about a strategic approach to the management of the City's land holdings. We do own a significant amount of freehold land which is actually reserve land and we need to decide what is the most appropriate way to effectively hold that so that rather than make a decision in isolation about a particular piece of land, that we do it in a holistic way, for example some land that might currently be freehold, be converted to reserve, but we would have to effectively be compensated by Crown Land elsewhere.</p> <p>This is something that we would have to look at in a strategic sense and we would have these discussions with the Department of Lands.</p> <p>I would suggest that the future of this reserve would already be under consideration.</p>
<b>Councillor Glen Cridland</b>	<b>Response provided by: Geoff Glass, CEO</b>
<i>[Preamble] I note at tonight's meeting there was some confusion by Mr Anstey in respect of his ability to give a presentation at a council meeting rather than a briefing and we have had some disruptive behaviour at the last meeting.</i>	
<p>3. Can we have the Standing Orders Local Law referred to the Audit, Risk and Governance Committee to review</p>	<p>We can list the Standing Orders Local Law on the agenda of the next Audit Risk and Governance to be held on 8 August, 2017.</p>

deputations and disruptive behaviour at meetings?	The Standing Orders Local Law were last reviewed a year ago, however they should always be subject to review. In relation to the matters you have raised, there is the matter of process or custom, but the Standing Orders should accurately reflect if that is the intent of our customer practice and there are other matters that we could look to improve and ensure that the meetings run as effectively as possible.
<b>Councillor Glen Cridland</b>	<b>Response provided by: Mark Taylor, DIS</b>
<i>[Preamble] I have previously spoken to Director Mark Taylor and Manager Bruce Moorman about giving Jan Doo Park an upgrade</i>	
4. Has there been any plan or decisions taken or made at this stage?	<p>The park was inspected and we considered that there were some areas which needed improving. Staff have been directed to undertake some tidying up works. Some weeding has occurred and painting has been scheduled.</p> <p>There will be other things which will occur next winter in terms to how the turf is managed over winter. It's a couch reserve and goes dormant. We will be looking at oversowing it with rye grass.</p> <p>In respect to the water fountain, we will look at how much it costs to replace it this financial year.</p>

## 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 on Tuesday 22 August 2017.

Signed \_\_\_\_\_  
Presiding Member at the meeting at which the Minutes were confirmed