



CITY OF SUBIACO

MINUTES

COUNCIL MEETING

**COUNCIL CHAMBERS
241 ROKEBY ROAD, SUBIACO**

TUESDAY, 12 DECEMBER 2017

**COMMENCEMENT: 5.33PM
CLOSURE: 9.51PM**

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1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The presiding member declared the meeting open at 5.33pm and welcomed Councillors, the media and members of the public.

Councillor Stroud entered the chamber at 5.34pm.

The presiding member acknowledged the Whadjuk Nyungah people as the traditional custodians of the area and recognised the continuing cultural connection of the Whadjuk Nyungah people with the land and waterways of Subiaco.

2. ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Elected Members Present:

Mayor Taylor (Presiding Member)	
Councillor Mansfield	Central Ward
Councillor Mummery	Central Ward
Councillor Davis	East Ward
Councillor Matheson (arrived 6.19pm)	East Ward
Councillor Rowe	East Ward
Councillor McMullen	South Ward
Councillor Richardson	South Ward
Councillor McAllister	North Ward
Councillor Nash	North Ward
Councillor Stroud (arrived 5.34pm)	North Ward

Staff Members Present:

Don Burnett	Chief Executive Officer
Kathy Bonus	Director Community and Development Services
Alan Millard	Director Technical Services
Scott Hawkins	Director Corporate Services
Anthony Denholm	A/Manager Planning Services
Kerry Plantinga	Minutes Secretary
Sally Fry	Minutes Secretary (Training)
Sandi Found	Public Liaison

Approved Leave of Absence:

Councillor Gedero	Central Ward
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Apologies:

Nil

Public gallery present:

Members of the public	22
Members of the press	2

3. DISCLOSURE OF INTEREST

Nil

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the Ordinary Council Meeting held on 28 November 2017, the following questions were submitted and taken on notice. The responses have been provided and advised in writing.

C1 No. 4 (Lot 84) Kings Road Subiaco – Two Storey Addition to Existing Single Dwelling (DA 7.2017.98.1)

Mr Dexter Manook of 4 Kings Road Subiaco

Question 1

What does the asterisk refer to at C1 after (DA 7.2017.98.1)* on page 12?

Response

The asterisk simply indicates that there are separate attachments for an agenda item (this is stated at the bottom of the contents page at the front of the agenda). Not all agenda items have attachments (e.g. item P7.2 on the same agenda) and, as the attachments are distributed as a separate document, an asterisk is used to indicate that there are attachments for an item.

Question 2

Why did the Planning Officer choose not to reply to the Architect's letter of the 19 Oct 2017?

Response

The city's record of telephone call history shows that the Planning Officer telephoned the applicant on 24 October 2017. This conversation related to the applicant's response to the City's request for further information (the letter of response was attached to an e-mail dated 19 October 2017). The telephone conversation confirmed the city's receipt of that letter and the applicant was advised that the assessment of the submitted information was continuing.

Question 3

Why did the Planning Officer remain silent for so long when she mentioned to the architect when would be replying shortly?

Response

It is not clear specifically which conversation is referred to in this question. A timeline taken from the city's records is below:

- *A Request for Further Information (RFI) was sent to the applicant was on 6 September (immediately following the conclusion of the public consultation period), with a request for a response to be provided by 20 September (a standard period of 14 days);*
- *The Planning Officer telephoned the applicant to advise of the RFI, and suggested that once he had read through the letter that he contact the officer to arrange a meeting with City officers to discuss the matters in person;*

- *The applicant and landowner met with city officers (including the Coordinator Statutory Planning Services, Coordinator Heritage and Projects, Development Engineer) on 12 September. The key issues of the application were discussed as detailed in the RFI, and it was made clear that the application in its current form was not able to be supported by officers. The contact details for the city's Development Engineer were provided to the applicant so that they could separately address non-compliances with the Australian Standard for off-street parking;*
- *Following the meeting, the Planning Officer e-mailed further advice to the applicant (on 14 September) clarifying open space and site works matters;*
- *The Planning Officer telephoned the applicant on 29 September with regard to the RFI, and the applicant confirmed that the response would be provided to the City by 4 October. The Planning Officer e-mailed the applicant to confirm this advice;*
- *The applicant emailed the Planning Officer on 9 October advising that providing information to the City was taking longer than anticipated, and that the response would be provided to the City by Wednesday of that week (being 11 October);*
- *On 12 October the Planning Officer e-mailed the applicant querying when the response would be provided as it had yet to be received. The Planning Officer also spoke with the applicant by telephone following this email;*
- *On 19 October the applicant provided a response to the RFI. This response did not change the design of the proposal despite the previous advice (refer above) that the proposal could not be supported by officers, with particular reference to the alterations to the streetscape view of the dwelling and the requirements of the City's Heritage policies, and vehicle access and parking arrangements;*
- *The information provided by the applicant was referred to relevant city officers for assessment and comment. Due to the applicant's delayed response (being 4 weeks later than initial deadline), the justification provided to the City in relation to the variations to the City's Heritage policies could not be reviewed by the Coordinator Heritage and Projects, who was on an extended period of leave between 3 October and 8 November 2017;*
- *On 24 October, the Planning Officer telephoned the applicant as outlined in the response to question 3;*
- *On 9 November the Planning Officer e-mailed the applicant advising that the report was being finalised for the review of her Coordinator, and that she would be in touch in the near future with further advice in this regard;*
- *On 10 November the Planning Officer telephoned the applicant to provide advice regarding the report and the Council meeting;*
- *On 21 November, the city e-mailed formal notification of the 28 November Council meeting at which an item on No. 4 Kings Road would be considered;*
- *Due to local government elections on 21 October, the first available meeting for decisions was 14 November 2017 (agenda distributed on 8 November).*

Question 4

Surely, as the Planning Officer wrote her report on the 10-Nov-2017 it could have been made available to the Landowner & Architect?

Response

The Planning Officer's report was completed on 10 November for submission to her supervisor. At this point, the report is still a draft and is not finalised as it has not gone through the approval process for inclusion on the agenda. The Officer's supervisor may or may not accept the recommendation put forward or may require modifications (as may occur at any stage until the CEO approves the final agenda) which is why the report is not a public document at this stage.

The city's records indicate that the Planning Officer telephoned the applicant as a courtesy on 10 November 2017 to advise that her report was with her supervisor, indicated that her recommendation was for refusal and advised that the report would be available when the agenda was released.

Question 5

Why did the Planning Officer choose to release her response through her report of refusal on the 23 Nov 2017 directly addressed to the Councillors?

Response

Reports to Council are included in the Council agenda and are released to the public as part of the agenda. The Council meeting agenda is available from the city's website on the Friday of the week prior to the Council meeting.

Question 6

Why was the Landowner or Architect not advised earlier of their report and course of action?

Response

As advised, the city's records indicate that the Planning Officer telephoned the applicant as a courtesy on 10 November 2017 to advise that her report was with her supervisor and she had been advised that it was to be considered at the November Ordinary Council meeting. The Planning Officer also indicated that her recommendation was for refusal but the report had yet to be reviewed by her supervisor and the report would be available when the agenda was released which was usually the Friday prior to the meeting. She also advised that invitations to the meeting would be forwarded containing information about the date and location of the meeting and the process for making a public statement or asking questions. The report was completed on 10 November therefore this advice could not have been provided earlier.

5. PUBLIC QUESTION TIME

C3 No. 263 (Lot 26), 265 (Lot 25) and 277 (Lot 24) Hay Street and 17 (Lot 31) Olive Street, Subiaco – Change of Use to Tavern, Restaurant and Market, and Additions and Alterations to Existing Building and Associated Signage

Jackie Greenshields, 38 Olive Street Subiaco asked:

As the owner of 38 Olive Street, a 3 bedroom family property with 150 metres of the proposed development, I do not support this proposal and ask the Council to REFUSE the application.

The following is an overview of what is proposed.

The café (restaurant land use) is to operate seven days from 7am until midnight;

- Food trucks (restaurant land use) are to operate on weekdays from 11am until midnight.

- The tavern is to operate seven days from 11am until midnight;
- The market is to operate on weekends from 8am until 12pm.
- The overall anticipated patron capacity of the premises is 700 comprises of:
 - – Café (restaurant) – 125 patrons (75 inside + 50 in alfresco area);
 - – Food trucks (restaurant) – 150 patrons; and
 - – Tavern – 430 patrons (280 inside + 150 in alfresco area)

My questions are as follows:

Question 1

In the Officer's Recommendations under the heading Prior to the issue of a building permit (page 36)

ix. *With regard to condition 14, the car parking management plan should address measures including:*

- *Promotion and identification of publicly available off-street parking facilities in the locality for use by customers;*
- a) Does this include promoting parking in Churchill Ave, Olive St, Barker, Townsend Road where parking after 5pm is unrestricted i.e. Free parking after 5pm in all residential Streets
 - b) As parking is unrestricted after 5pm in the above mentioned streets, how is the Council going to protect the residents from patrons clogging their streets until after midnight every night of the week?

Question 2

Food Trucks

- a) It states that the Food trucks are to operate until midnight – are these food trucks permanent or are they being moved out every night at midnight?
- b) Do the food trucks in this application pay any Council fees or monies to operate in the City of Subiaco's in this application?
- c) Will these food trucks be taking away business from the local restaurants as they are able to stay open from 11am to midnight Monday to Friday (and may not be paying any rates to the City of Subiaco unlike local small businesses)?

The Director Community and Development Services advised:

Question 1

With regard to Part A of the question, the advice note encouraging the applicant to promote and identify publicly available off-street parking facilities refers to parking that is not on the street, but is publicly available, or is able to be used by the public. This may include City owned car parking facilities, or privately owned parking stations that may or may not charge a fee for use.

In relation to Part B of the question, the report highlights that a recent parking occupancy survey was undertaken by the City in relation to on-street parking. This survey concluded that of the City of Subiaco parking bays (a total of 583 bays), the following occupancy rates were identified within the 400 metre area of the site:

- Friday 10 November 2017 at 7pm – 237 vehicles (41% occupied)
- Sunday 12 November 2017 at 4pm – 106 vehicles (18% occupied)
- Wednesday 15 November at 7:30pm – 124 vehicles (21% occupied)

Based on this, there is sufficient public parking in the locality to accommodate the proposal, particularly with regard to the parking required by the proposal after 5pm and into the evening.

Question 2

In relation to Part A of the question, the food trucks are not anticipated to remain on-site after they finish operating (i.e. they will relocate off the premises once trading is finished for the day).

In relation to Part B of the question, the food trucks in this application will be required to pay the relevant fees listed in the 2017/18 schedule of fees and charges.

In relation to Part C of the question with regards to competition with other businesses, while not a planning consideration of itself, the City's Economic Development branch has advised:

"The site as a private property pays rates and Food trucks will normally pay a permit fee to use the space, they also pay a licence to trade and abide by all Health checks. The evidence regarding the impact of food trucks suggests that competition is healthy for all businesses, food trucks offer entrepreneurs a way to get started; and the food is often innovative, relatively inexpensive and convenient. Food trucks have been demonstrated to activate spaces and bring in people who otherwise would not usually go to different areas which also has a positive effect on nearby businesses. For those willing to stand in line and eat from a paper plate, there is usually a warm personal exchange when the meal is passed from chef to diner. Meanwhile purveyors of traditional restaurants will be challenged to deploy their unique assets—tables, chairs, a roof, walls and shop environment in ways that provide meaningful value to customers, it makes us all work harder to provide a better product and customer service. They have benefits that a food truck cannot compete with. Smart cities have recognized that food trucks play an important role in developing a lively and vibrant local business climate"

With regard to the question of payment of rates, although not a planning consideration, city rates and charges are payable by owners of rateable land and some owners may choose to on charge those rates to their tenant/s - tenancy arrangements with regard to the food trucks are not known.

Pesticide Spraying And Harm To Public Health

Shirley Collins, 93 Keightley Road Shenton Park asked:

Will the City of Subiaco implement immediate cessation of its pesticide spraying program until a proper quality management system is in place? In particular, I refer to glyphosate spraying which seems to be happening in the absence of a policy endorsed by Council. It is not clear what weeds are being sprayed and why, and if the program is efficient, effective or economically justified.

Is it causing more harm than good?

Why is it an opt-out program for residents and ratepayers, rather than an opt-in?

Please refer to the recently published book by Carey Gillam "Whitewash: the Story of a Weed Killer, Cancer, and the Corruption of Science" available from the Subiaco Library. Also the article by Liam Bartlett "Copping a decent spray" in the Sunday Times 21 February 2016 referring to the absence of an effective regulator and warnings from insurance companies.

The Director Technical Services advised:

The city has a detailed management system in place for Glyphosate spraying. All staff and contractors who apply Glyphosate in public areas have been trained in the application of permitted chemicals. Glyphosate is applied in accordance with the manufacturers' specifications, application rates and WA Health Pesticides Regulations/Act 2011 as well as the city's Technical Specification 'Precinct Maintenance' and Specification for the use of Chemicals in Turf and Landscaped Areas.

The city is limited to using pesticides that have been approved for use by the Australian Pesticides and Veterinary Medicines Authority (APVMA). The APVMA is responsible for the regulation and control of agricultural and veterinary chemicals up to the point of retail sale. Before these products can be legally sold, supplied or used in Australia, they must be evaluated and registered by the APVMA.

Undertaking weed control of public open space, footpaths, traffic islands, kerbs and laneways maintains the city's visual amenity, infrastructure and prevents dispersal of weed seeds. This in turn reduces the seed bank in the soil resulting in reduced weed germination in subsequent years. The city does not have the resources to manually remove all weeds to provide the same level of service expected within the city.

The city's spraying practices are regularly reviewed considering environmental, economic and social impacts. Glyphosate is the most efficient, effective and economically viable weed control method for the city to continue to use.

6. PUBLIC STATEMENT TIME

C1 No. 4 (Lot 84) Kings Road Subiaco – Two Storey Addition to Existing Single Dwelling

Dexter Manook, 4 Kings Road Subiaco submitted and read a statement requesting a further deferral of the item of up to 3 months.

C2 No. 146 (Lot 82) Gloster Street Subiaco – Application For Review (Appeal) – Section 31 Reconsideration of Extension to Term of Development Approval for Single Storey Dwelling with Basement

Ben Carter, 937 Wellington Street West Perth spoke a statement in support of the officer recommendation.

C3 No. 263 (Lot 26), 265 (Lot 25) and 277 (Lot 24) Hay Street and 17 (Lot 31) Olive Street, Subiaco – Change of Use to Tavern, Restaurant and Market, and Additions and Alterations to Existing Building and Associated Signage

Gabrielle Bouffler, 148 Barker Road Subiaco submitted and read a statement in opposition to the officer recommendation.

John Bouffler, 148 Barker Road Subiaco submitted and read a statement in opposition to the officer recommendation.

Linda Rogers, 152 Park Street Subiaco submitted and read a statement requesting an amended application.

Garry Kosovich, Subiaco submitted and read a statement in opposition to the officer recommendation.

Gillian Anderson, Lot 12, 381 Hay Street Subiaco submitted and read a statement in opposition to the officer recommendation.

Jackie Greenshields, 38 Olive Street Subiaco submitted and read a statement in opposition to the officer recommendation.

7. PETITIONS AND APPROVED DEPUTATIONS

Nil

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

COUNCIL DECISION

Moved Cr Rowe/seconded Cr Davis

That the minutes of the Ordinary Council meeting held on Tuesday, 28 November be confirmed.

CARRIED 10/0
6.19pm

Councillor Matheson entered the chamber at 6.19pm.

9. ANNOUNCEMENTS BY THE PRESIDING MEMBER

9.1 Hilda Street/Violet Grove Parking

City staff have been working on an interim solution to the Hilda Street/Violet Grove parking dilemma. The CEO has approved the issuing of an additional 5 temporary visitor permits, giving 7 with the 2 they already have. This is to assist the residents to get through the Christmas and New Year period without any issues. Rangers will also be focussing on other hot spot areas in the City as it appears the issue of long term parking in this area is under control.

Details are below

1. To address the immediate issues and allow for usual family gatherings over the festive and school holiday period, each dwelling will be issued with 5 complimentary temporary parking permits. These permits are in addition to the Residential and Visitor Parking Permits, will be re-useable and will be valid until 28 February 2018. The effect of this will mean that each dwelling will have up to 7 permits available for their visitors during this time. The permits will be clearly identifiable and residents can choose to share these with their neighbours if they are not using them.
2. It is anticipated that officers will be able to process the approximately 1,500 temporary permits and hand deliver these by Friday 15 December.
3. A letter will be included with the TPPs advising for the above and also advising that the city is undertaking a preliminary survey on resident views with regard to the future parking regime. A hard copy survey (and reply-paid envelope) will be included with the permits and the survey will also be accessible on the Have Your Say section of the website. The survey will propose some options for future parking as well as have space for resident suggestions and will be open until the end of January 2018 and results will be taken as an indication of resident views. Distribution of the survey in this way will provide some surety about the consultation, what the options might include and will also enable any decisions on these two streets to be made slightly in advance of (but with knowledge of) the Shenton park Parking Precinct Plan and that plan can be used to mitigate any risks or potentially adverse effects to the areas outside of the two streets.
4. The Shenton Park Parking Precinct Plan is scheduled to be considered by Council for consultation on 23 January 2018, consultation is anticipated to start the following week.
5. Results of the survey and a recommendation for modifications to the parking scheme in the two streets can be considered by Council during the February

round of meetings. Implementation of changes may take up to 3 weeks (this very much depends if sign changes or different/more road markings are required). If necessary, a decision can be made at that time if further TPPs are required. Council may require further consultation which would extend this timeframe probably by about 4-6 weeks.

6. The Shenton Park Parking Precinct Plan is scheduled to be returned to Council in March 2018 with the implementation of any modifications from that also dependant on exactly what changes are required but allow 3-4 weeks – again, if further consultation is required, an additional 4-6 weeks would be needed.

9.2 Free Weekend Parking

The presiding member advised that on Friday 8 December, the city introduced free weekend and evening parking in six town centre carparks. This permanent change to the six designated carparks is in time for the Christmas trading period to make it easier for people to shop, dine and enjoy Subiaco.

9.3 Director Community and Development Services

The presiding member acknowledged Kathy Bonus, Director of Community and Development Services who is leaving the City of Subiaco in January 2018 to take up a role at the Department of Planning. This is Kathy's last Ordinary Council Meeting.

Kathy has been with the City of Subiaco for nearly 8 years and the presiding member, on behalf of the Council, thanked her for the dedication and hard work she has demonstrated during this time.

10. REPORTS OF COMMITTEES AND EMPLOYEES

ENBLOC DECISION

Moved Cr Richardson/seconded Cr Mummery

That the recommendations relating to C2, C7 and C10 contained in the agenda of the Ordinary Council meeting of 12 December 2017 be adopted.

CARRIED 10/1
CR MATHESON VOTED AGAINST

6.25pm

10.1 PROPERTY AND INVESTMENT ASSETS COMMITTEE

P1 BUSINESS PLAN – ACQUISITION OF PROPERTY

REPORT FROM DIRECTOR CORPORATE SERVICES

Author: Manager Commercial Services and Economic Development - Luke Willcock
Date: 28 November 2017
File Reference: A/4655
Voting Requirements: Absolute Majority - 7 elected members required to vote in favour

OFFICER/COMMITTEE RECOMMENDATION/COUNCIL DECISION

Moved Cr McAllister/seconded Cr Stroud

That Council In accordance with Section 3.59 of the Local Government Act (1995) and having considered submissions made in response to the advertised public notice, resolves to proceed in accordance with the *Business Plan - Proposed Major Land Transaction - Acquisition of Investment Property - August 2017*.

CARRIED BY AN ABSOLUTE MAJORITY VOTE 10/1
CR MATHESON VOTED AGAINST

6.34pm

Background

At its meetings in November 2016 and February 2017, Council considered the performance of the investment property portfolio and reevaluated its strategic intent for its portfolio with the objective of increasing returns. The adopted mechanism to achieve this is to divest underperforming assets and reinvest these funds into higher performing assets.

Amendments to the City's policy "*10.9 Property and Investment Assets*" were drafted to reflect Council's strategic direction and guide future decisions in relation to its property portfolio. These amendments included setting criteria for target property acquisitions and the parameters under which Council would consider acquisitions. The amended policy was adopted by Council at its meeting on 23 May 2017. At the same meeting Council noted the process to be undertaken to acquire new investment property in accordance with that amended policy.

Prior to deciding to purchase new investment property, compliance with the City's statutory obligations as set out in Section 3.59 of the *Local Government Act 1995* (the Act) is required.

A Business Plan was prepared to meet the requirements of Section 3.59 of the Act and reflects the City's policy position and agreed process (see Attachment 1). The Business Plan was advertised for the requisite 6 week period and this report is provided so Council may consider whether to proceed or not proceed with the acquisition of investment property in accordance with the Business Plan, having considered the comments received during the public submission period.

Proceeding with the major land transactions in accordance with the Business Plan does not commit Council to any purchase. Each property acquisition will also be the subject of a business case and a separate Council report prior to making any final decision to purchase.

Comment

At its meeting held on 23 May 2017 Council noted the process to be undertaken to acquire new investment property in accordance with its Policy 10.9 Property and Investment Assets.

The recommended approach seeks to add to the City's investment property portfolio whilst applying good governance, ensuring transparency with the community and delivering the best possible commercial outcome for the City, generating increased investment returns to fund asset renewal/development and fund activities set out in its Strategic Community Plan.

Council has endorsed performance measures for the property portfolio and new acquisition targets have also been set. These include a hurdle rate, that the total investments is not to exceed \$22.5M and that no one property should comprise more than 15% of the portfolio.

The Business Plan has been developed and advertised in accordance with the Local Government Act and been the subject of legal advice that confirms it addresses the requirements of the City's statutory obligations and alleviates the non-commercial aspects of the property acquisition process. Once its statutory obligations are met, the City can proceed with identifying acquisitions and negotiate land transactions in accordance with the parameters of the Business Plan, conditional on final Council approval for each acquisition. It allows Council to consider acquisitions and complete negotiations and land transactions in a timely way, in line with expectations of the commercial sector.

In accordance with Section 3.59 of the Act, the Business Plan is to include an overall assessment of the proposed major land transaction and is to include details of:

- (a) *Its expected effect on the provision of facilities and services by the City;*
- (b) *Its expected effect on other persons providing facilities and services in the district;*
- (c) *Its expected financial effect on the City;*
- (d) *Its expected effect on matters referred to in the City's forward plan;*
- (e) *The ability of the City to manage the performance of the transaction; and*
- (f) *Any other matter prescribed for the purpose of the relevant subsection.*

The Business Plan advertised stated the following:

- that the City intends to purchase properties for a common purpose over the next 2 years,

- those properties will be to a maximum total value of \$22.5 million, funded from the Capital Investment Reserve,
- there are no direct effects expected on existing services and facilities provided by the City, or on other persons providing facilities and services within the City.
- the projected improved income returns will provide the City with an opportunity to generate additional revenue to fund the asset renewal gap and finance activities set out in its Strategic Community Plan.
- the transaction is not expected to have any impact on the normal operating revenues of the City;
- that the City has the experience and capacity to manage such purchases either internally or through external agents such as valuers, lawyers and real estate professionals.

In addition, Council will have the final decision on whether a property will be acquired and the Business Plan specified that any offer made will be conditional on Council resolving to proceed with that specific transaction.

The City advertised the proposed major land transaction seeking public submissions on the Business Plan for the requisite 6 week period commencing Wednesday 30 August 2017.

At the close of the public submission period on Wednesday 11 October 2017 two submissions had been received.

These submissions are enclosed in their entirety as confidential attachments (see Attachment 2).

Once Council has considered these public submissions it can then decide (by absolute majority) whether to proceed with the proposed major land transaction, noting that each individual acquisition proposal will be subject to a Business Case assessment and a Council decision prior to proceeding.

A summary of the main issues raised in each of the submissions is below:

Investment outside the City of Subiaco boundaries

Both respondents expressed concern that the City was considering investing in property outside the City's boundaries. They perceived that investing in property outside the City would be at the expense of the economic development benefits of owning property within the City.

The acquisition program set out in the Business Plan does not prevent the City from considering the purchase of investment property within the City's boundaries, however it does allow for the consideration of investment properties from outside its geographic boundaries, provided those properties meet the target criteria and hurdle rate.

Restricting target properties to within the City's boundaries would likely make it difficult to find suitable property acquisitions due to the limited pool of properties available in Subiaco that would meet the City's target hurdle rate and risk profile. Due to the change in land use over time within the city there are more residential and mixed use spaces being created rather than commercial. Mixed use spaces are not currently planned to be targeted by the City as investments. Properties within the City of Subiaco boundaries could also cause a conflict between an investment approach and planning decisions, if both issues require decisions on the same property owned by the City.

The role of the City's investment portfolio in the City's long term revenue strategy is to provide an ongoing income stream.

Currently about 10% of the City's operating revenue can be attributed to the City's property investment portfolio. That income is then used to fund core activities of the City such as the asset renewal and economic development activities. Restricting the City's investments in property to solely within the City's boundaries may lead to the acceptance of poor returns and jeopardise the City's long term revenue strategy.

This may mean less funds available to the City in the future for other activities and, given the City's limited revenue sources, may result in that impost shifting to ratepayers.

Use of ratepayer funds

Both respondents were concerned that the acquisition of assets was being funded through revenue raised from rates.

Purchase of investment property is not funded from rates revenue, but using funds from the existing Capital Investment Reserve which holds the following investment funds:

- *the existing Capital Investment reserve*
- *proceeds of any sale of investment land or other long-term investment assets*
- *the City's share of the net surplus from the Subi Centro project, and*

The majority of funds in the Capital Investment Reserve consist of proceeds from the sale of the City's investment properties.

The purpose of the Capital Investment Reserve is established under the Local Government Act and described in section 5 of Policy 10.9 as follows. Funds held in the Capital Investment Reserve are to be "*used only for the purchase of other investment assets (whether property or other assets) or redevelopment and renewal of existing investment assets in accordance with specific resolutions of Council.*"

Investment for the primary purpose of generating an income return

One of the respondents expressed concern that investing in property was not the City's "core business" and that investing in property represents a greater risk than other investment options.

The City has held a portfolio of real property for the principal purpose of generating revenue for many years. It has developed a Commercial Services branch with specialist skills dedicated to the management of that property portfolio. Together with the Property and Investment Assets Committee (PIAC) of Council the focus of the city is on maximising returns from its investment properties.

The City previously had a long-held position that it would be a reluctant seller of its investment property. Examination of the return from its investments, together with the need to make up a revenue shortfall as a result of the City of Perth Act, motivated the PIAC and Council to focus on strategies which would increase the return from its investment properties. For example, the City sold the poorly performing Hay Street site with the intent that those proceeds be used to purchase another investment asset or assets with better income prospects. The site sold at auction for \$13M and these proceeds are held in the Capital Investment Reserve. The Business Plan outlines how the City intends to acquire new investment assets to replace the income-generating assets it has sold.

The city is restricted in its investment options and can principally invest in either cash deposits or real property. The current cash deposit rate for the City sits at around 2.25%.

It is intended that the investment portfolio achieve returns significantly in excess of the cash rate in order to free up funds for reinvestment in the city's core activities.

Investment in real property, whilst does attract some level of risk, can deliver the desired higher return. In order to mitigate that risk the City has set parameters for new acquisitions representing an appropriately conservative approach.

In order to ensure that the City's investments are diversified, Council has set a range for individual new investments at 15% of the value of the total portfolio. This ensures that the price paid for any single property should not exceed more than 15% of the value of the City's total investment portfolio at that time (which currently has a value of \$173M). In addition, the Business Plan sets out that the total value of all acquisitions within the next two years is not intended to exceed the sum of \$22.5 million.

The Business Plan also sets out the ideal criteria for a target acquisition. These criteria have been developed to reduce risk of over-exposure in a location or asset type.

Suggested alternatives

One respondent proposed an alternative use of the funds to rejuvenate Subiaco through the purchase and development of land to provide an attraction for locals and visitors.

The other respondent believed that property investment should be driven by "economic development and positive social outcomes" rather than maximising returns and proposed that investing in cash was preferable to investments outside the City.

The City's *Policy 10.9 Property and Investment Assets* guide the City in the management of its investment properties. The City's policy position is that investment properties should be put to the highest and best use for the site and income or disposal proceeds from these properties should be maximised. It also holds as a general principle that the City will not undertake complex development projects over its investment properties in its own right.

To trade-off an income generating asset in exchange for solely economic development or social outcomes should be considered with caution as there are likely to be long term effects on the City's forward revenue stream leaving problems for future generations. If investment funds are spent to acquire land and building assets which do not generate income there would also be the potential for increased costs for maintenance and renewal in the future.

A more financially prudent approach is to set aside the income generated from the Investment Portfolio for investment into economic development activities thus providing for a more financially sustainable future.

Recommendation

The Business Plan prepared and advertised stated that over the next 2 years, the City intends to purchase one or more properties that meet the parameters specified, for the common purpose of growing and diversifying its property investment portfolio.

The Business Plan reflects the City's stated objective to increase returns from its investment portfolio and is consistent with the City's Policy 10.9 Property and Investment Assets.

The clear purpose of Section 3.59 is to establish that a proposed major transaction will not compromise the ability of the local government to deliver its core functions and provide opportunity for the community to make comment on the proposal.

The Business Plan has assessed the impact of the transaction on the City's operations, the City's ability to manage the transaction, as well as whether it will adversely affect any private businesses. It concluded that:

- There are no direct effects expected on existing services and facilities provided by the City, or on other persons providing facilities and services within the City;
- The major land transaction is not expected to have any impact on the normal operating revenues of the City;
- The projected improved income returns will provide the City with an opportunity to generate additional revenue to fund the asset renewal gap and finance activities set out in its Strategic Community Plan;
- The City has qualified and experienced staff with the ability to manage the proposed transaction. This will be enhanced by the engagement of external agents such as professional property agents, valuers, lawyers and consultants as required.

It is recommended that, having considered the two submissions made in response to the advertised public notice, and that the matters raised have been clarified and addressed above, Council resolves to proceed with the major land transaction and acquisition of property in accordance with the Business Plan.

Consultation

The public community consultation process and submissions received are discussed in the body of this report.

It should also be acknowledged that the Business Plan did attract some media coverage during the 6 week submission period, which generated further community discussion. This additional interest did not result in any further submissions and it should be noted that the community discussions cannot be considered as submissions under the statutory process prescribed by Section 3.59, the sentiments expressed were broadly similar to those raised in the two submissions received and addressed in the comment section of this report.

In addition, the acquisitions process and the Business Plan has been the subject of legal advice to ensure that they meet the city's statutory requirements.

Strategic Implications

Management of the City's investment properties is aligned with the Strategic Community Plan and Corporate Business Plan, with particular reference to the strategies and actions below:

Strategic Community Plan
Focus Area Six - Council Leadership
<i>Objective One: A leading council that is supported by an excellent organisation</i>
<i>Strategy 6.1.5: Create organisational and community culture that is underpinned by</i>

<i>financially sustainable practice</i>

Corporate Business Plan Action

<i>Manage the City's commercial property portfolio to produce a sustainable income stream.</i>
--

Statutory and Policy Considerations

Statutory Considerations

In considering the acquisition of property the City must ensure it complies with Section 3.59 of the *Local Government Act 1995* (the Act) which is concerned with major land transactions.

Regulation 8A of the *Local Government (Functions and General) Regulations 1996* defines the value at which a land transaction becomes a "major land transaction" as being (in the case of the City) the lesser of \$10 million or 10% of the operating expenditure incurred by the City from its municipal fund in the last completed financial year.

It is likely any acquisition by the Council in a significant new asset meeting the appropriate criteria will be in excess of the Major Land Transaction threshold, currently set at \$3.8M.

In accordance with Section 3.59 of the *Local Government Act 1995*, before the City enters into a major land transaction it must prepare and seek public submissions on a Business Plan.

The Act also requires the City to give State wide public notice stating that –

- i. it proposes to enter into the major land transaction described in the notice.
- ii. a copy of the Business Plan may be inspected or obtained at any place specified in the notice; and
- iii. submissions about the proposed transaction may be made to the City before a day to be specified in the notice, being not less than six (6) weeks after the notice is given

and requires that the City makes a copy of the Business Plan available for public inspection in accordance with the notice.

Once Council has considered any public submissions, it may then resolve to proceed with the major land transaction, in accordance with the Local Government Act, the voting requirement for this decision is by absolute majority.

Policy considerations

The City's *Policy 10.9 Property and Investment Assets* guide the City in the management of its investment properties. The City's policy position is that investment properties should be put to the highest and best use for the site and income or disposal proceeds from these properties should be maximised. It also holds as a general principle that the City will not undertake complex development projects over its investment properties in its own right.

The policy provides the City with the ability to take advantage of alternative investment opportunities, for example by ensuring that capital can be released from underperforming assets in order to acquire better-performing assets.

The acquisitions process proposed is in accordance with the *Policy 10.9 Property and Investment Assets*.

Risk and Asset Implications

Investing in property rather than the City's funds remaining in cash, carries with it some level of risk, however by having in place a clear process and criteria for the acquisition of investment property assets the risks associated with the decisions in relation to the property portfolio are minimised.

The proposed process allows the City to refresh its assets by divesting of older assets and reinvesting in newer assets and thus potentially reduce the maintenance burden on the City and increasing investment returns.

Financial

The process will support the objectives to deliver greater financial returns to the city through better management of its property portfolio and improved performance.

The City has recently sold some of its underperforming assets and the proceeds of sale have been placed in the City's Capital Investment Reserve and held to be utilised to enhance the City's investment property holdings through investment in other investment property or the redevelopment and renewal of existing investment assets.

Social and Environmental Implications

There is an opportunity that increased returns on the City's investment assets can be reinvested into Social and Environmental assets as identified through an asset gap process.

Attachments

1. Business Plan – Acquisitions August 2017
2. Public submissions - CONFIDENTIAL

10.2 EMPLOYEE REPORTS

C1 NO. 4 (LOT 84) KINGS ROAD SUBIACO – TWO STOREY ADDITION TO EXISTING SINGLE DWELLING (DA 7.2017.98.1)*

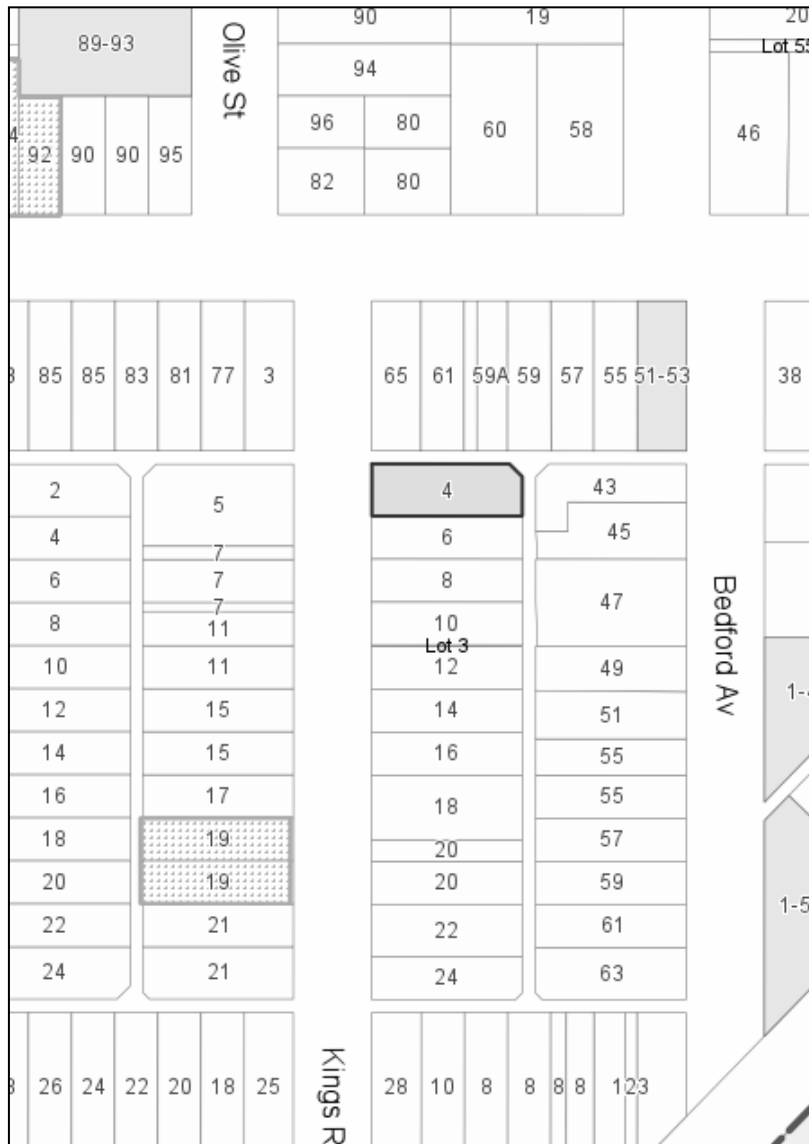
REPORT FROM DIRECTOR COMMUNITY AND DEVELOPMENT SERVICES

Author: Zo Kruger - Planning Officer

Date: 10 November 2017

File Reference: PE/12621

Voting Requirements: Simple - more than half elected members present required to vote in favour



COUNCIL DECISION

Moved Cr Davis/seconded Cr Rowe

That in accordance with the provisions of Town Planning Scheme No. 4 and the Metropolitan Region Scheme, the application submitted by Kim Miller stamped 9 August 2017 for a two storey addition to an existing single house at No.4 (Lot 84 D/P 352) Kings Road, Subiaco as shown on plans date stamped 9 August 2017, be DEFERRED for no more than 3 months from the date of this decision to provide the applicant the opportunity to submit revised plans to the City for consideration, assessment and recommendation to Council, in consultation with the City's Planning Services, in order to address the primary concerns of officers as follows:

- 1. Wall height;**
- 2. Heritage;**
- 3. Vehicle access;**
- 4. Setbacks**

CARRIED 11/0

6.36pm

OFFICER RECOMMENDATION

That in accordance with the provisions of Town Planning Scheme No. 4 and the Metropolitan Region Scheme, the application submitted by Kim Miller date stamped 9 August 2017 for a Two Storey Addition to an Existing Single House at No. 4 (Lot 84 D/P 352) Kings Road, Subiaco as shown on plans date stamped 9 August 2017 and 19 October 2017 (plan 1 – 16 of 16), be REFUSED for the following reasons:

1. The proposal does not satisfy clause 42(1) and 42A of the City of Subiaco Town Planning Scheme 4;
2. The proposal is inconsistent with the aims and objectives of the Residential Zone, specifically objectives (c), (f) and (g) of Town Planning Scheme 4;
3. The proposal is inconsistent with the following City of Subiaco Local Planning Policies:
 - a) Clause 4.1 'Alterations to Contributory Buildings' of Local Planning Policy 3.6 - Development Guidelines for Residential Heritage Areas; and
 - b) Clause 4.0 of 'Conservation Principles' of Local Planning Policy 3.16 - Kings Road Heritage Area.
4. The proposal is not considered to meet the design principles of the Residential Design Codes in relation to:
 - a) 5.2.1 Setback of Garages and Carports;
 - b) 5.2.5 Sight lines;
 - c) 5.3.4 Design of car parking spaces; and
 - d) 5.3.5 Vehicular access.
5. Under Clause 67(a), (g), (k), (l), (m) and (n) of the *Planning and Development (Local Planning Schemes) Regulations 2015* the proposal is:
 - a) Inconsistent with the aims and objectives of the Residential Zone of the City of Subiaco Town Planning Scheme 4, specifically objectives (c), (f) and (g);
 - b) Inconsistent with the provisions of Local Planning Policy 3.16 'Kings Road Heritage Area', Local Planning Policy 3.6 'Development Guidelines for Residential Heritage Areas', and Local Planning Policy 4.8 'Triangle Precinct Policy';
 - c) Detrimental to the built heritage conservation of the place and the cultural heritage significance of the Kings Road Heritage Area;
 - d) Incompatible with development on adjoining land and in the locality; and
 - e) Inconsistent with the character of the locality.

MOTION

Moved Cr Davis/seconded Cr Rowe

That in accordance with the provisions of Town Planning Scheme No. 4 and the Metropolitan Region Scheme, the application submitted by Kim Miller stamped 9 August 2017 for a two storey addition to an existing single house at No.4 (Lot 84 D/P 352) Kings Road, Subiaco as shown on plans date stamped 9 August 2017, be DEFERRED for no more than 3 months from the date of this decision to provide the applicant the opportunity to submit revised plans to the City for consideration, assessment and recommendation to Council, in consultation with the City's Planning Services, in order to address the primary concerns of officers as follows:

1. Wall height;
2. Heritage;
3. Vehicle access;
4. Setbacks

CARRIED 11/0

6.36pm

Cr Davis provided the following reasons

1. *It would be reasonable for Council to view the amended plans prior to making a decision.*
2. *The applicant should be aware that there are some areas which require some specific attention as identified in the alternate and particular attention should be paid to the non-conforming walls on the boundary to the first floor to two boundaries.*

Additional Comments

The application was considered by Council at its meeting of 28 November 2017 where, pursuant to the *Meeting Procedures Local Law 2013* cl. 7.1(g), it was deferred to the 12 December Council meeting. Subsequently, officers have met with the applicant and owners to discuss issues relating to the reasons for the recommended refusal. Following the meeting, the applicant has agreed to amend the proposal to address the primary concerns raised by officers, namely:

- Heritage;
- Wall height; and
- Vehicle access.

Given the short timeframe between the two meetings, there has not been sufficient time for the applicant to address these matters via amended plans.

As such, the applicant has provided the city with a letter (attachment 3) outlining a commitment to address concerns and provide revised plans and documentation to the city should Council resolve to defer the matter until early 2018. A suggested alternate recommendation has been drafted below should Council be prepared to allow the applicant the opportunity to do this. If Council is agreeable to a further deferral, it is recommended that a timeframe of up to three months is appropriate to allow the submission and assessment of amended plans.

It is also important to highlight that, whilst the report notes no objections were received during public consultation, the adjoining property owners to the south (No. 6 Kings Road) did provide a copy of signed plans and a letter supporting the proposed development application when the application was lodged.

Alternate Recommendation

The following alternate recommendation is provided should Council be of the mind to defer the application:

That in accordance with the provisions of Town Planning Scheme No. 4 and the Metropolitan Region Scheme, the application submitted by Kim Miller stamped 9 August 2017 for a two storey addition to an existing single house at No.4 (Lot 84 D/P 352) Kings Road, Subiaco as shown on plans date stamped 9 August 2017, be DEFERRED for no more than 3 months from the date of this decision to provide the applicant the opportunity to submit revised plans to the City for consideration, assessment and recommendation to Council, in consultation with the City's Planning Services, in order to address the primary concerns of officers as follows:

1. *Wall height;*
2. *Heritage; and*
3. *Vehicle access.*

Executive Summary

The application seeks development approval for a two storey addition to an existing single dwelling at 4 Kings Road, Subiaco. The application is presented to Council for determination it requests a number of variations to the city's planning framework.

The key issues of this application are:

- Wall height;
- Variations to the City's two heritage policies that apply to the site;
- Issues relating to the proposed car parking space, including setback of the garage, sight lines, design of car parking space, and vehicular access.

Plans of the proposal and the applicant's justification for the proposal are included as attachment 1 and 2 respectively to this report.

Background

Landowner:	Dexter George Manook
Applicant:	Kim Miller
Application Date:	9/08/2017
DA Reference:	DA 7.2017.98.1
Lot size:	423 m ²
TPS Zoning:	Residential R20
TPS Precinct:	Triangle Precinct Sub-Precinct 1
Land Use:	Single Dwelling
Land Use Permissibility:	P
Existing Development:	Single Dwelling
Heritage Listing:	Kings Road Heritage Area (Some Contribution)

Site Context and Development History

- The subject site is located within the block bound by Bagot Road to the north, Bedford Avenue to the east, Hamersley Road to the south and Kings Road to the west;
- The subject site is improved with an existing single storey dwelling that is located in the Kings Road Heritage Area, and is listed on the City of Subiaco Local Government Inventory. The dwelling was constructed in 1912 in the Federation Queen Anne Style;

- The property is included on the Local Government Inventory.

Comment

The proposal involves a modern two storey addition to the rear of the existing dwelling, basement level to provide a car parking space, minor alterations and partial demolition to the ground floor plan of the dwelling to accommodate the addition, and restoration and refurbishment works to the street elevation of the existing dwelling. An assessment of the proposal has been conducted against the provisions of Town Planning Scheme No.4 (the Scheme), the Residential Design Codes 2013 (R-Codes) and Planning Policies:

Local Planning Policy 3.6 'Development Guidelines for Residential Heritage Areas' (LPP3.6)

Local Planning Policy 3.16 'Kings Road Heritage Area' (LPP3.16)

Local Planning Policy 2.2 'Reflective Roofing' (LPP2.2)

Local Planning Policy 4.8 'Triangle Precinct Policy' (LPP4.8)

Local Planning Policy 2.26 'Site Works' (LPP2.26)

The proposal complies with all the requirements of the Scheme, relevant deemed-to-comply requirements of the R-Codes and provisions of the aforementioned policies with the exception of the key issues outlined below. Where the deemed to apply criteria has not been met, assessment has been undertaken against the relevant design principles.

Key Issues of Assessment

Town Planning Scheme No. 4

<i>Clause 42</i>	Required	Proposed	Variation sought
Clause 42(1)(a)	Wall height 3.6m	<ul style="list-style-type: none"> - North – Ground floor – 3.45m–3.8m - North – Upper floor – 6.55m–7m - South – Ground floor – 3.25m - South – Upper floor – 6m–6.5m 	<ul style="list-style-type: none"> - 0.2m variation to ground floor north elevation - 2.95m–3.4m variation to upper floor north elevation - 2.4m – 2.9m variation to upper floor south elevation
	Overall height 6.5m	<ul style="list-style-type: none"> - North – 6.9m – 8.97m - South – 8.3m – 8.5m 	<ul style="list-style-type: none"> - 0.4m – 2.47m variation to north elevation - 1.8m – 2m variation to south elevation
Clause 42(1)(b)	Wall height 6m	Upper floor – up to 7m (refer above)	1m variation
	Overall height 9m	Upper floor – 8.97m	No variation

Clause 42(1)(b) of the Scheme enables Council to approve a variation to clause 42(1)(a) and permit buildings of up to 6m wall height and 9m overall height, where Council is satisfied that there is no undue adverse impact on adjoining residential properties and the general amenity of the locality. The variation sought to both wall and overall height are not considered to meet the criteria under clause 42(1)(b) for the following reasons:

- The proposed wall and overall heights are not consistent with the development within the 'surrounding area' (as defined in LPP4.8), which predominantly comprises single storey dwellings. The surrounding area includes 20 properties of which 4 (20%) are two storey in height thus this not considered the predominant height in the area;
- The proposed wall and overall heights are not consistent with two storey development within the surrounding area. A review of approved plans for the surrounding properties shows the wall and overall heights of the two storey developments as follows:

Property address	Wall height	Overall height
5 Kings Road	7.6m	9.2m
7 Kings Road	6.6m	9.1m
17 Kings Road	5.7m	7.1m
59A Bagot Road	5.8m	7m

The wall height of the proposal does not comply with the maximum prescribed 6m wall height. Clause 42A of the Scheme enables Council to approve a variation to clause 42(1)(b) and permit buildings with a greater wall and/or overall height prescribed by clause 42(1)(b). The variation sought to wall height does not satisfy the criteria under clause 42A, as identified and discussed below.

(a) *The local government is satisfied that:*

- (i) *The non-compliance will have no undue adverse effect on any adjoining residential land or the amenity of the locality; or*

The proposal may be considered to have an adverse effect on the adjoining residential property to the south in relation to overshadowing which comprises 40.2% of this property (6 Kings Road), exceeding the deemed-to-comply requirement of 25% in element 5.4.2 'Solar Access for Adjoining Sites' of the R-Codes. Notwithstanding, this variation may be supported as the outdoor living area of 6 Kings Road is not overshadowed, and the amount of overshadowing of major openings to habitable rooms is supportable. The proposal also has an adverse effects on 6 Kings Road in relation to building bulk with the proposed addition at the rear of the existing dwelling having an overall height of 8.3m – 8.5m (to the south elevation).

The proposal is considered to have an adverse effect on the amenity of the locality with regard to the heritage value of the place and the Kings Road Heritage Area, as it does not satisfy the provisions of LPP3.6 and LPP3.16, as discussed within this report.

- (ii) *The wall or overall height which is non-compliant is compatible with the wall and overall heights of surrounding developments that are designed for residential purposes and are considered by the local government to enhance the streetscape;*

The area comprises predominantly single storey dwellings and the proposal is therefore not consistent with wall and overall heights of surrounding developments.

(b) The wall/overall height which is non-compliant:

- (i) Meets the Acceptable Development standards of the Residential Design Codes in relation to setbacks; or*
- (ii) Is necessitated by a sloping site and would be unlikely to occur if the site had been level; or*
- (iii) Is the result of an irregular roof design and is unlikely to have occurred if the proposed development had a conventionally shaped roof.*

The proposal does not satisfy any of the above criteria, as there are a number of variations proposed to lot boundary setback requirements of the R-Codes, the site does not have a degree of slope that would necessitate increased wall and overall heights and the proposed roof includes gable, skillion and flat roof forms noting that if a conventional roof would likely result in increased wall and overall heights.

Local Planning Policies

Local Planning Policy 3.6 'Development Guidelines for Residential Heritage Areas'

Policy provision	Proposed
4.1 Alterations to Contributory Buildings	
Alterations should not remove, change or obscure original materials or detailing (except as part of required conservation works). This includes, but is not limited to, works impacting on roof form, materials and details; wall finishes and details; verandahs and verandah details; windows and window openings; and doors and door openings.	<p>The proposal includes works that are inconsistent with this provision, including:</p> <ul style="list-style-type: none"> • Removal of a mid-twentieth century style door to the room to the west elevation of the main verandah (originally a double hung window) and alteration to the opening to accommodate a bay window; • Reorientation of the front door which includes removal of the original French doors to the rear of the side verandah; • Part enclosure of the front verandah to create an entry lobby; and • Modification of the roof form to the street elevation to accommodate the entry lobby.
<p>Council shall have due regard to the following:</p> <ul style="list-style-type: none"> • Where it can be demonstrated that original fabric has been previously removed or unsympathetically altered, restoration / reconstruction of the street front facades to their original form and detailing is strongly encouraged, where practical; • If the significant fabric has deteriorated to the point where it requires replacement, the use of 'like for like' materials and detailing is strongly encouraged. However, the introduction of alternative materials and techniques 	<p>The applicant has justified the above listed alterations by stating that the owners are investing significant resources to restore the existing house to its original condition, and that the proposed conservation measures (removal of render, reinstatement of tuck pointing and reinstatement of original timber verandah floor) will increase the level of contribution of the place to the heritage values of the Kings Road Heritage Area.</p> <p>Whilst the proposed conservation works would restore original finishes to the dwelling, it is considered that the</p>

that have a similar appearance to the original may also be acceptable, provided the new fabric will not adversely impact on the streetscape character of the place.	proposed alterations, which are more significant in nature and not easily reversible, will further reduce the authenticity of the place and the contribution that it makes to the heritage area.
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Local Planning Policy 3.16 'Kings Road Heritage Area'

Policy provision	Proposed
4.0 Conservation Principles	
<ul style="list-style-type: none"> • Ensure that the key features/elements of the Kings Road Heritage Area are retained and enhanced. • When undertaking repairs or alterations to a contributory place, change as little as the significant fabric as possible where visible from public streetscape views. • Ensure that conservation and refurbishment of significant fabric retains the character acquired through the natural aging of well-maintained fabric, inclusive of the signs of normal wear and tear. • Ensure that the new building fabric is discernible at close inspection, and does not obscure an understanding of the original scale and design of the place. 	<p>The proposal is generally inconsistent with the conservation principles of LPP3.16 for the following reasons:</p> <ul style="list-style-type: none"> • The proposal involves works as previously described that change the significant fabric of the dwelling as viewed from the street, and are not supported.

Residential Design Codes

Element 5.2.1 Setback of garages and carports

Required	Proposed	Difference
<p>R-Codes C1.3 Garages and carports built up to the boundary abutting a private street or right-of-way which is not the primary or secondary street boundary for the dwelling, with manoeuvring space of at least 6m, located immediately in front of the opening to the garage or carport and permanently available.</p>	Garage provided with approximately 4.8m manoeuvring space to the opening to the undercroft garage.	1.2m variation.
Design Principles		
<p>R-Codes – P1 LPP4.8 Triangle Precinct Policy (Refer to R-Codes and LPP4.8 for full description of design principles)</p>		

The proposal is not considered to meet the design principles for the following reasons:

- Design principle P1 - the setback of the garage does not maintain clear sight lines along the right of way. The sightlines to the south of the property are inadequate due to the proximity to the boundary fence at the southern edge of the property, and are therefore not deemed to be compliant with AS 2890.1. A 1.5m truncation on the southern boundary or similar would be required in order to achieve compliance;

- With regard to the matters for consideration in applying design principle P1 identified in LPP4.8, the site contains adequate areas to the rear of the dwelling for a proposed vehicle access to be sited to comply with the R-Codes.

Element 5.2.5 Sight lines

Required	Proposed
C5 Walls, fences and other structures truncated or reduced to no higher than 0.75m within 1.5m of where walls, fences, other structures adjoin vehicle access points where a driveway meets a public street and where two streets intersect.	Sight lines to the south of the property are inadequate due to the proximity of the boundary fence on the south lot boundary. No truncations are provided, and the fence height is not reduced. The wall to the north of the vehicle access point is truncated by 1.15m, and is not reduced in height to 0.75m. The height of the wall is approximately 1.6m.
Design Principles	
R-Codes – P5 (refer to R-Codes for full description of design principles)	

The proposal is not considered to meet the design principles as it does not provide unobstructed sight lines at the vehicle access point to the right of way due to the proximity to the boundary fence at the southern edge of the property; and the sight lines to the north are obstructed by a 1.6m high wall.

Element 5.3.4 Design of car parking spaces

Required	Proposed
C4.1 Car parking and manoeuvring areas designed and provided in accordance with AS2890.1 (as amended).	The car parking and manoeuvring areas do not comply with AS2890.1.
Design Principles	
R-Codes – P4 (refer to R-Codes for full description of design principles)	

The proposal is not considered to meet the design principles for the following reasons:

- The car parking space has not been designed or located to be conveniently accessed;
- The vehicle manoeuvrability does not enable two-way access to the parking space;
- Inadequate sight lines are provided at the vehicle access point to the right of way and do not comply with AS2890.1;
- The aisle and parking space does not comply with the requirements of AS2890.1, as the proposed combined lengths of 10.2m (including the width of the right of way and setback to the end of the parking space) do not meet the minimum requirement of 11.2m (as per Figure 2.2 Layouts for Angle Parking Spaces of AS2890.1 – 5.4m length of space and 5.8m aisle width).

Element 5.3.5 Vehicular Access

Required	Proposed
C5.3 Driveways shall be: <ul style="list-style-type: none"> no closer than 0.5m from a side lot boundary or street pole; no closer than 6m to a street corner or the point at which a carriageway begins to deviate. 	Driveway is: <ul style="list-style-type: none"> Located adjacent to the south lot boundary – does not comply; Located 3.7m from the intersections of two right of ways.
Design Principles	
<u>R-Codes – P5.1 & LPP4.8 Triangle Precinct Policy</u> (refer to R-Codes and LPP4.8 for full description of design principles)	

The proposal is not considered to meet the design principles for the following reasons:

- With regard to design principle P5.1, the vehicular access does not provide vehicle access safety with regard to sightlines as previously identified; vehicle manoeuvrability from the laneway to the garage does not enable two-way access to the parking space; and it does not satisfy minimum aisle and parking space requirements of AS2890.1;
- With regard to matters for consideration in applying design principle P1 identified in LPP4.8, there is adequate space available on site for the siting of a parking space that would enable manoeuvring from the right-of-way to the parking space. The proposed parking space has been located in a position that does not satisfy R-Code provisions.

Minor Issues of Assessment**Residential Design Codes***Element 5.1.3 Lot boundary setback*

Aspect	Floor	Required Setback	Proposed Setback	Meets Deemed-to - Comply
South	Upper – dress, WC, ensuite, stair, bed 2 ensuite	1.7m	4.745m (dress) 3.8m (WC) 2.695m (ensuite) 1.51m (stair, bed 2 ensuite)	Yes – dress, WC, ensuite No – 0.19m variation (stair, bed 2 ensuite)
North	Ground – verandah, master, dress, ensuite, kitchen, living	3.5m Normal setback required =5m	0.715m (verandah, master, dress, ensuite) 1.58m (kitchen) 2.32m (living)	No – 2.785m variation (verandah master, dress, ensuite) No – 1.92m variation (kitchen) No – 1.18m variation (living)
	Ground - living, lift	0.3m	5.7 – 6.04m	Yes
	Upper – bed 1, sitting	2.9m	1.575m (bed 1) 2.02m (sitting)	No – 1.325m variation (bed 1) No – 0.88m variation (sitting)

The proposal has been assessed against the relevant design principles and is considered supportable for the following reasons:

- The R Codes enable the deemed-to-comply setback distances to be reduced by half the width of an adjoining right of way, maximum reduction of 2m. The site is bordered by 3m wide rights of way to the north and east, and the required setback distances have been reduced by 1.5m to both elevations;
- The southern lot boundary setback (upper floor stair and bed 2 en-suite) variation of 0.19m is minor and does not result in loss of privacy or overshadow the outdoor living area of the property to the south;
- With regard to the north lot boundary setback (ground floor, upper floor bed 1 and sitting room), the proposal provides direct north sun and ventilation to the building and does not affect the provision of open space and outdoor living areas on the site.

Element 5.4.2 Solar Access for Adjoining Sites

Required	Proposed	Difference
C2.1 Development shall be so designed that its shadow cast at midday, 21 June onto any other adjoining property does not exceed 25% of the site area (on adjoining properties coded R25 and lower).	40.2% overshadowing to adjoining lot to the south (6 Kings Road).	15.2% variation.
Design Principles		
<u>R-Codes</u>		
P2.1 & P2.2 (refer to R-Codes for full description of design principles)		

The proposal has been assessed against the relevant design principles and is considered supportable as it does not overshadow the outdoor living area at 6 Kings Road (located on the south side) and whilst there is some overshadowing of major openings to the north facing dining room of 6 Kings Road, it is considered that a single storey addition with a wall height that complied with the height standards of TPS4 would also overshadow openings in a similar manner, due to the east-west orientation of the sites.

Consultation and Referrals

Submissions

Notice of the application was sent to surrounding landowners and occupiers in accordance with clause 64 of the *Planning and Development (Local Planning Schemes) Regulations 2015* and LPP 1.4 'Public Notification of Planning Proposals'. Consultation occurred between 22 August and 5 September 2017. At the conclusion of public consultation, no submissions were received by the City.

Internal Referrals

The proposal was referred to relevant internal departments and the following comments were received that have a material impact on the proposal:

- Heritage – The subject site is located within the Kings Road Heritage Area and is identified as making some contribution to the heritage values of the area. The following matters were advised in relation to the proposal:
 - Two storey addition: The design of the two storey addition complies with clause 4.2 of LPP3.6. The location and scale of the addition, behind the ridge line of the original house and contained within the line of sight, complies with clause 4.3.4

of LPP3.6. The addition will not be completely concealed from sight when standing near the northern end of the lot; however this is considered inevitable due to the location of the right of way.

- Addition to the side: The addition to the ground floor lounge and dining room wall is not set back from the existing lounge wall, thereby presenting a variation to clause 4.3.2 of LPP3.6, which requires a minimum set back of 1.2m from any existing front wall of the building. However, the design of the side addition is clearly distinguishable as new work and does not obscure an understanding of the original scale and design of the place and complies with clause 4.2 of LPP3.6.
 - Alterations: The proposal includes modifications to the original building in order to accommodate an entry lobby, including: removal of a mid-twentieth century style door to the room to the west elevation of the main verandah (originally a double hung window), alteration to the opening to accommodate a bay window, reorientation of the front door which includes removal of the original French doors to the rear of the side verandah, part enclosure of the front verandah to create an entry lobby, and modification of the roof form to the street elevation to accommodate the entry lobby. This aspect of the proposal varies significantly to the conservation principles contained within LPP3.16 and the provisions of LPP3.6. Clause 4.1 of LPP3.6 specifically states that alterations should not remove, change or obscure original materials or detailing.
 - Conservation measures: Conservation measures proposed include removal of render and reinstatement of original tuck pointing and reinstatement of an original verandah floor. Whilst the proposed conservation works will restore the original finishes it is considered that the proposed alterations, which are more significant in nature and not easily reversible, will in fact further reduce the authenticity of the place and the contribution it makes to the heritage area.
- Infrastructure Services – The proposed car bay arrangement does not comply with AS2890.1 in relation to aisle width and parking width (Figure 2.2), manoeuvrability and sightline requirements (Clause 3.2.4 and Figure 5.4).

Strategic Implications

There are no strategic implications for this report.

Statutory and Policy Considerations

There are no statutory and policy considerations for this report.

Risk and Asset Implications

There are no Risk and Asset Implications for this report.

Financial

There are no financial implications for this report.

Social and Environmental Implications

There are no social and environmental implications to this report.

Attachments

1. Development plans (dated 9 August 2017 and 19 October 2017);
2. Justification from the applicant (received by the City 19 October 2017);
3. Letter from Applicant outlining issues and undertakings (received 1 December 2017).

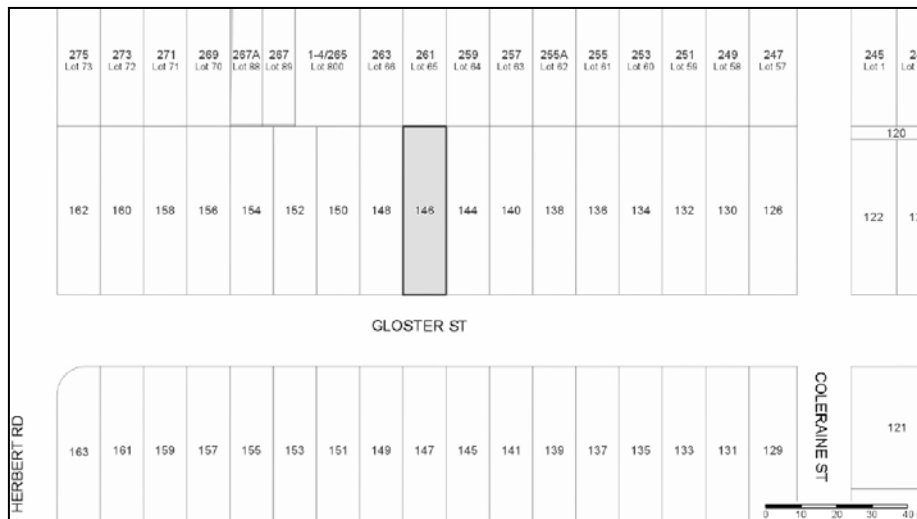
For Information

There are no information documents for this report.

C2 NO. 146 (LOT 82) GLOSTER STREET SUBIACO – APPLICATION FOR REVIEW (APPEAL) – SECTION 31 RECONSIDERATION OF EXTENSION TO TERM OF DEVELOPMENT APPROVAL FOR SINGLE STOREY DWELLING WITH BASEMENT (7.2017.29)*

REPORT FROM MANAGER PLANNING SERVICES

Author: Anthony Denholm – Acting Manager Planning Services
Date: 29 November 2017
File Reference: A/4493
Voting Requirements: Simple - more than half elected members present required to vote in favour



OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Richardson/seconded Cr Mummery

That Council, in response to the invitation by the State Administrative Tribunal to review its decision under section 31(1) of the State Administrative Tribunal Act 2004 (WA) set aside its previous decision dated 27 June 2017 and substitute the following decision:

That in accordance with the provisions of Town Planning Scheme No. 4 and the Metropolitan Region Scheme, the application submitted by DR & KM Nabbs date stamped 8 March 2017 for an Extension to the term of Development Approval for Single Storey Dwelling at No. 146 (Lot 82) Gloster Street, Subiaco as shown on plans date stamped 8 March 2017 be APPROVED subject to the same conditions and advice notes as previously granted to DA7.2014.109.1 on 21 April 2015, except as amended as follows:

Amended Condition:

Condition 1 of the planning approval dated 21 April 2015 for DA7.2014.109.1:

- 1. The development is to be carried out in accordance with the plans, drawings and documentation dated 8 March 2017 (Plans 1-4 of 4) included with the application for development approval. The development shall be substantially commenced within two (2) years of the date of this decision. Should the development not be substantially commenced within this time, the approval shall lapse and be of no further effect.**

Cont./

Additional Condition:

The following condition be added to the planning approval dated 21 April 2015 for DA7.2014.109.1:

10. Prior to the issue of a building permit, the applicant shall submit and have approved by the City of Subiaco, a detailed construction methodology relating to the proposed basement. The construction methodology should be based on the scope of works methodology dated 1 November 2017 (City of Subiaco date received) as prepared by Create Homes (their letter dated 23 October 2017), and any recommendations therein be undertaken to the satisfaction of the Chief Executive Officer, City of Subiaco.

CARRIED ENBLOC 10/1
CR MATHESON VOTED AGAINST

6.25pm

Executive Summary

This report presents an application to extend the term of a development approval for a single storey dwelling with basement at No. 146 (Lot 82) Gloster Street, Subiaco. The application was initially refused by the city's Development Services Committee (DSC) in November 2014 (item D2), however was subsequently approved on 21 April 2015 (item C3) following an invitation from the State Administrative Tribunal (SAT) to reconsider the decision. A copy of the original planning approval is contained as **Attachment 1**. The current request to extend the term of the planning approval was refused by Council at its meeting of 27 June 2017 (item D1). In late July 2017, the applicant lodged an appeal with the SAT seeking that the application be reviewed.

The matter is currently under review at the SAT and the city has been invited to reconsider the application pursuant to s31 of the *State Administrative Tribunal Act 2004*, which is the purpose of this report.

The application proposes no change to the plans approved in April 2015. However since that 2015 approval, Council adopted Local Planning Policy 2.26 'Site Works' (LPP2.26) and LPP1.7 'Amendment and Extension to the Term of Planning of Development Approval' (LPP1.7). Notwithstanding the adoption of LPP2.26, the provisions and the policy itself are not considered to materially change the planning framework.

The application is considered to meet the provisions of LPP1.7, despite the change in planning framework brought about by the adoption of LPP2.26. The application to extend the term of development approval at the subject site is therefore recommended for approval subject to the imposition of an additional condition.

Background

Landowner:	DR & KM Nabbs
Applicant:	DR & KM Nabbs
Application Date:	8 March 2017
DA Reference:	DA7.2017.29
Lot size:	572m ²
TPS Zoning:	Residential (R20)
TPS Precinct:	West Subiaco Sub-Precinct 1
Existing Development:	Single House
Heritage Listing:	Not listed
<i>Site Context</i>	

- The site is located within the block bound by Gloster Street to the south, Hebert Road to the west, Heytesbury Road to the north and Coleraine Street to the east. There is vehicular access available via an existing crossover from Gloster Street;
- Existing on site is a single storey brick and iron interwar dwelling with a lightly framed carport in front of the primary building line and outdoor living area at the rear of the site. The site slopes 0.6m from the south (Gloster Street) to the north.

Development History

- In June 2014 an application was received for the demolition of an existing dwelling and the construction of a single storey dwelling with basement. Details of the new development included:
 - 3 bedrooms, 2 bathrooms, office, lounge, dining and living rooms at the ground level, totalling approximately 235sqm in floor area;
 - Garage, rumpus, storage and gym areas in a basement level of approximately 240sqm floor area;
 - Single width driveway (3.0m) that slopes down to the basement level from Gloster Street road reserve.
- In November 2014 the DSC refused the application on the basis that the proposed development did not satisfy the R Codes Site Works design principle (5.3.7 P7.1 or P7.2) as the extent of excavation was excessive, did not consider and respond to the natural features of the site and would have an adverse impact on the adjoining properties to the east and west.
- In December 2014 an application for review was lodged with SAT on the grounds that the proposal satisfied the R Codes deemed-to-comply requirements C7.1 and C7.2 (site works, excavation). In March 2015 SAT made an order inviting the city to reconsider its decision at the Council meeting on 21 April 2015.
- On 21 April 2015, Council approved the proposal subject to 9 conditions. The applicant was satisfied with the Council decision and withdrew the SAT review.
- The main reason for the change of the Council's decision, as detailed in the officer report, is that the site works (excavation) proposed by the application technically complied with the deemed to comply requirements of the R-Codes and as such, based on legal advice, the city would not have a particularly strong case to defend if the matter proceeded to a full hearing. The report foreshadowed the preparation of a local planning policy to replace the deemed to comply requirements of the R-Codes regarding the excavation of a site.
- In September 2015 the city adopted Local Planning Policy 2.26 'Site Works' (LPP2.26), after public advertising. LPP2.26 was developed to:
 - Replace the deemed to comply requirement of the R-Codes with requirements that specifically address excavation; and
 - Identify matters to be considered when apply the design principles in relation to site works.
- At its meeting of 27 June 2017, Council considered an application to extend the term of planning approval for the single storey dwelling with basement approved on 21 April 2015. Council agreed with the recommendation at the time that the application should be refused as the planning framework had materially changed and that there was a possibility that the proposed development may not be approved again.
- In late July 2017, the applicant lodged an appeal with the SAT nominating several grounds, including a lack of planning merit in LPP2.26 'Site Works'.

Local Planning Policy 1.7 'Amendment and Extension to the Term of Development Approval' (LPP 1.7)

LPP 1.7 guides the exercise of discretion when considering an application to extend the term of an approval and provides the following matters for consideration:

- a) Whether or not the planning framework has changed substantially since the development application to which the extension application relates was granted; and
- b) Whether in granting the planning approval, a discretion was exercised in relation to the Scheme or policy requirements; and
- c) Whether the approved development would likely receive approval today; and
- d) Whether the applicant has actively and relatively conscientiously pursued implementation of the approval development: and
- e) Whether a material change has occurred to either the site to which the development approval relates or the surrounding locality since the development approval was granted.

Additionally, LPP 1.7 indicates that where an application to extend the term of a development approval is approved, a further period of two years will be granted unless otherwise determined by the determining authority.

Officer Comments

The applicant is seeking approval for an extension of time to substantially commence the development pursuant to clause 77(1)(a) of the LPS Regulations 'deemed provisions'. The City's LPP1.7 provides guidance for the exercise of discretion when considering an application for an extension to a term of approval and is based on three key considerations identified by the SAT as being relevant, namely whether the:

- planning framework has changed substantially since development approval was granted;
- development would likely receive approval now; and
- holder of the development approval has actively and relatively conscientiously pursued the implementation of the development approval.

1. Has the planning framework 'substantially' changed?

The *Planning and Development (Local Planning Schemes) Regulations 2015*, gazetted in October 2015, altered the matters to be considered by local government when considering a development application. There has been no change to the city's Town Planning Scheme No. 4 affecting the subject site. The most significant planning framework changes since the original planning approval of 21 April 2015 has been the adoption of an amended version of the Residential Design Codes (R-Codes) in October 2015 and two Local Planning Policies, being:

- LPP1.7 'Amendment and Extension to the Term of Development Approval' (adopted 27 June 2017); and
- LPP2.26 'Site Works' (adopted 22 September 2015).

Notwithstanding the above, it is not considered that the planning framework has ‘*substantially*’ changed. A SAT case determined in 2017 identified the following principles which are applicable to the consideration of this request (extension of timeframe) in the context of a policy adopted after a decision has been made:

“In having due regard to an amended policy, consideration should be given as to how that amendment came about, in particular whether that amendment is purely reactive and whether it is based on sound planning principles”

With regard to the above, assessment of LPP2.26 ‘Site Works’ in relation to the following criteria is considered necessary:

a) *How the policy came about*

As detailed earlier, this development was approved on 21 April 2015. Approximately two months after this decision, in June 2015, Council resolved to advertise draft LPP2.26 ‘Site Works’.

b) *Whether the policy is purely reactive*

The preparation and adoption of LPP2.26 could be considered to be largely reactive and responsive to the issues that arose as a result of this original application, which proposed significant levels of excavation within close proximity to adjoining properties. This is outlined in the report recommending the adoption of draft LPP2.26 for advertising:

“The policy [LPP2.26 – Site Works] has been developed in response to an issue with the interpretation and implementation of clause 5.3.7 of the Residential Design Codes (Codes). This issue was identified as a result of a recent review at the State Administrative Tribunal (SAT) for an application that was refused on the basis of excessive excavation.”

c) *Whether the policy is based on sound planning principles*

While the objectives of LPP2.26 are not invalid, the Explanatory Guidelines of the R-Codes (October 2015) states:

“Development below natural ground level only rarely affects neighbouring sites... Excavation below natural level is not usually as visually obtrusive as filling above natural level.

Consequently, excavation behind the street setback line is normally acceptable, provided the resulting spaces and rooms conform to BCA standards.”

There is an acceptance therefore, that through the R-Codes (‘deemed-to-comply’ and ‘design principles’) supported by the Explanatory Guidelines, the main planning principle that site works seeks to address is the filling (or raising), rather than the excavation, of a site. LPP2.26 seeks to expand upon the R-Code provisions insofar that it places an increased emphasis upon excavation and the planning controls around that.

However, if the floor area of a building can be located below ground level, this often improves outcomes for a range of planning principles including streetscape; building height; building bulk; overshadowing; and visual privacy.

Further, it is acknowledged that any impact upon amenity in relation to excavation of a site is more appropriately addressed through other legislative requirements (such as the building permit process) that are better placed to control any resultant issues, including dilapidation and structural assessment, preservation and safety for adjoining properties.

2. Would the development likely receive approval now?

In terms of assessment of planning merit, the only change since the planning approval in April 2015 is the introduction of LPP2.26. This aside, the development would likely receive planning approval again. In terms of fundamental planning discretions, nothing in the current planning framework has changed to the extent that would affect assessment of the proposal, including the gazettal of amended R-Codes in October 2015. The discretions associated with the proposal have already been considered and determined under the existing scheme provisions.

3. Has the applicant actively pursued the development approval?

The owner has actively pursued the development approval, however, due to unforeseen personal circumstances, was not able to substantially commence the development within the timeframe. The applicant has outlined their intent to progress further but requires the requested extension to pursue this. The applicant has engaged a building company which represents a commitment to actively pursue the approval.

The City's LPP 1.7 outlines two additional matters for consideration as follows:

1. Whether in granting the planning approval, discretion was exercised in relation to the Scheme or policy requirements?

In granting the previous development approval, the Council exercised discretion in relation to the:

- Town Planning Scheme (wall height);
- R Codes (boundary setbacks, sightlines, parking space design and site works).

It is noted that the plans approved on 21 April 2015 have not changed, so the physical characteristics and/or appearance of the development remain the same as when initial consideration and approval was granted. As mentioned earlier, the main change since 2015 is the adoption of LPP1.7, which outlines the parameters for considering request for amendments and extensions of terms of planning approvals, and LPP2.26, which provides guidance when considering applications for site works, including excavation.

The proposal did not originally meet the then 'Acceptable Development' standards (now 'Deemed-to-Comply') in relation to site works (excavation) and therefore required assessment against the then 'Performance Criteria' (now 'Design Principles'). This, combined with the plans not having changed, is not considered to be a new discretion.

2. Whether a material change has occurred to either the site to which the development approval relates or the surrounding locality since the development approval was granted?

There has been no material change to the site or the surrounding locality.

Consultation and Referrals

Public Consultation

In accordance with LPP1.4, as the application for an extension of time does not involve any additional exercise of discretion, no public consultation was required. The submissions received during the original application remain relevant to the consideration of this matter.

Internal Referrals

The applicant has elected to submit a scope of works construction methodology in relation to the proposed basement, refer to **Attachment 2**. This outlines how construction related issues and concerns associated with the significant level of excavation, and its proximity to the adjoining properties will be dealt with. The City's Building Services department provided the following comment:

"The proposal appears to be in-line with what would be required to mitigate risks with regards to the building works and in particular the potential for adverse effects during excavations and piling. From memory the piling methods used for similar projects was a secant piling system which involves less noise and vibration. There was a similar project at 219 Townshend Rd. The Builder is proposing to carry out a dilapidation survey which will be reviewed by the project Engineer and the effects of the basement excavations and piling system will be incorporated into the engineering drawings. A BA20 will be used for the potential for Adverse Affects and for removal of boundary fences, installation of protection structures etc. The City may also request this during the Building Permit application checking / assessment process if it has not been provided. The Builder has stated that the required construction Management Plan will be provided."

If the extension request is approved, it is recommended that an additional condition be imposed requiring that prior to issue of a building permit, the applicant submits and has approved, a consolidated construction methodology for the proposed basement, with any recommendations being implemented as part of the construction phase.

Conclusion

The existing planning approval conditions, coupled with the additional construction methodology for the proposed basement submitted by the builder, and reviewed by the city, is considered to demonstrate a sufficient level of acceptability on the grounds of planning merit. Council is advised that the distinction between planning issues and building (construction) issues can often be blurred. In this regard, it is important to identify the fundamental planning issues with the proposed excavation and whether the previous concerns raised by neighbours and Council can be addressed by separate legislative requirements such as through the building permit stage.

Should Council resolve to refuse this application, the SAT appeal will likely progress to a full hearing and City officers are not certain that this decision could be adequately defended. In light of this, and acknowledging that the applicant has demonstrated additional measures to mitigate primarily construction related concerns, it is recommended that Council reconsider its previous decision and grant an extension to

the term of planning approval for a further two (2) years, subject to the imposition of an additional condition.

Strategic Implications

There are no strategic implications for this report

Statutory and Policy Considerations

There are no statutory and policy considerations for this report.

Risk and Asset Implications

Should Council refuse the request for an extension of time, the matter will likely proceed to a full hearing at SAT. If this was to occur, it is considered that the refusal would be difficult to defend for the reasons outlined. There are no asset implications for this report.

Financial

There are no financial implications associated with the recommendation. Should the application be refused, it is likely to proceed to a full hearing at SAT which will require the city to obtain external representation and possibly other specialist advice to defend the decision. Costs associated with this are funded from the current operational budget.

Social and Environmental Implications

There are no social and environmental implications to this report.

Attachments

1. Development approval (21 April 2015)
2. Applicants Construction Methodology for basement (1 November 2017)

For Information

Nil

C3 NO. 263 (LOT 26), 265 (LOT 25) AND 277 (LOT 24) HAY STREET AND 17 (LOT 31) OLIVE STREET, SUBIACO – CHANGE OF USE TO TAVERN, RESTAURANT AND MARKET, AND ADDITIONS AND ALTERATIONS TO EXISTING BUILDING AND ASSOCIATED SIGNAGE (DA 7.2017.118.1)*

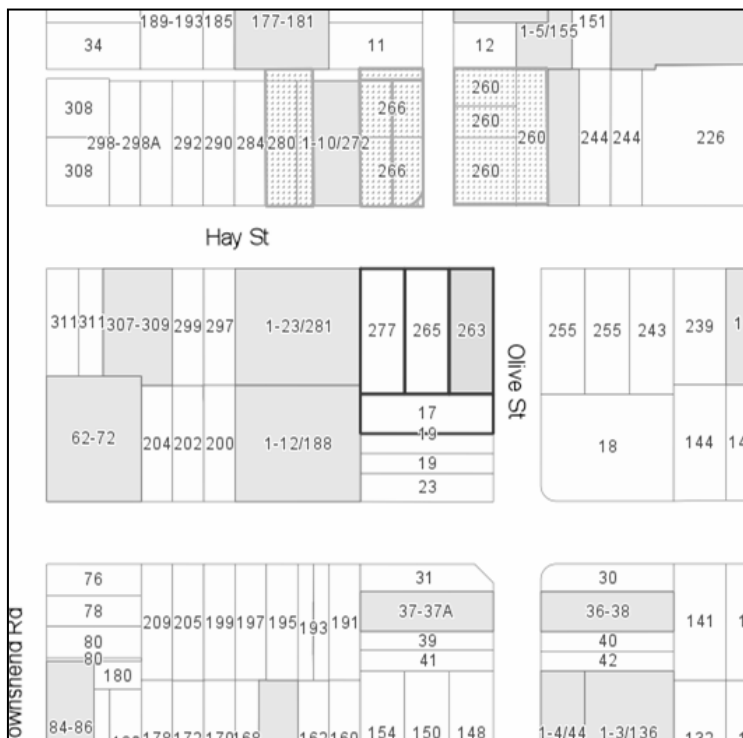
REPORT FROM MANAGER PLANNING SERVICES

Author: Zo Kruger - Planning Officer

Date: 4/12/2017

File Reference: DD7.2017.118.1

Voting Requirements: Simple - more than half elected members present required to vote in favour



COUNCIL DECISION

Moved Cr Mansfield/seconded McAllister

That in accordance with the provisions of Town Planning Scheme No. 4 and the Metropolitan Region Scheme, the application submitted by TPG + Place Match date stamped 14 September 2017 for Change of use to tavern, restaurant and market, additions and alterations to existing building and associated signage at No. 263 (Lot 26), 265 (Lot 25) & 277 (Lot 24) Hay Street & 17 (Lot 31) Olive Street, Subiaco as shown on plans date stamped 14 September 2017 and 22 November 2017, be APPROVED subject to the following conditions:

- 1. The development is to be carried out in accordance with the plans, drawings and documentation dated 14 September 2017 and 22 November 2017 (plan 1-7 of 7) included with the application for development approval. The development shall be substantially commenced within two (2) years of the date of this decision. Should the development not be substantially commenced within this time, the approval shall lapse and be of no further effect.**
- 2. The Tavern hours of operation are limited between the following hours:**
 - (a) Monday to Thursday – 11:00am to 10:00pm;**
 - (b) Friday to Saturday - 11:00am – 11:00pm;**
 - (c) Sunday - 11:00am - 8:00pm.**

Term of approval

- 3. This approval is valid for five (5) years from the date of approval, upon which the approval ceases and has no further effect.**

Prior to the issue of a building permit

- 4. Notwithstanding condition 1 of this approval, the plans hereby approved dated 14 September 2017 and 22 November 2017 shall be modified so as to retain the two existing shop front fascia walls fronting Hay Street on Lot 25 such that there shall be a continuous façade of original shopfronts across the Hay Street frontage with the exception of the “general food service” access marked on the plans**
- 5. Notwithstanding condition 1 of this approval, the plans hereby approved dated 14 September 2017 and 22 November 2017 shall be modified in the following ways:**
 - a) Demonstrate one access route for heavy vehicles with an exit only on Hay Street;**
 - b) Demonstrate sightlines that achieve compliance with the requirements of AS2890.1 Parking Facilities – Off-street car parking, or suitably acceptable alternative;**
 - c) Demonstrate unimpeded vehicle access from Olive Street to Hay Street. This may be achieved through the deletion of heavy vehicle bay 7 (nominated on plans for food trucks).**

The modifications shall be reflected on any building permit application to the satisfaction of the City of Subiaco.

Cont/-

- 6. Prior to the issue of a building permit, a Construction Management Plan shall be prepared to the City of Subiaco's satisfaction. This plan is to address:**
- a. construction noise;**
 - b. hours of construction;**
 - c. traffic management;**
 - d. parking management;**
 - e. access management;**
 - f. management of loading and unloading of vehicles;**
 - g. heavy vehicle access;**
 - h. dust;**
 - i. protection of verge trees;**
 - j. the need for a dilapidation report of adjoining properties; and**
 - k. any other relevant matters.**
- The requirements of this plan are to be observed at all times during the construction process to the satisfaction of the City of Subiaco.**
- 7. Prior to the issue of a demolition and/or building permit, two copies of archival records are to be submitted to the City of Subiaco for approval. The archival records shall be prepared in accordance with the City of Subiaco's 'Guidelines for preparing an archival record' document.**
- 8. Any proposed external building plant or services including air condensers, piping, ducting, flues/vents being located to minimise any visual, noise and odour impacts on the adjacent developments and being screened from view of the street, with details of the location and screening of such plant and services being submitted for approval by the City prior to the submission of an application for a building permit. The applicant is to ensure the design and construction of the premises such that no odours emanating from the premises are detectable on adjacent properties.**
- 9. Prior to the issue of a building permit, a noise management plan is to be submitted detailing measures that will be undertaken to ensure noise levels are kept within levels prescribed in the Environmental Protection (Noise) Regulations 1997.**
- The plan is to be prepared by a suitably qualified consultant and is to include:**
- sound proofing measures used in the design and construction of the development;**
 - predictions of noise levels;**
 - control measures to be undertaken (including monitoring procedures); and**
 - complaint response procedure.**
- All sound attenuation measures, identified by the plan or as additionally required by the City, are to be implemented prior to occupancy of the development or as otherwise required by the City and the requirements of the plan are to be observed at all times.**

Cont/-

Prior to occupation of the development

10. Prior to the occupation of the development, a waste management plan shall be submitted to the City of Subiaco for approval. The plan shall include:
 - (a) Details of collection times and methods;
 - (b) A noise management plan detailing measures that will be undertaken to ensure noise levels are kept within levels prescribed in the *Environmental Protection (Noise) Regulations 1997* for any waste proposed to be collected between the hours of 7pm to 7am; and
 - (c) Appropriate traffic management measures to mitigate conflicts between private vehicles and waste collection vehicles;
 - (d) Methods for controlling litter from customers in the vicinity of the site.The plan shall be implemented and adhered to throughout the life of the development to the satisfaction of the City of Subiaco.
11. Prior to occupation, one shower (unisex) is to be provided within the development, to the satisfaction of the City of Subiaco.
12. Prior to occupation, thirty one (31) class 1 or 2 employee bicycle parking facilities, and six (6) class 3 visitor bicycle parking facilities are to be provided in accordance with Australian Standard AS 2890.3, to the satisfaction of the City of Subiaco.
13. Prior to the commencement of operation a harm minimisation plan/house policy including responsible service practices and a robust complaints handling process is in place from inception to protect the amenity of the surrounding area, management plan and code of conduct as required by the Liquor Control Act 1988 is to be submitted to the satisfaction of the City of Subiaco.
14. Prior to occupation, loading bays and staff car-parking bays are to be clearly marked and maintained to the satisfaction of the City of Subiaco.
15. Prior to occupation of the development any new or modified crossover and/or tree removal and/or works in the road reserve associated with the development hereby approved must receive separate approval from the City of Subiaco.
16. Prior to occupation of the development, a comprehensive car parking management plan shall be submitted to, and approved by, the Chief Executive Officer, City of Subiaco.

General

17. All infrastructure in the road reserve adjacent to the development site shall be protected from damage for the duration of the construction of the development, and reinstated to the condition that existed prior to the commencement of the development.
18. The signage hereby permitted shall not contain any flashing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure.

Cont/-

Advice notes

- i. This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency.***
 - ii. If the work is likely to affect neighbouring land or property, or access is required to neighbouring land, then the 'Work affecting other land' provisions of the Building Act 2011 will apply.***
 - iii. The premises must comply with the Food Act 2008, regulations and the Food Safety Standards incorporating AS 4674-2004 Design, construction and fit-out of food premises. Detailed architectural plans and elevations must be submitted to Environmental Health Services for approval prior to construction. The food business is required to be registered under the Food Act 2008. For further information contact the City's Building and Health Services department.***
 - iv. As the subject building is intended to be used as a 'public building' as defined in Section 173 of the Health Act 1911 (as amended), it is necessary to make application for a Certificate of Approval from the City's Building and Health Services prior to occupation.***
 - v. The applicant is to ensure noise emissions from the site comply with the Environmental Protection (Noise) Regulations 1997 (as amended).***
 - vi. Any removal of asbestos is to comply with the following –***
 - Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a licence and in accordance with the Health (Asbestos) Regulations 1992 and the Environmental Protection (Controlled Waste) Regulations 2001. Over 10 square metres must be removed by a licensed person or business for asbestos removal. All asbestos removal is to be carried out in accordance with the Occupational Safety and Health Act 1984 and accompanying regulations and the requirements of the Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)];***
- Note: Removal of any amount of friable asbestos must be done by a licensed person or business and an application submitted to WorkSafe, Department of Commerce. <http://www.docep.wa.gov.au>**
- vii. The provision of grease traps in the development is to comply with the requirements of the Water Corporation of Australia.***
 - viii. With regard to condition 10:***
 - Class 1 refers to fully enclosed individual lockers that provide a high level of security.***
 - Class 2 refers to locked compounds fitted with class 3 facilities, with communal access using duplicated keys or electronic swipe cards, and which provide a medium level of security.***
 - Class 3 refers to facilities to which the bicycle frame and wheels can be locked, and which provides a low level of security.***

Cont/-

- ix. With regard to condition 14, the car parking management plan should address measures including:**
- **Management of employee parking arrangements;**
 - **Promotion of non-car bay based travel (ie discourage use of private vehicle); and**
 - **Promotion and identification of publicly available off-street parking facilities in the locality for use by customers; and**
 - **Promotion of car-pooling for employees, or providing alternative incentives for employees to seek alternative modes of transport to get to and from work;**
 - **Any other measure relevant to a comprehensive car parking management plan, to be determined upon liaison with the City of Subiaco at the time of preparation of the plan.**

CARRIED 6/5
CRS McALLISTER, STROUD, RICHARDSON, MATHESON AND MUMMERY VOTED
AGAINST
7.40pm

OFFICER RECOMMENDATION

Moved Cr Mansfield/seconded by Cr McAllister

That in accordance with the provisions of Town Planning Scheme No. 4 and the Metropolitan Region Scheme, the application submitted by TPG + Place Match date stamped 14 September 2017 for Change of use to tavern, restaurant and market, additions and alterations to existing building and associated signage at No. 263 (Lot 26), 265 (Lot 25) & 277 (Lot 24) Hay Street & 17 (Lot 31) Olive Street, Subiaco as shown on plans date stamped 14 September 2017 and 22 November 2017, be APPROVED subject to the following conditions:

1. The development is to be carried out in accordance with the plans, drawings and documentation dated 14 September 2017 and 22 November 2017 (plan 1-7 of 7) included with the application for development approval. The development shall be substantially commenced within two (2) years of the date of this decision. Should the development not be substantially commenced within this time, the approval shall lapse and be of no further effect.

Term of approval

2. This approval is valid for five (5) years from the date of approval, upon which the approval ceases and has no further effect.

Prior to the issue of a building permit

3. Notwithstanding condition 1 of this approval, the plans hereby approved dated 14 September 2017 and 22 November 2017 shall be modified in the following ways:
 - a) Demonstrate one access route for heavy vehicles with an exit only on Hay Street;
 - b) Demonstrate sightlines that achieve compliance with the requirements of AS2890.1 Parking Facilities – Off-street car parking, or suitably acceptable alternative;
 - c) Demonstrate unimpeded vehicle access from Olive Street to Hay Street. This may be achieved through the deletion of heavy vehicle bay 7 (nominated on plans for food trucks).

The modifications shall be reflected on any building permit application to the satisfaction of the City of Subiaco.

4. Prior to the issue of a building permit, a Construction Management Plan shall be prepared to the City of Subiaco's satisfaction. This plan is to address:
 - a) construction noise;
 - b) hours of construction;
 - c) traffic management;
 - d) parking management;
 - e) access management;
 - f) management of loading and unloading of vehicles;
 - g) heavy vehicle access;
 - h) dust;
 - i) protection of verge trees;
 - j) the need for a dilapidation report of adjoining properties; and
 - k) any other relevant matters.

The requirements of this plan are to be observed at all times during the construction process to the satisfaction of the City of Subiaco.

5. Prior to the issue of a demolition and/or building permit, two copies of archival records are to be submitted to the City of Subiaco for approval. The archival records shall be prepared in accordance with the City of Subiaco's 'Guidelines for preparing an archival record' document.
6. Any proposed external building plant or services including air condensers, piping, ducting, flues/vents being located to minimise any visual, noise and odour impacts on the adjacent developments and being screened from view of the street, with

details of the location and screening of such plant and services being submitted for approval by the City prior to the submission of an application for a building permit. The applicant is to ensure the design and construction of the premises such that no odours emanating from the premises are detectable on adjacent properties.

7. Prior to the issue of a building permit, a noise management plan is to be submitted detailing measures that will be undertaken to ensure noise levels are kept within levels prescribed in the Environmental Protection (Noise) Regulations 1997.
8. The plan is to be prepared by a suitably qualified consultant and is to include:
 - sound proofing measures used in the design and construction of the development;
 - predictions of noise levels;
 - control measures to be undertaken (including monitoring procedures); and
 - complaint response procedure.

All sound attenuation measures, identified by the plan or as additionally required by the City, are to be implemented prior to occupancy of the development or as otherwise required by the City and the requirements of the plan are to be observed at all times.

Prior to occupation of the development

9. Prior to the occupation of the development, a waste management plan shall be submitted to the City of Subiaco for approval. The plan shall include:
 - (a) Details of collection times and methods;
 - (b) A noise management plan detailing measures that will be undertaken to ensure noise levels are kept within levels prescribed in the *Environmental Protection (Noise) Regulations 1997* for any waste proposed to be collected between the hours of 7pm to 7am; and
 - (c) Appropriate traffic management measures to mitigate conflicts between private vehicles and waste collection vehicles;
 - (d) Methods for controlling litter from customers in the vicinity of the site.

The plan shall be implemented and adhered to throughout the life of the development to the satisfaction of the City of Subiaco.
10. Prior to occupation, one shower (unisex) is to be provided within the development, to the satisfaction of the City of Subiaco.
11. Prior to occupation, thirty one (31) class 1 or 2 employee bicycle parking facilities, and six (6) class 3 visitor bicycle parking facilities are to be provided in accordance with Australian Standard AS 2890.3, to the satisfaction of the City of Subiaco.
12. Prior to the commencement of operation a harm minimisation plan/house policy, management plan and code of conduct as required by the *Liquor Control Act 1988* is to be submitted to the satisfaction of the City of Subiaco.
13. Prior to occupation, loading bays and staff car-parking bays are to be clearly marked and maintained to the satisfaction of the City of Subiaco.
14. Prior to occupation of the development any new or modified crossover and/or tree removal and/or works in the road reserve associated with the development hereby approved must receive separate approval from the City of Subiaco.
15. Prior to occupation of the development, a comprehensive car parking management plan shall be submitted to, and approved by, the Chief Executive Officer, City of Subiaco.

General

16. All infrastructure in the road reserve adjacent to the development site shall be protected from damage for the duration of the construction of the development,

and reinstated to the condition that existed prior to the commencement of the development.

17. The signage hereby permitted shall not contain any flashing or moving light or radio; animation or movement in its design or structure; reflective, retro-reflective or fluorescent materials in its design structure.

Advice notes

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- iv. *As the subject building is intended to be used as a 'public building' as defined in Section 173 of the Health Act 1911 (as amended), it is necessary to make application for a Certificate of Approval from the City's Building and Health Services prior to occupation.*
- v. *The applicant is to ensure noise emissions from the site comply with the Environmental Protection (Noise) Regulations 1997 (as amended).*
- vi. *Any removal of asbestos is to comply with the following –*
 - *Under ten (10) square metres of bonded (non-friable) asbestos can be removed without a licence and in accordance with the Health (Asbestos) Regulations 1992 and the Environmental Protection (Controlled Waste) Regulations 2001. Over 10 square metres must be removed by a licensed person or business for asbestos removal. All asbestos removal is to be carried out in accordance with the Occupational Safety and Health Act 1984 and accompanying regulations and the requirements of the Code of Practice for the Safe Removal of Asbestos 2nd Edition [NOHSC: 2002 (2005)];*
Note: Removal of any amount of friable asbestos must be done by a licensed person or business and an application submitted to WorkSafe, Department of Commerce. <http://www.docep.wa.gov.au>
- vii. *The provision of grease traps in the development is to comply with the requirements of the Water Corporation of Australia.*
- viii. *With regard to condition 10:*
 - *Class 1 refers to fully enclosed individual lockers that provide a high level of security.*
 - *Class 2 refers to locked compounds fitted with class 3 facilities, with communal access using duplicated keys or electronic swipe cards, and which provide a medium level of security.*
 - *Class 3 refers to facilities to which the bicycle frame and wheels can be locked, and which provides a low level of security.*
- ix. *With regard to condition 14, the car parking management plan should address measures including:*
 - *Management of employee parking arrangements;*
 - *Promotion of non-car bay based travel (ie discourage use of private vehicle);*
and

- *Promotion and identification of publicly available off-street parking facilities in the locality for use by customers; and*
- *Promotion of car-pooling for employees, or providing alternative incentives for employees to seek alternative modes of transport to get to and from work;*
- *Any other measure relevant to a comprehensive car parking management plan, to be determined upon liaison with the City of Subiaco at the time of preparation of the plan.*

AMENDMENT

Moved Cr Nash/seconded Cr Matheson

That an additional condition be added as condition number 3, and subsequent conditions be re-numbered accordingly.

3. Notwithstanding condition 1 of this approval, the plans hereby approved dated 14 September 2017 and 22 November 2017 shall be modified so as to retain the two existing shop front fascia walls fronting Hay Street on Lot 25 such that there shall be a continuous façade of original shopfronts across the Hay Street frontage with the exception of the “general food service” access marked on the plans.

CARRIED 10/1
CR McMULLEN VOTED AGAINST
7.01pm

Cr Davis provided the following reasons:

1. *The demolition of the shop front fascia walls fronting Hay Street on Lot 25 are not supported as this loses the rhythm of the existing continuous shop fronts.*
2. *The retention of the fascia walls only maintains a contribution to Hay Street whilst enabling the redevelopment of a contemporary interim use behind the facades.*

AMENDMENT

Moved Cr Matheson/seconded Cr McMullen

That an additional condition be added as condition number 2, and subsequent conditions be re-numbered accordingly.

2. The Tavern hours of operation are limited between the following hours:
 - (a) Monday to Thursday – 11:00am to 10:00pm;
 - (b) Friday to Saturday - 11:00am – 11:00pm;
 - (c) Sunday - 11:00am - 8:00pm.

CARRIED 6/5
MAYOR TAYLOR, CRS STROUD, DAVIS, MANSFIELD AND MUMMERY VOTED
AGAINST
7.23pm

AMENDMENT

Moved Cr Matheson/seconded Cr Mummery

That condition 11 be amended as follows

11. Prior to the commencement of operation a harm minimisation plan/house policy including responsible service practices and a robust complaints handling process is in place from inception to protect the amenity of the surrounding area, management plan and code of conduct as required by the Liquor Control Act 1988 is to be submitted to the satisfaction of the City of Subiaco.

CARRIED 10/1

CR McMULLEN VOTED AGAINST

7.30pm

Cr Matheson has provided the following reasons:

- *Submissions from the public listed have raised concerns about noise and behaviour of patrons.*
- *Late night opening hours to 12 midnight is not desirable in a transition area (from entertainment) to residential.*
- *Retention of the existing shop front facades will add interest and character to the new use of this site.*
- *Refer Cr Nash and Cr Davis amendment to include the retention of the shop fronts.*

The amendments form part of the substantive motion.

SUBSTANTIVE MOTION

Moved Cr Mansfield/seconded McAllister

That in accordance with the provisions of Town Planning Scheme No. 4 and the Metropolitan Region Scheme, the application submitted by TPG + Place Match date stamped 14 September 2017 for Change of use to tavern, restaurant and market, additions and alterations to existing building and associated signage at No. 263 (Lot 26), 265 (Lot 25) & 277 (Lot 24) Hay Street & 17 (Lot 31) Olive Street, Subiaco as shown on plans date stamped 14 September 2017 and 22 November 2017, be APPROVED subject to the following conditions:

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Term of approval

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 - g. heavy vehicle access;
 - h. dust;
 - i. protection of verge trees;
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 - k. any other relevant matters.

The requirements of this plan are to be observed at all times during the construction process to the satisfaction of the City of Subiaco.

7. Prior to the issue of a demolition and/or building permit, two copies of archival records are to be submitted to the City of Subiaco for approval. The archival records shall be prepared in accordance with the City of Subiaco's 'Guidelines for preparing an archival record' document.
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General

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 - *Any other measure relevant to a comprehensive car parking management plan, to be determined upon liaison with the City of Subiaco at the time of preparation of the plan.*

CARRIED 6/5

CRS McALLISTER, STROUD, RICHARDSON, MATHESON AND MUMMERY VOTED
AGAINST

7.40pm

Executive Summary

The development application seeks approval for a change of use to tavern, restaurant and market, additions and alterations to the existing building and associated signage at No. 263, 265 and 277 Hay Street and No. 17 Olive Street, Subiaco. The application is required to be considered by Council due to the variations sought to the City's Town Planning Scheme No. 4 (TPS4), and the number of objections received in relation to the proposal.

The key issues of this application are:

- Consideration of a temporary development approval for the proposal;
- Land use considerations in relation to the proposal and surrounding area, with regard to the objectives of TPS4, the Commercial/Residential Zone and the Hay Street East Precinct; and
- Car parking.

The application is recommended for conditional and time limited approval (i.e. temporary approval) for a five year period. Should the applicant wish to seek a longer term of approval, this would be subject to a further application in the future to be assessed against the planning framework of the time.

Background

Landowner:	Hay 263 Pty Ltd
Applicant:	TPG Town Planning & Urban Design
Application Date:	14/09/2017
DA Reference:	DA 7.2017.118.1
Lot size:	2,259m ²
TPS Zoning:	Commercial/Residential
TPS Precinct:	Hay Street East Precinct
Land Use:	Tavern, Restaurant and Market
Land Use Permissibility:	Tavern – A, Market – A, Restaurant – D
Existing Development:	Commercial Buildings
Heritage Listing:	265 Hay Street – Local Government Inventory

Site Context and Development History

- The subject site is located within the block bound by Hay Street to the north, Olive Street to the east, Churchill Avenue to the south and Townshend Road to the west.
- The site comprises four lots – Nos. 263, 265 and 277 Hay Street and No. 17 Olive Street, and is improved with existing commercial buildings.
- The site has an existing Development Assessment Panel (DAP) approval for 'demolition of existing buildings and construction of six storey building comprising offices, shops, restaurant, two levels of basement parking and 72 multiple dwellings', which was approved on 20 April 2016.

Proposal

The proposal includes a café, tavern, food trucks and a weekend market. The demolition of the existing building located at 265 Hay Street is proposed to accommodate the proposal. Demolition of all buildings on the subject site was previously approved by DAP. The premises are proposed to operate as follows:

- The café (restaurant land use) is to operate seven days from 7am until midnight;
- Food trucks (restaurant land use) are to operate on weekdays from 11am until midnight, and on weekends from 8am until midnight;

- The tavern is to operate seven days from 11am until midnight;
- The market is to operate on weekends from 8am until 12pm.
- The overall anticipated patron capacity of the premises is 700 comprises of:
 - Café (restaurant) – 125 patrons (75 inside + 50 in alfresco area);
 - Food trucks (restaurant) – 150 patrons; and
 - Tavern – 430 patrons (280 inside + 150 in alfresco area)

The development plans for the proposal are included as **Attachment 1**, and the cover letter and relevant supporting information are included as **Attachment 2** of this report.

An assessment of the proposal has been conducted against the provisions of Town Planning Scheme No.4 (TPS4) and the following policies and legislation:

Local Planning Policy 2.12 'Liquor Licensing Policy' (LPP2.12);

Local Planning Policy 2.14 'End of Trip Facilities' (LPP2.14);

Local Planning Policy 2.18 'Advertisements (Signs)' (LPP2.18);

Local Planning Policy 4.5 'Hay Street East Precinct' (LPP4.5);

Draft North Subiaco Structure Plan (NSSP);

Transport, Access and Parking Strategy (TAPS); and

Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations).

The proposal is considered to comply with all the requirements of TPS4, and relevant provisions of the aforementioned policies with the exception of the following key issues.

Key Issues of Assessment

Planning and Development (Local Planning Schemes) Regulations 2015

Schedule 2, Part 9 – Clause 72 'Temporary Development Approval'

Under clause 72 of the LPS Regulations, the city is able to issue a temporary (or time limited approval). This is considered appropriate to this application for the following reasons:

- A proposed limited term of approval would facilitate the orderly and proper planning of the site in the context of the locality and would provide time for the developer to pursue implementation of the existing DAP approval relating to the site.
- Should issues arise with the proposed land use, the limited term of approval would enable the City to reconsider the proposal in the future through lodgement of a new application. With regard to this application, conditions are recommended to address issues relating to amenity and ongoing management of the proposal, including elements such as construction, noise, waste management, and submission of an acoustic report and management plan.
- The applicant has demonstrated that sufficient car parking is provided in the locality to justify a concession being contemplated under clause 70(8) of TPS4 for the parking shortfall. It is noted that the planning framework is likely to have changed at the conclusion of a five year term of approval, with the implementation of the new Local Planning Scheme 5 (LPS5) and draft North Subiaco Structure Plan (NSSP). A limited term of approval would enable reconsideration of the proposal at a later date against any new applicable development standards.

Town Planning Scheme No. 4 (TPS4)

Land Use and Objectives of the Zone

The City considers the most appropriate land uses that define the proposal are 'Tavern', 'Market' and 'Restaurant' which TPS4 define as:

- Tavern – *“means premises licensed as a tavern under the Liquor Control Act 1988 and used to sell liquor for consumption on the premises.”*
- Market – *“means premises used for the display and sale of goods from stalls by independent vendors.”*
- Restaurant – *“means premises where the predominant use is the sale and consumption of food and drinks on the premises and where seating is provided for patrons, and includes a restaurant licensed under the Liquor Control Act 1988 but does not include Hotel, Tavern, Small Bar, Licensed Premises or Night Club.”*

'Tavern' and 'market' land uses within the 'commercial/residential' zone are an 'A', (discretionary) land use which:

“means that the use is not permitted unless the local government has exercised its discretion by granting planning approval after giving special notice in accordance with clause 26 and taking into consideration whether the nature of the use is consistent with the planning objectives of the Scheme and the planning policies with respect to that zone;”

A 'restaurant' land use within the 'commercial/residential' zone is a 'D', (discretionary) land use which:

“means that the use is not permitted unless the local government has exercised its discretion by granting planning approval taking into consideration whether the nature of the use is consistent with the planning objectives of the Scheme and the planning policies with respect to that zone;”

In this regard, the objectives of the Scheme, Commercial/Residential zone and Hay Street East Precinct are considered and summarised below.

Clause 7 – Objectives and Intentions of TPS4

- The proposal provides a hospitality/leisure based premises that includes different land uses and contributes to the variety of uses in the locality.
- The proposal is consistent with the use and development of the site with regard to the provisions of the Hay Street East Precinct, as further discussed within this report.
- The proposal is considered to promote a sense of local community, particularly as it includes a weekend market that will encourage local small business.
- The proposal recycles existing building stock that has been underused or vacant for a period of time, and is considered to be sustainable in this regard.
- The proposal does not negatively affect the cultural heritage of the City.

Commercial/Residential Zone – Clause 44 – Aims and Objectives

- The proposal encourages safe pedestrian and vehicle coexistence through the establishment of separate pedestrian and vehicle access points. The proposal also includes a vehicle parking area in the existing building at 17 Olive Street, not visible from the street and not having a detrimental effect on the streetscape.
- The proposal incorporates visually permeable fencing to Hay Street, providing security to the premises whilst enabling surveillance from within the premises to

the street and vice versa. The proposed landscaping is appropriate and does not obstruct street views.

Local Planning Policy 4.5 Hay Street East Precinct

- The proposal comprises a development that is appropriate to the area and complementary to the mixed use nature of development within the locality.
- The proposal contributes to the vibrant mixed use area of the precinct by providing a combination of unique hospitality and community related enterprises.
- The proposal encourages a pedestrian friendly streetscape, as it addresses Hay Street, provides multiple pedestrian entrances, visitor bicycle parking spaces, and is located in existing buildings at street level.
- Appropriate landscaping is incorporated into the proposal. Planter boxes delineate dining areas and are included on the Hay Street frontage of the site to provide visual interest and soften the appearance of the boundary fence.

The subject site is zoned Commercial/Residential. This zone is comprised of a variety of land uses; however the uses are predominantly residential and commercial. Due to the nature of the zone, it cannot reasonably be expected that nearby residents can anticipate the same level of amenity as they otherwise would if it was exclusively a residential zone given that the zone contemplates a far greater amount of non-residential land uses.

Whilst it is acknowledged that the proposed land uses are 'A' (discretionary and requiring advertising) and 'D' (discretionary) uses under TPS4, the majority of residential use classes (i.e. grouped and multiple dwellings) are also discretionary land uses that exist on adjoining or nearby properties.

It is acknowledged that residential land uses are considered 'sensitive', and that many of the nearby residential uses have existed for some time. However, a common issue with the Commercial/Residential zone is that when new applications proposing residential use classes are approved, this may resultantly degrade that zone's ability to carry and support non-residential land uses.

The level of amenity expectation is inherently increased, often to a point where parity with levels expected in a purely residential zone. **Attachment 3** depicts the subject site in the context of the surrounding Commercial/Residential zone and adjoining Residential zone, with residential uses in the Commercial/Residential zone noted.

It is not suggested that adjoining or nearby residential dwellings in the Commercial/Residential zone should not have their expectation of amenity levels compromised, rather that there should be an expectation from existing nearby residential dwellings in this zone that there is potential for non-residential land uses to coexist nearby or in close proximity.

Given the nature of the proposal, there is a strong likelihood of impacts on the amenity of surrounding landowners, particularly with regard to construction and operation. To manage these concerns, relevant conditions relating to construction, noise, waste management and ongoing management of the site have been included in the recommendation. A proposed temporary approval would ensure that the city retains control over any long term amenity issues that are associated with the proposed uses under the subject application. Further, should the planning framework remain similar to what it is today, Council can reconsider any further extension beyond the proposed five year approval period in the context of any amenity impacts that may have occurred up until that time.

Commercial/Residential Zone – Clause 45 – Development Standards

The key variations proposed to the development standards for the Commercial/Residential zone are outlined below.

Car parking

Parking requirements for the proposal are calculated based on the two floor plans submitted as part of the application, depicting the following uses:

1. Tavern, restaurant and food truck complex; and
2. Tavern, restaurant (including food trucks and café) and markets.

The parking requirements of TPS4 and the city's new Transport, Access and Parking Strategy (TAPS) have been considered in the assessment of car parking requirements for the subject site. Car parking calculations are provided below.

Aspect	Required	Proposed	Difference
Tavern, restaurant (café) and food truck complex	TPS4 – 278	9 bays	-269
	TAPS – 30		-21
Tavern, restaurant (food trucks and café) and markets	TPS4 – 285		-276
	TAPS – 32		-23

The proposal requires the exercise of discretion with regard to the car parking requirements of TPS4 as it provides nine (9) on-site vehicle parking bays, which are intended to be for employees. Clause 70(8) of TPS4 contains matters for consideration in determining the extent of the concession in car parking requirements for non-residential development, which are addressed below.

Scheme Requirement	Comment
<i>70(8)(i): Whether a demand for car parking associated with the proposed development which is less than the requirement in Table 2 has been demonstrated</i>	<p>The applicant has not demonstrated that there is reduced demand for car parking as outlined in Table 2.</p> <p>The proposal is to accommodate an approximate maximum of 700 patrons - 430 patrons relating to the tavern land use, 125 relating to the café, and 150 relating to the food trucks.</p> <p>The tavern land use comprises the largest proportion of expected patronage to the proposal and would therefore generate the most demand for parking. Whilst approximately 430 patrons are expected, it is uncommon for any tavern within Subiaco, and the broader Perth Metropolitan Region to be at capacity at any given point during all trading hours, except for weekends and public holidays. Thus it is reasonable to suggest that during the majority of proposed opening hours, the use will be more consistent with a low key land use, and likely incidental to the proposed restaurant and market uses. It is acknowledged that the weekends, notably Friday afternoon/night through to Sunday night will likely see the venue close to, or at capacity. In this regard, the City's research suggests that peak parking demand in this area is during core business hours (8am – 5pm, Monday to Friday) and that outside of those hours, the parking demand drops significantly therefore increasing parking availability on-street. It is therefore reasonable to conclude that any increase in parking demand associated with an increased in on-site activity associated with the tavern will likely occur outside of the peak period (core business hours).</p>

	<p>In relation to the proposed restaurant (café and food trucks) and market land uses, it is noted that these uses are to commence operation earlier in the morning, with the café to operate from 7am (seven days), food trucks to operate from 11am on weekdays and 8am on weekends, and the market to operate from 8am (weekends). In relation to the café and markets, due to the commonplace nature of these uses it is considered likely that they to be frequented by local residents who reside in proximity to the site, and may elect to utilise alternative forms of transport such as walking and cycling, thereby further reducing the demand for parking. In relation to the food trucks, the operating hours coincide with that of the proposed tavern (excepting the weekend), and it is considered that any increase in on-site activity associated with the food truck use will similarly likely occur outside of the peak period.</p>
<p><i>70(8)(ii): The availability and likely use of modes of transport other than the private car</i></p>	<p>Alternative modes of transport are available in proximity to the subject site, including:</p> <ul style="list-style-type: none"> • Subiaco train station (800m) and West Leederville station (1km). • Bus route 28 operates eastbound via Roberts Road and westbound via Hay Street. Bus route 97 operates from bus stops located a short walking distance on Rokeby Road. • Taxi stand on the corner of Rokeby Road and Seddon Street, approximately 650m from the subject site. Notwithstanding, patrons may elect to use ride sharing services (as well as taxis) which do not necessarily require dedicated stands to drop off or pick up patrons. • Existing pedestrian footpaths on both sides of Hay Street and Olive Street. • A Principle Shared Path (PSP), connecting Subiaco to Perth City and Shenton Park. • There are 31 employee and 6 visitor bicycle parking facilities proposed, and there are existing additional bicycle parking facilities in close proximity to the site on Hay Street.
<p><i>70(8)(iii): The practicability and likelihood that car-pooling will be employed, as a means of reducing the demand for parking</i></p>	<p>It would be reasonable to expect that by the very nature of the proposed use, and any liquor license that is subsequently granted, that patrons may plan their day and/or night ahead, whether that be car-pooling, catching public transport, catching a taxi or alternative means of transport other than driving.</p>
<p><i>70(8)(iv): The availability and likely level of use of end-of-trip bicycle facilities</i></p>	<p>The proposal includes 6 visitor bike racks and 31 employee bike racks within the premises. It is likely that the bicycle parking facilities will be used by visitors and employees due to the cycling linkages to the site as previously described.</p>
<p><i>70(8)(v): The availability of public car parking in the locality including street parking</i></p>	<p>Sufficient parking exists within a radius of 400 metres from the subject site to accommodate parking required by the proposal. There are approximately 500 on-street parking bays, 83 City of Subiaco off-street parking bays and 329 privately managed public parking bays within a radius of 400 metres from the site. The City recently conducted consultation in relation to the Subiaco East Precinct Parking Management Plan, which proposes that on-street parking controls be changed to only apply Monday to Friday from 8am to 5pm. On Saturday and Sunday there will be no time restrictions or requirement to pay for parking, which will also apply after 5pm weekdays. Recent parking occupancy surveys were conducted by the City relating to the on-street and City of Subiaco parking bays (a total of 583 bays), identifying the following</p>

	<p>occupancy rates within the 400 metre area:</p> <ul style="list-style-type: none"> • Friday 10 November 2017 at 7pm – 237 vehicles (41% occupied) • Sunday 12 November 2017 at 4pm – 106 vehicles (18% occupied) • Wednesday 15 November at 7:30pm – 124 vehicles (21% occupied) <p>There is sufficient public parking in the locality to accommodate the proposal, particularly with regard to the parking required by the proposal after 5pm and into the evening.</p> <p>As discussed in relation to point (i) above, it is considered unlikely that the premises will operate at full capacity at any given point during all trading hours particularly with regard to the tavern land use, except for weekends and public holidays. Given that the City's research suggests peak parking demand is during core business hours (8am – 5pm, Monday to Friday), and that outside these hours parking demand decreases significantly, any increase in parking demand associated with the proposal would likely occur outside the peak period.</p>
<p><i>70(8)(vii): Any car parking deficiency or surplus associated with the existing use of the land</i></p>	<p>The existing site contains fourteen (14) car parking spaces associated with the approved use of the premises as an 'exhibition centre'. As the proposal includes provision of nine (9) car parking spaces, there are no concessions that may be applied to the calculated number of car parking spaces under TPS4 with regard to this consideration.</p>
<p><i>70(8)(viii): Any other relevant consideration</i></p>	<p>TAPS contains parking rates that are significantly lower than the requirements of TPS4, and are referenced in the NSSP as previously noted.</p> <p>The parking rates within TAPS may be included as a consideration in granting a concession for car parking requirements for the proposal. Further, it is noted that car parking requirements for the subject site are likely to be affected following the implantation of the new Local Planning Scheme 5 and NSSP.</p>

Consideration of the variation against the provisions of clause 28 of TPS4 is required, which considers the non-compliance with a development standard's effect on amenity and compliance with the objectives of the zone. The variation is considered to satisfy the provisions of clause 28 for the following reasons:

- There is sufficient parking in the locality (including on-street, City of Subiaco parking bays and privately managed public parking bays) to accommodate parking associated with the proposal.
- Due to the nature of the land uses proposed, it is likely that there will be reduced demand for car parking as patrons would use alternative modes of transport to travel to and from the site, including public transport, pedestrian and cycling networks, taxi and ride-share services, which do not require car parking.
- The proposal incorporates bicycle parking facilities for employees and visitors, which is considered to encourage use of alternative forms of transport.
- It may be argued that the provision of on-site car parking for the land uses proposed (i.e. licensed venues) is not morally responsible, as patrons of the premises may be consuming alcohol and should not be encouraged to utilise private vehicles as a means of transport.
- It is also recommended that the applicant be required to prepare and submit to the City for approval, a car parking management plan which looks at a range of

measures to reduce the businesses reliance for car parking bays for employees and customers.

Minor Issues of Assessment

Town Planning Scheme No. 4

Clause 27A Determination of Applications involving Liquor Licenses & Planning Policy 2.12 Liquor Licensing Policy

Clause 27A of TPS4 provides a number of additional matters to consider when determining an application involving licensed premises. This clause is supplemented by LPP2.12, which provides general and specific criteria for assessing applications involving liquor licenses. An assessment of these matters is presented below:

Location

- The proposal is considered to contribute positively to the character of the locality with regard to the streetscape and atmosphere and will contribute to a diverse range of facilities in the Commercial/Residential Zone.
- The scale and nature of the venue are appropriate for the locality with regard to the objectives of the zone and precinct.
- Suitable conditions of approval relating to construction, noise, waste management and management of the site are included in the recommendation to ensure that impacts on the amenity of adjoining properties are mitigated.
- The proposed venue is located in proximity to other licensed premises, including the Vic Hotel, the Irish Club and Pure Bar (all within 200m), and is situated 60m from residential development within the Triangle Precinct. The addition of the proposed licensed premises to existing licensed premises in the area is not considered to result in an unacceptable cumulative impact with regard to the amenity of the surrounding area, especially if it is given a time limited approval of five years.
- There are public transport facilities in the area, including train and bus services, a taxi stand on Rokeby Road (approximately 650m from the subject site), pedestrian and cycling facilities.

Street Frontage

The street frontage of the proposal is oriented to Hay Street, with a primary pedestrian entrance from Hay Street and a secondary entrance to the tavern off Olive Street. The street frontage is active, with the street boundary incorporating visually permeable fencing, offering views within the premises to the street and vice versa.

Number of Patrons

The tavern is proposed to have a capacity of 700 patrons. Building regulations and health requirements have been considered and should the development be approved, an application for a 'public building' is required to be submitted to the City prior to occupation. It is considered that the scale of the proposed venue is appropriate with regard to the aims and objectives of the zone and precinct based on the following:

- The existing nature of the precinct comprises offices, shops, small bars, restaurants and another tavern (the Vic Hotel).
- The scale and nature of the venue are considered appropriate for the locality, as it will encourage and enhance the vibrant mixed use nature of the area.

- The proposal is eligible for car parking concessions under clause 70 of TPS4, as there is sufficient on-street parking, City of Subiaco bays and private bays that are able to accommodate parking required by the proposal, as previously described.

Hours of Operation

The applicant has stated that the proposed tavern is to operate seven days from 11:00am until midnight. The *Liquor Control Act 1988* contains the permitted hours of trading under each type of liquor license. The applicant’s proposed hours of operation are consistent with the provisions of the Act.

Clause 70A End of Trip Bicycle Facilities & Planning Policy 2.14 End of Trip Facilities

Clause 70A of TPS4 requires end of trip bicycle facilities to be provided in accordance with Schedule 7. End of trip facilities required under TPS4 are presented below, along with the bicycle parking rates provided in Section 7 ‘Parking’ of TAPS.

TPS4 – Clause 70A		
Required	Proposed	Difference
Market <ul style="list-style-type: none"> • Employee – 2 (class 1 or 2) • Visitor – 1 (class 3) 	<ul style="list-style-type: none"> • Employee spaces – 31 • Visitor spaces – 6 	<ul style="list-style-type: none"> • Employee spaces – shortfall of 16 spaces • Visitor spaces – surplus of 3 spaces • Overall shortfall of 13 spaces
Restaurant & Tavern <ul style="list-style-type: none"> • Employee – 45 (class 2) • Visitor – 2 (class 3) 		
Total – 50		
TAPS		
Other Commercial (Market) <ul style="list-style-type: none"> • Employee – 5 (class 1) • Visitor – 2 (class 3) 	<ul style="list-style-type: none"> • Employee spaces – 31 • Visitor spaces – 6 	<ul style="list-style-type: none"> • Employee spaces – surplus of 6 spaces • Visitor spaces – shortfall of 16 spaces • Overall shortfall of 10 spaces
Restaurant & Tavern <ul style="list-style-type: none"> • Employee – 20 (class 2) • Visitor – 20 (class 3) 		
Total – 47		

The shortfall of 13 bicycle parking spaces required by TPS4 is considered acceptable for the following reasons:

- 31 employee bicycle spaces are provided, which presents a small shortfall of 16 spaces;
- There are additional bicycle parking facilities on Hay Street near to the subject site;
- Nine (9) car parking bays are provided on site for employees;
- The site is located in an area in close proximity to train and bus services; and
- There is a surplus of employee spaces under calculations from TAPS requirements.

LPP2.14 ‘End of Trip Facilities’ contains additional requirements in relation to bicycle parking facilities and showers to be provided as part of end of trip facilities. The applicant has advised that the proposal is to include 4-5 employees in relation to the café, and 18-20 employees in relation to the tavern. Employees associated with the food trucks are not permanent employees of the premises and would not create demand for end of trip facilities. LPP2.14 requires that one shower is provided in the premises, and conditions are included in the recommendation requiring one unisex shower to be provided within the development, and bicycle parking facilities as included on the submitted plans.

Local Planning Policies

Local Planning Policy 2.18 Advertisements (Signs)

The proposal includes an above roof sign to be placed on top of the building façade at 277 Hay Street. The signage requires development approval under the provisions of LPP2.18, and an assessment of the signage against Part 5 of the policy is presented below.

5.1 Appropriateness to setting

- The sign is considered appropriate to the building based on the following:
 - The sign is square, 1.5m x 1.5m in size, and is placed on a 500mm pylon on top of a building façade. The sign does not detract from or dominate existing buildings.
 - The sign contains the name and logo of the premises and utilises a colourful design which makes it legible.
 - The sign faces Hay Street and enables identification of the premises from the street.
- The scale and design of the signage is compatible with the mixed use character of the locality and land uses in the area, which consists mainly of commercial development.
- The sign is located in proximity to residences adjacent to the west of the site. A condition is included in the recommendation restricting the design and structure of the signage, which is considered to protect the amenity of nearby properties.

5.2 Consolidation of signs

The proposal includes an above roof sign. One other wall sign is to be located on site (to the east elevation); however this sign is exempt from development approval requirements under PP2.18. The proposal is therefore consistent with the provisions of this part.

5.3 Safety

- The proposed signage does not present a hazard or obstruction to pedestrians, and does not block motorists and cyclists views, traffic information signage or traffic lights.
- The above roof sign is to be illuminated, however, it is not considered to detrimentally impact on the safety of motorists or pedestrians. A condition has been included in the recommendation in relation to this matter.

Conclusion

Based on the above assessment, the proposal is recommended for conditional approval. The key issues of assessment comprising land use considerations and variations to the car parking requirements of TPS4 are considered supportable. A temporary approval would enable the city to retain control over any long term amenity issues that are associated with the proposed land uses, given the context of the Commercial/Residential zone. A limited term of approval would enable reconsideration of the proposal at a later date against any new applicable development standards. It is concluded that the site is located 200m south of Subiaco Oval, which is scheduled to be demolished. This application and the nature of the uses proposed are considered to potentially offset a loss of foot traffic associated with the Subiaco Oval no longer operating in the capacity that it previously did. In this regard, the proposal is considered to add interest and economic activity to the eastern end of Hay Street, particularly on weekends when Subiaco Oval typically brought larger volumes of people into the city.

Consultation and Referrals

Public Consultation

The application was treated as a 'Significant Planning Application' under the city's LPP1.4 'Public Consultation for Planning Proposals', and was advertised for a period of 28 days from 29 September 2017 to 27 October 2017. Notice of the application was sent to surrounding landowners and occupiers in accordance with clause 64 of the LPS Regulations and LPP1.4. A notice was placed on the city's engagement hub *Have your say Subiaco*, a sign was placed on site and notices included in the Subiaco Post newspaper each Friday during the consultation period. At the conclusion of advertising, twenty five (25) submissions had been received, thirteen (13) of which objected to the proposal, nine (9) supported the proposal, and three (3) neither supported nor objected and provided comments. **Attachment 4** includes a copy of the submissions, the city's response to each submission and the applicant's response.

External Referrals

The proposal was referred to the Department of Planning, Lands and Heritage (DPLH), as part of the site at No. 265 Hay Street is an Other Regional Roads reservation under the Metropolitan Region Scheme as a category 2 road. The affected portion of the property comprises a corner truncation to Hay Street and Olive Street, and affects the proposed café. The Department provided general comments in support of the application and stated that it would be supportive of the use of the reserved land for the proposed café on a temporary basis only. The referral from the DPLH is included as Attachment 5 to this report. The condition included in the recommendation relating to a five year temporary approval satisfies this requirement. It is noted that should the applicant seek to extend the timeframe of the approval or to submit a new development application to the City for the proposal at the conclusion of the temporary approval period, that the City would be required to seek comment from the DPLH with regard to this matter.

Internal Referrals

The proposal was referred to relevant internal departments and the following comments were received that have a material impact on the proposal:

- Building – require a Construction and Traffic Management Plan to be submitted with the Building Permit application, an appropriate condition has been recommended.
- Health – general comments relating to compliance with legislation regarding noise, public building matters, food business registration, further details regarding the kitchen and associated facilities, odour matters, compliance with Water Corporation requirements and compliance with legislation regarding asbestos handling and removal. These matters have been addressed by appropriate conditions and advice notes in the recommendation.
- Economic Development – general comments provided in support of the proposal.
- Heritage – The property at 265 Hay Street is included on the Local Government Inventory as a place of level 3 significance. The surrounding streetscape has seen considerable redevelopment over time and is not a streetscape of heritage value. The property at 265 Hay Street is the only remaining original development in this section of Hay Street. An archival record is required to be prepared and submitted to the City in accordance with the City's guidelines for preparing archival records. A condition has been included in the recommendation addressing this matter.
- Infrastructure – additional comments provided following the applicant's submission of further information to the City, relating to:

- The preference for one way heavy vehicle movement from Olive Street and exiting onto Hay Street, and that this should be marked on the development plans;
- Management of employee car parking during concurrent operation of businesses, with regard to the weekend markets;
- Provision of sightlines for pedestrians at vehicle exit points;
- Unimpeded vehicle access from Olive Street to Hay Street – heavy vehicle bay 7 blocks the access door during operating hours which is not suitable in an emergency situation.

Where required, conditions are included in the recommendation addressing these matters.

Strategic Implications

There are no strategic implications for this report

Statutory and Policy Considerations

There are no statutory and policy considerations for this report.

Risk and Asset Implications

There are no Risk and Asset Implications for this report.

Financial

There are no financial implications for this report.

Social and Environmental Implications

There are no social and environmental implications to this report.

Attachments

1. Development plans (dated 14 September 2017 and 22 November 2017)
2. Cover letter and supporting information
3. Map of the subject site and surrounding area
4. Schedule of Submissions
5. Referral from Department of Planning, Lands and Heritage (received 19 September 2017)

For Information

1. There are no information documents for this report.

C4 DRAFT SUBIACO REDEVELOPMENT SCHEME NO. 2 AND DEVELOPMENT POLICIES – METROPOLITAN REDEVELOPMENT AUTHORITY – FOR COMMUNITY CONSULTATION*

REPORT FROM DIRECTOR COMMUNITY AND DEVELOPMENT SERVICES

Author: Senior Strategic Planning Officer - Jutta Kober
Date: 4 December 2017
File Reference: A/4746
Voting Requirements: Simple - more than half elected members present required to vote in favour

COUNCIL DECISION

Moved Cr Rowe/seconded Cr Stroud

That Council, in relation to the community consultation on draft Subiaco Redevelopment Scheme No. 2 and draft Subiaco Redevelopment Area Development Policies:

1. Provide the Metropolitan Redevelopment Authority with a full copy of this report;
2. Advise the Metropolitan Redevelopment Authority that the City proposes the following modifications to the draft Scheme.
 - a) The Precinct ‘Statements of Intent’ for the Princess Margaret Hospital Precinct and Subiaco Oval Precinct are amended to state that only local retail is appropriate;
 - b) The statement contained within Railway Precinct about facilitating “quality pedestrian, cycling and public transport linkages to improve connections to the Subiaco East Project Area” should be included in all precincts within the Subiaco East project area;
 - c) The Land Use Table should be modified in accordance with the points raised in “3. Land Use Table” within this Report; and
 - d) The error within the Car Parking Table for “Transient Residential” to be fixed.
3. Advise the Metropolitan Redevelopment Authority that the City proposes the following modifications to the draft Development Policies:
 - a) Policy 1 – Green Building policy to be modified to include criteria for the allocation of tiers for the Green Star Rating system within design guidelines;
 - b) Policy 3 – Noise and Vibration Attenuation to be modified to address the impact of construction issues on nearby properties and include the relevant recommendations of the report prepared by Maitland Heritage Engineering for the Catherine Street Houses in February 2015, a copy of which has previously been provided;
 - c) Policy 10 – Adaptable Housing to be modified to require an access consultant to prepare the Accessibility Report.
4. Request the Metropolitan Redevelopment Authority to include the City of Subiaco in the visioning and master planning work to be undertaken for each precinct within the Subiaco East Project Area and to ensure the community’s vision for the area is reflected in the detailed planning for the area.
5. Request the Metropolitan Redevelopment Authority to include all properties on the City’s Heritage List that are within the redevelopment scheme area on the MRA’s Heritage Inventory.

Cont./

6. **Reiterates its comments from September 2017 expressing concern about the inconsistency of the draft Scheme with the *Planning and Development (Local Planning Scheme) Regulations 2015* and the difficulties this will cause when normalising the redevelopment area.**
7. **Request that the Metropolitan Redevelopment Authority emphasise the retention of existing green open space in light of the multi-storey development proposed within the Subiaco East project area and that redevelopment of large sites, such as PMH, includes provision of additional green space to cater for the increase in residents and workers to the area as part of the redevelopment.**
8. **Request that the Metropolitan Redevelopment Authority extend the closing date for public submissions to 8 February 2018 to account for the Christmas period.**

CARRIED 11/0

7.57pm

OFFICER RECOMMENDATION

Moved Cr Rowe/seconded Cr Stroud

That Council, in relation to the community consultation on draft Subiaco Redevelopment Scheme No. 2 and draft Subiaco Redevelopment Area Development Policies:

1. Provide the Metropolitan Redevelopment Authority with a full copy of this report;
2. Advise the Metropolitan Redevelopment Authority that the City supports the draft Scheme subject to the following modifications:
 - a) The Precinct 'Statements of Intent' for the Princess Margaret Hospital Precinct and Subiaco Oval Precinct are amended to state that only local retail is appropriate;
 - b) The statement contained within Railway Precinct about facilitating "quality pedestrian, cycling and public transport linkages to improve connections to the Subiaco East Project Area" should be included in all precincts within the Subiaco East project area;
 - c) The Land Use Table should be modified in accordance with the points raised in "3. Land Use Table" within this Report; and
 - d) The error within the Car Parking Table for "Transient Residential" to be fixed.
3. Advise the Metropolitan Redevelopment Authority that the City supports the draft Development Policies subject to the following modifications:
 - a) Policy 1 – Green Building policy to be modified to include criteria for the allocation of tiers for the Green Star Rating system within design guidelines;
 - b) Policy 3 – Noise and Vibration Attenuation to be modified to address the impact of construction issues on nearby properties and include the relevant recommendations of the report prepared by Maitland Heritage Engineering for the Catherine Street Houses in February 2015, a copy of which has previously been provided;
 - c) Policy 10 – Adaptable Housing to be modified to require an access consultant to prepare the Accessibility Report.
4. Request the Metropolitan Redevelopment Authority to include the City of Subiaco in the visioning and master planning work to be undertaken for each precinct within the Subiaco East Project Area and to ensure the community's vision for the area is reflected in the detailed planning for the area.
5. Request the Metropolitan Redevelopment Authority to include all properties on the City's Heritage List that are within the redevelopment scheme area on the MRA's Heritage Inventory.

6. Reiterates its comments from September 2017 expressing concern about the inconsistency of the draft Scheme with the *Planning and Development (Local Planning Scheme) Regulations 2015* and the difficulties this will cause when normalising the redevelopment area.

AMENDMENT

Moved Cr Matheson/seconded Cr Mummery

That points 2 and 3 be amended to:

2. Advise the Metropolitan Redevelopment Authority that the City ~~supports~~ proposes the following modifications to the draft Scheme ~~subject to the following modifications...~~
3. Advise the Metropolitan Redevelopment Authority that the City ~~supports~~ proposes the following modifications to the draft Development Policies ~~subject to the following modifications...~~

That the following points be added as points 7 and 8:

7. Request that the Metropolitan Redevelopment Authority emphasise the retention of existing green open space in light of the multi-storey development proposed within the Subiaco East project area and that redevelopment of large sites, such as PMH, includes provision of additional green space to cater for the increase in residents and workers to the area as part of the redevelopment.
8. Request that the Metropolitan Redevelopment Authority extend the closing date for public submissions to 8 February 2018 to account for the Christmas period.

CARRIED 11/0

7.53pm

The amendments form part of the substantive motion

SUBSTANTIVE MOTION

Moved Cr Rowe/seconded Cr Stroud

That Council, in relation to the community consultation on draft Subiaco Redevelopment Scheme No. 2 and draft Subiaco Redevelopment Area Development Policies:

1. Provide the Metropolitan Redevelopment Authority with a full copy of this report;
2. Advise the Metropolitan Redevelopment Authority that the City proposes the following modifications to the draft Scheme.
 - a) The Precinct 'Statements of Intent' for the Princess Margaret Hospital Precinct and Subiaco Oval Precinct are amended to state that only local retail is appropriate;
 - b) The statement contained within Railway Precinct about facilitating "quality pedestrian, cycling and public transport linkages to improve connections to the Subiaco East Project Area" should be included in all precincts within the Subiaco East project area;
 - c) The Land Use Table should be modified in accordance with the points raised in "3. Land Use Table" within this Report; and
 - d) The error within the Car Parking Table for "Transient Residential" to be fixed.
3. Advise the Metropolitan Redevelopment Authority that the City proposes the following modifications to the draft Development Policies:
 - a) Policy 1 – Green Building policy to be modified to include criteria for the allocation of tiers for the Green Star Rating system within design guidelines;
 - b) Policy 3 – Noise and Vibration Attenuation to be modified to address the impact of construction issues on nearby properties and include the relevant recommendations of the report prepared by Maitland Heritage Engineering for the Catherine Street Houses in February 2015, a copy of which has previously been provided;

- c) Policy 10 – Adaptable Housing to be modified to require an access consultant to prepare the Accessibility Report.
4. Request the Metropolitan Redevelopment Authority to include the City of Subiaco in the visioning and master planning work to be undertaken for each precinct within the Subiaco East Project Area and to ensure the community's vision for the area is reflected in the detailed planning for the area.
 5. Request the Metropolitan Redevelopment Authority to include all properties on the City's Heritage List that are within the redevelopment scheme area on the MRA's Heritage Inventory.
 6. Reiterates its comments from September 2017 expressing concern about the inconsistency of the draft Scheme with the *Planning and Development (Local Planning Scheme) Regulations 2015* and the difficulties this will cause when normalising the redevelopment area.
 7. Request that the Metropolitan Redevelopment Authority emphasise the retention of existing green open space in light of the multi-storey development proposed within the Subiaco East project area and that redevelopment of large sites, such as PMH, includes provision of additional green space to cater for the increase in residents and workers to the area as part of the redevelopment.
 8. Request that the Metropolitan Redevelopment Authority extend the closing date for public submissions to 8 February 2018 to account for the Christmas period.

CARRIED 11/0

7.57pm

Executive Summary

The draft Subiaco Redevelopment Scheme No. 2 (SRS2) and associated Development Policies have been released for community consultation until 8 January 2018. The Metropolitan Redevelopment Authority (MRA) has provided a response to the City's previous comments of September 2017 in which it advised that the structure of the draft SRS2 cannot be changed to closer align with the *Planning and Development (Local Planning Scheme) Regulations 2015* as the MRA follows their own legislation and model redevelopment scheme. As a result, the City's comments have been focused on those aspects of the draft Scheme that can be influenced while reiterating the earlier concerns with the lack of alignment with the Regulations and the difficulties this is likely to cause when land under MRA control is returned to the city's planning control in the future.

The draft Scheme and Policies have been assessed by officers and are generally supported subject to a number of modifications. In particular, it is considered essential for the City of Subiaco to be involved in the visioning and master planning of the Subiaco East Project Area and the precincts within that area to ensure that the community's vision is reflected in the detailed planning for East Subiaco.

Background

The Subiaco Redevelopment Scheme No. 1 (SRS1) has been in effect since 1996 and has been the planning scheme that has facilitated the redevelopment of Subi Centro and surrounds over that time.

The SRS1 is due for review as it was one of the early redevelopment schemes, and several others (including the schemes for Midland, Armadale and Scarborough) are much more contemporary.

In February 2017 the MRA expanded the Subiaco Redevelopment Area to include the Princess Margaret Hospital site. Subsequently, in June 2017, the area was further expanded to include Subiaco Oval, Kitchener Park, Mueller Park and land to the north

of Subiaco Road, including the road reserve. The updated redevelopment scheme, to be known as SRS2, will also cover this expanded area.

The MRA has prepared draft SRS2 for the entire area which will be under MRA control and referred it to the City for comment, in accordance with section 39 and 41 of the *Metropolitan Redevelopment Authority Act 2011* (MRA Act), prior to seeking the Minister for Planning's consent to publicly advertise the draft Scheme.

The City made preliminary comments at the Ordinary Council Meeting on 19 September 2017 (Item C13.1) where Council resolved as follows:

"That Council, in relation to the August 2017 Stakeholder Consultation draft of the Subiaco Redevelopment Scheme No. Two:

1. *advise the Metropolitan Redevelopment Authority that the City is not yet in a position to support the draft Scheme due to the following significant issues:*
2.
 - a) *High level of inconsistency with the Planning and Development (Local Planning Scheme) Regulations 2015 and further alignment would improve the Scheme;*
 - b) *The high level of inconsistency will lead to difficulties when normalising the scheme area back to the local planning scheme, and less clarity in understanding the scheme by the community and stakeholders;*
 - c) *Lack of clarity or certainty with regard to the parcels of land that have been recently identified for normalisation;*
 - d) *Lack of clarity around the vision for the precinct given the Scheme is the tool to implement the vision;*
 - e) *Inconsistency with the heritage terminology and requirements with the Heritage of Western Australia Act 1990 and the Planning and Development (Local Planning Schemes) Regulations 2015; and*
 - f) *Lack of clarity around the approach to developer contributions, parking requirements and cash-in-lieu of parking;*
3. *Request that the Metropolitan Redevelopment Authority consider the above issues and the comments within appendix 3 to the report, in the next version of the draft Scheme prior to public consultation, and provide feedback to the City on the issues raised;*
4. *Note the SRS2 Scheme Map clearly shows Mueller Park for Public Open Space and recognise this is consistent with the City's expectations for the reserve;*
5. *Write to the Minister for Planning requesting that the Metropolitan Redevelopment Authority work with the City of Subiaco and other stakeholders to develop a shared vision for the precinct and attend a visioning workshop within the next 6 weeks; and*
6. *Write to the Minister for Transport expressing the City's ongoing support for the Inner City College and the Subiaco East Redevelopment, and the critical need to understand the important role of public transport provision in the precinct that, at a minimum should include the following aspects as outlined in the City's Transport, Access and Parking Strategy:*
 - a) *Hay Street and Roberts Road returned to two-way traffic;*
 - b) *Returning Bus Route 97 to Leederville Station to provide public transport access to the Joondalup line within walking distance of the precinct and that*

- the service should run at a high frequency every day of the week into the evenings;*
- c) *A high frequency bus service along the future two-way of Hay Street connecting through the Perth CBD;*
 - d) *More trains stopping at West Leederville Station and an improved frequency of service at peak periods and evenings; and*
 - e) *Note that further extending Route 97 beyond Leederville towards Mt Hawthorn / Dog Swamp area would better serve the Inner City College catchment.”*

Planning authority for the expansion area will continue to rest with the City or the Western Australian Planning Commission (over the MRS Reserves), until SRS2 is gazetted.

Comment

The MRA has released draft SRS2 and associated development policies for public comment until 8 January 2018. The draft documents are available from the MRA's website at <https://www.mra.wa.gov.au/projects-and-places/subi-east/documents>. The documents have not been included as attachments due to their size and the fact that they are publicly available. It should be noted that the draft document previously considered by Council in September 2017 has been amended and a number of Council's more minor comments have been incorporated into the final draft SRS2. The MRA has also separately provided a response to the City's previous comments (**Attachments 1 and 2**).

The MRA's response to the main issues raised by the City stated that the MRA follows its own legislation and model redevelopment scheme which aligns the draft SRS2 with other redevelopment schemes. As such, there is limited scope to incorporate the City's main issues of concern, including a closer alignment of SRS2 with the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations), as this would require a substantial departure from the MRA's model redevelopment scheme.

For this reason it is considered that Council should reiterate some of the earlier concerns raised, however, the main focus of comments should be on those matters that the City can influence within draft SRS2, without requesting the MRA to align the structure of the scheme with the City's draft Local Planning Scheme No. 5 (LPS5).

Draft SRS2 takes a very different approach to a local planning scheme prepared under the LPS Regulations.

It is significantly more outcome based and allows an inherent degree of flexibility which requires assessment of the appropriateness of land uses and development based on scheme objectives and statements of intent for each of the redevelopment precincts. This flexible, outcome based approach is then supported by a suite of development policies and design guidelines for each precinct that will, once prepared, provide greater clarity and guidance for developers and assessing officers.

It is therefore of utmost importance that Council understands and agrees with the scheme objectives and precinct Statements of Intent as these will have a significant role in guiding development. It is furthermore essential for the City to be involved in the visioning and master planning work yet to be undertaken that will result in the preparation of precinct-based design guidelines.

On this basis the following comments are made:

1. *Visioning and Master Planning Process*

The draft SRS2 is a statutory document guiding planning decisions of the MRA on a daily basis. The scheme includes some high level vision statements and objectives to guide development. This is proposed to be supplemented by more detailed visioning for each precinct and for each of the project areas, Subi Centro and Subiaco East.

The MRA has advised that this process is to occur after the scheme has been adopted. Whilst ideally the visioning process should precede finalisation of the scheme, the MRA has advised that timeframes given by the Minister for Planning do not allow for this to occur and as a result, the scheme is intended to be finalised ahead of the visioning and master planning processes. It appears the main driver for the tight timeframes is the State government's commitment to opening the new Inner City College high school which is to be constructed on Kitchener Park and opened in time for the 2020 school year intake.

The City has done substantial visioning work with the local community as part of the development of the Subiaco Activity Centre Plan and the draft North Subiaco Structure Plan. The vision and objectives for the area should be acknowledged and incorporated into the vision for the Subiaco East project area. Whilst the high level vision statements are generally reflective of the City's intention for the area, this needs to flow through into the more detailed planning and the design guidelines to ensure the community's vision for the area is incorporated into the redevelopment of Subiaco East.

2. *Precinct Statements of Intent*

The Statements of Intent for each of the existing precincts within the Subi Centro project area have been reworded to reflect the new scheme format while retaining the vision established as part of the current Subiaco Redevelopment Scheme.

The precinct Statements of Intent for the Subiaco East project area are high level statements that generally reflect the intent of the draft North Subiaco Structure Plan. The three precincts have been identified as:

- Princess Margaret Hospital – the current hospital site bounded by Roberts Road, Thomas Street, Hay Street and Hamilton Street.
- Subiaco Oval – the area bounded by Coghlan Road, Roberts Road, Haydn Bunton Drive, the railway reserve and Court Street.
- Railway – the area north of Subiaco Road bounded by Court Street, the railway reserve and Thomas Street.

A number of modifications are suggested as follows:

- Princess Margaret Hospital: Needs to clarify that only local retail to support local residents and workers is appropriate.
- Subiaco Oval: Needs to clarify that only local retail to support local residents and workers is appropriate.
- Railway: There is an emphasis within this precinct on facilitating "quality pedestrian, cycling and public transport linkages to improve connections to the Subiaco East Project Area". This is an objective highlighted in the draft North Subiaco Structure Plan and should be included in all precincts within the Subiaco East Project Area. There is an opportunity to create a world class example of integration of land use and transport planning within this precinct due to its excellent location adjacent to the West Leederville train station. This creates an opportunity to reduce car parking requirements for new developments and include maximum parking ratios to reduce the amount of traffic congestion and alleviate some of the parking issues prevalent within this area. The draft SRS 2 should take this opportunity to include this in its vision ahead of any detailed planning and visioning work that is yet to come.

3. *Land Use Table*

The draft SRS2 includes land uses within various categories and then assigns a preference for each category within each precinct. This determines whether a particular land use category is 'preferred', 'contemplated' or not appropriate within a specific precinct. While the categories and uses within each category are part of the standard redevelopment scheme template and cannot be changed, the preference of each category within each precinct can be influenced.

The following comments are offered:

Centro Place Precinct:

- This precinct has not been included in the Table. While the Centro Place precinct has been redeveloped and is proposed to be normalised, it should still be included in SRS2 until such time as normalisation has been finalised and planning control is transferred back to the City.

Bishop Street precinct:

- Commercial is listed as a 'contemplated' category. This should be qualified with a statement under 3.2.2 Precinct Statement of Intent to clarify that small scale commercial uses may be appropriate to enable local residents to work near home and to provide activation of street frontages.
- Retail should not be 'contemplated' as this precinct is located adjacent to Jolimont Activity Centre where retail should be focused.
- Dining & Entertainment is listed as 'contemplated'. This should be qualified with a statement in 3.2.2 Precinct Statement of Intent to clarify that only small scale dining and entertainment uses may be appropriate as this precinct is located close to Jolimont Activity Centre which should be the focus for any dining and entertainment uses.

Australian Fine China Precinct:

- Residential is listed as not appropriate. This should be changed to 'preferred' given the precinct Statement of Intent states that this precinct will have a residential focus. The MRA has advised that this is an oversight and should in fact be 'preferred'.

Railway Precinct:

- Commercial is listed as 'preferred'. This should be changed to 'contemplated' as there are many other areas which should have a greater focus on commercial development within the project area. This precinct is envisaged to be predominantly residential with some small scale commercial and retail uses to support the local population. A 'contemplated' use would be more consistent with the precinct Statement of Intent which states that it should be predominantly residential.
- Residential is listed as a 'preferred' category. This is supported; however, the colour coding shown in the table is not consistent with the 'preferred' designation and should be amended to be dark green.
- Community is listed as 'preferred'. This should be changed to 'contemplated' as there are many opportunities for community uses within this project area and this precinct should be predominantly residential with some small scale commercial and retail to support the local population.

4. *Car Parking*

The draft SRS2 states that car parking requirements shall be in accordance with the relevant design guidelines and a very basic car parking table has been included to cover cases where no design guidelines exist. The City considers that this table, as well

as future car parking standards set out in the design guidelines, should be aligned with the city's Transport, Access and Parking Strategy to ensure alignment with draft Local Planning Scheme No. 5.

The table included in draft SRS2 contains an error in parking requirements for "Transient Residential" uses as minimum and maximum car parking spaces have been reversed.

5. Policy 1 – Green Building

The Green Building policy promotes environmentally sustainable building design and uses a three tier rating system for each project area or precinct which corresponds to a Green Star rating. The tiers will be identified within design guidelines yet to be developed. However, there is no indication of what criteria are to be used for allocation of tiers. This should be included in the policy.

6. Policy 2 – Heritage Places

The Heritage Places policy is comprehensive and covers all aspects of the development, conservation and adaptation of heritage places. The provisions of the policy are consistent with the City of Subiaco's heritage policies, reflecting best practice in heritage conservation and the principles of the Australia International Council on Monuments and Sites (ICOMOS) Charter for Places of Cultural Significance (the Burra Charter).

When establishing the Heritage Inventory it is requested that the MRA include places that have been adopted on the city's Heritage List as these places have been assessed and deemed to be of local significance to the City of Subiaco.

7. Policy 3 – Sound and Vibration Attenuation

The Sound and Vibration Attenuation policy deals with noise and vibration caused by close proximity of noise sensitive premises, such as residential uses to noise emitting uses, such as entertainment venues as well as noise and vibration caused by the railway line.

It should be amended to also deal with construction noise and vibration and the impacts this may have on existing properties, in particular heritage properties which may be fragile and subject to damage by construction occurring nearby.

The recommendations of the report prepared by Maitland Heritage Engineering dated February 2015 in relation to the heritage properties on Catherine Street should be incorporated into this policy to ensure any negative impacts caused by construction are minimised. This report has previously been provided to the MRA.

8. Policy 8 – Hosting Public Events

The policy sets out a requirement for an organiser of a large event to apply for planning approval from the MRA. This is in addition to obtaining the normal approvals for a public event, such as event approvals from the City's Environmental Health branch under the Public Building Regulations. There is a concern that this will result in a duplication of processes as the same, or similar information will need to be provided for both approvals. The MRA advised that development approvals for events are mostly just a formality with a fast turn-around time as assessment is about amenity impact of the event.

It should be noted that the City would also be required to apply to MRA for development approval for an event located on land subject to MRA control, such as Mueller Park or Subiaco Oval.

9. Policy 10 – Adaptable Housing

The Adaptable Housing policy aims at providing residential dwellings that meet different needs and abilities of residents and allows for aging in place. This is achieved by designing residential development in a way that is universally accessible and can be easily fitted with hand rails and similar if and when required.

The policy is generally supported as it aligns with the City's Positive Aging Plan. However, the policy should be modified to require the Accessibility Report to be prepared by an access consultant.

Consultation

The MRA is undertaking public consultation on draft SRS2 until 8 January 2018. Council's resolution on this item will form the submission to the MRA in relation to SRS2.

Strategic Implications

The inclusion of the additional sites within the SRS and the comprehensive review of SRS1 align with the City's strategic planning framework for the area, including the Local Planning Strategy, Subiaco Activity Centre Plan, draft North Subiaco Structure Plan and Kitchener Common Masterplan. These redevelopment areas will be key strategic areas for the City to accommodate population growth and development and requires commitment from State Government to improve/upgrade public transport infrastructure and improve its provision of services.

The redevelopment project is consistent with the City's Local Planning Strategy and Strategic Community Plan 2017-27 Focus Area Objectives and will contribute to:

- A sense of community and respect and recognition of City's history and landmarks;
- Greater access to and enjoyment of open spaces and public places;
- Subiaco to continue to be a unique destination for living, business and recreation;
- Protection and maintenance of heritage and integrated new developments;
- More effective and integrated transport system;
- Council leadership and partner with major planning and development.

Statutory and Policy Considerations

A redevelopment scheme is required under section 7 and part 5 of the *Metropolitan Redevelopment Authority Act 2011*, in order to transfer planning authority to the Metropolitan Region Authority (MRA). The purpose is to provide an up-to-date and holistic approach to development management across the redevelopment area. The SRS2 will become the primary planning tool to manage development in the redevelopment area.

Once planning and development reaches agreed milestones, the MRA will progressively divest itself or 'normalise' the redevelopment areas back to the City and WAPC control.

Progressive amendments will need to be made to the City's LPS5 to incorporate normalised areas.

Risk and Asset Implications

This comprehensive review of the SRS provides an opportunity to achieve a modern and progressive redevelopment scheme that implements the community's vision and both the City's and State's redevelopment aspirations while allowing for a smooth normalisation process at the appropriate time.

Financial

There are no financial implications associated with the recommendations of this report.

Social and Environmental Implications

The SRS2 objectives are generally consistent with City's Strategic Community Plan 2017-27, Sustainability and Resilience Strategy 2016-21 and Environment Enhancement Plan 2012-16. Development in accordance with the Scheme objectives will ensure the Scheme Area develops in a sustainable manner which will enrich Subiaco's role as a premier destination for people to live, work, visit and recreate within a vibrant, mixed use setting.

Attachments

1. Letter from MRA dated 1 November 2017
2. MRA Response to City of Subiaco comments on draft SRS2

C5 MODIFICATIONS TO SUBIACO ACTIVITY CENTRE PLAN SCHEME AMENDMENT – REPORT TO READVERTISE AMENDMENT*

REPORT FROM DIRECTOR DEVELOPMENT SERVICES

Author: Planning Officer - Oscar Thomson
Date: 8 November 2017
File Reference: A/4399
Voting Requirements: Simple - more than half elected members present required to vote in favour

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved by Cr Mummery/seconded by Cr McAllister

That Council:

- 1. Resolve pursuant to Section 75 of the Planning and Development Act 2005 and Clause 51(1) of the Planning and Development (Local Planning Schemes) Regulations 2015, to ADVERTISE modifications to the proposed amendment No. 32 to Town Planning Scheme No. 4 as shown in Attachment 1.**
- 2. Authorise the Mayor and Chief Executive Officer to execute the relevant modified Scheme Amendment documentation;**
- 3. Pursuant to Section 81 of the Planning and Development Act 2005, refer the modified amendment to the Environmental Protection Authority for consideration concurrently with advertisement;**
- 4. Pursuant to Clause 51(5) of the Planning and Development (Local Planning Schemes) Regulations 2015 and the City of Subiaco Local Planning Policy 1.4, prepare notice of, and ADVERTISE, the modifications to the amendment referred to in point 1 with a submission period of not less than 35 days and receive a further report following the closure of the consultation period;**
- 5. Authorise the CEO to write to the Western Australian Planning Commission requesting that the draft Local Planning Scheme No. 5 map be modified to make the proposed 'Centre' zone consistent with the 'Centre' zone in Amendment 32, prior to the commencement of public consultation of the draft Scheme.**

CARRIED 11/0
7.58pm

Executive Summary

The purpose of this report is to consider the re-advertising of modifications to a proposed amendment to Town Planning Scheme No. 4 (the Scheme), which will substantially simplify the integration of key development standards of the Subiaco Activity Centre Plan (SACP) within the Scheme. Council resolved to initiate and advertise the amendment on 28 March 2017 (item D7). This report focuses on the proposed modifications which are necessary but that trigger the requirement for the city to readvertise the amendment.

The key issues for consideration are:

- The modification to extend the 'Centre' zone to the entire area of the SACP.
- The need to effectively resolve conflict between provisions in the Scheme and the provisions set out in the SACP and the draft North Subiaco Structure Plan (NSSP).
- The manner in which key development standards are inserted into the Scheme is modified for the Centre zone by including a new Schedule 9 into the Scheme.

The modifications to Amendment No. 32 still aim to give effect to SACP through Town Planning Scheme No. 4 and will give surety that prescribed limits and standards articulated through the SACP are given the force and weight afforded by being a Scheme provision. The main reason that it is considered necessary to re-advertise the amendment is because, following consultation, a number of parcels of land are now recommended to be re-zoned to Centre, which differs from the previously advertised amendment.

Background

Prior to the gazettal of the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations), activity centre plans and structure plans were incorporated into local planning schemes via 'special control areas' which afforded their provisions the statutory weight of the Scheme.

The gazettal of the LPS Regulations in October 2015 modified the statutory provisions as they relate to activity centre plans in that they are now given 'due regard', unless they are incorporated into the relevant Local Planning Scheme. Specifically, the LPS Regulations state that a decision maker is to have 'due regard' to, but is not bound by, the activity centre plan when deciding the application, see clause 43(1) of the LPS Regulations.

Consequently, the SACP (formally approved by the WAPC on 14 November 2017), is not given the statutory weight that it otherwise would have had prior to gazettal of the LPS Regulations. In order to grant the appropriate statutory weight to particular provisions of the plan (such as building heights), and to provide certainty to applicants and the community, an amendment to the Town Planning Scheme is required to be undertaken.

Considerable detail regarding the purpose and intent of the initiated amendment are contained within the report to Council on 28 March 2017. The purpose of this report is to consider proposed modifications to the amendment in response to the submissions received during the consultation period and having regard to new information obtained during the final stages of preparation for draft Local Planning Scheme No. 5 (LPS 5).

Comment

The designation of the entire Activity Centre Plan area as the 'Centre' zone with a density code of R-AC0 is the most simplistic and direct approach to implementing the SACP. The previous approach was more complicated as three zones were designated within the SACP area, each with their own building height standards, land use permissibilities and other standards that were required to be amended within each corresponding set of zone provisions in TPS 4.

The modified approach brings the entire SACP area under the banner of the Centre zone and designates Schedule 9 of TPS 4 as the primary development control instrument. Schedule 9 is a section of the scheme, including a table and maps, which will be utilised in the assessment of new development in the SACP area. The development standards in Schedule 9 and the requirement to give 'due regard' to the SACP enables the implementation of the Plan as intended, while providing a high degree of certainty to all stakeholders regarding acceptable development outcomes. The changed zoning means that land use permissibilities are less complicated as there is no longer a difference between Commercial/Residential zones within the Activity Centre Plan area and outside the Activity Centre Plan area.

The modifications will also allow for the draft North Subiaco Structure Plan to be implemented generally under the existing zoning, with the exception of the land north of Subiaco Road, which will receive the R-AC0 code to formally refer development standards to the relevant structure plan. It should be noted that this section of land has been subsumed by the Metropolitan Redevelopment Authority (MRA). The MRA intends to gazette a new Subiaco Redevelopment Scheme No. 2 (SRS 2) in March 2018, which will formally take full planning control over the land. TPS 4 will be suppressed by the SRS2 until such time as the MRA land is normalised in the future, at which time the provisions of Local Planning Scheme No. 5 (LPS 5) will likely take effect. If the SRS 2 or LPS 5 are delayed for any reason, the provisions of this Scheme Amendment will apply until such time as these planning instruments are eventually implemented.

For unknown reasons, the property at No. 100 (Lot 12610 on D/P 192808) Roberts Road, Subiaco is 'unzoned' under TPS 4 and zoned 'Urban' under the Metropolitan Region Scheme (MRS). The proposed modifications include the zoning of this site to Commercial/Residential (similar to 'mixed use') in accordance with the draft NSSP.

Additional provisions are inserted into the Residential Zone section of the TPS 4 to implement firm building height restrictions over Residential zoned land. Legal advice regarding the implementation of building heights via this Scheme Amendment indicates that it is not sufficient to simply refer to the approved SACP or the draft NSSP as the Deemed Provisions, which prevail to the extent of any inconsistency with any Scheme, give due regard to an Activity Centre Plan or Structure Plan but are non-binding on the decision-maker. Any attempt to elevate the level of regard given to an Activity Centre Plan or provisions within would conflict with the Deemed Provisions and would therefore have no effect as the Deemed Provisions prevail to the extent of any inconsistency. Accordingly, it is recommended that the maximum building height maps are inserted into Schedule 9 and referred to in any provisions relating to maximum building heights. The remaining applicable development standards are able to be effectively implemented by having 'due regard' to the Subiaco Activity Centre Plan and the draft North Subiaco Structure Plan.

The approach to maximum building heights is designed to manage building heights both in terms of metres and storeys. TPS 4 generally articulates maximum building heights using metres instead of storeys, conversely the SACP and draft NSSP utilise a maximum number of storeys instead. To avoid diluting the intent of the two plans, the Amendment establishes two provisions that work in conjunction to dictate building height. Firstly, the provision refers to the maximum building height plan, which articulates a maximum number of storeys permitted. The scheme provisions build on this by setting a maximum floor to floor height for the ground and first floors of 4.25m, and a maximum floor to floor height of any floors above to of 3.5m. This ensures that a 5 storey building cannot exceed a maximum building height of 19m.

The modifications to this scheme amendment are closely aligned with the approach adopted by Council at its Special Council Meeting of 8 August 2017, where the draft Local Planning Scheme No. 5 was endorsed. The modified Amendment is also similar to the approach used to integrate the Local Development Plan for the Pavilion Markets Site into TPS 4.

The major difference between this Amendment and the approach set out in draft Local Planning Scheme No. 5 is that the Centre zone will apply to the entire Activity Centre Plan area. This approach, if accepted by the Western Australian Planning Commission

(WAPC), will be applied to Local Planning Scheme No. 5 through the WAPC review process.

The proposed Amendment is considered to meet the definition of a Standard Amendment within the Regulations, as the proposed plan is seeking to amend the Scheme Map and Text to be consistent with the approved SACP. Further, the Amendment is consistent with the City of Subiaco's Local Planning Strategy 2014 and the draft revised Local Planning Strategy endorsed by Council on 8 August 2017.

Through the process of reviewing the Amendment following the consultation period, the city actively engaged officers of the Department of Planning, Lands and Heritage and obtained appropriate legal advice as required. Accordingly, the city officers are confident that the proposed modifications to the Amendment have been prepared with the appropriate level of rigour to effectively implement the plan, while simplifying the proposed changes to ensure that the Scheme is able to be interpreted by a broad range of stakeholders and easily implemented.

Detail

A copy of the modified amendment text and report is provided at Attachment 1, the proposed modifications are summarised in the table as follows:

Modification	Comments
1. The Centre zone is modified to cover the entire activity centre plan area, rather than just the existing Town Centre zone.	This modification is proposed to apply the most direct and efficient method to the implementation of the Subiaco Activity Centre Plan. Modifying the zoning of the entire area to Centre and applying the R-AC0 density code formally refers all new development standards to the approved SACP.
2. Zone No. 100 (Lot 12610) Roberts Road, Subiaco (Telethon Site) Commercial/Residential.	For unknown reasons, this site is 'unzoned' under TPS 4, having regard to the intended built form outcomes articulated in the draft NSSP, it is considered appropriate to rezone this land Commercial/Residential.
3. Amendments to the land use table are modified to align with the land use permissibility's applied to the Centre zone in draft LPS 5 and the Subiaco Activity Centre Plan, and apply only to the expanded Centre zone.	The modification is necessary in response to modification 1 above. The expanded Centre zone significantly reduces the complexity of applying differing land use permissibilities in different zones that reside within and outside of the SACP area. The proposed approach modifies the land use permissibilities of the Centre Zone to align with the SACP. Where a land use is classified as an 'X' use, in the SACP, the 'X' use is applied in the Scheme. Where the land use has a combination of classifications in the SACP, the land use is classified as a 'D' or 'A' use in the Scheme, which enables the local government to have due regard to the intent of the SACP.
4. Amendments to provisions in clause 28 (4) of the Scheme as follows: To exclude clauses 42(1) and 42(3); To include the new schedule 9 in the clause; and	Clause 28(4) excludes specific clauses from the discretion to approve a non-complying development under Clause 28. This modification is necessary as clauses 42(1) and 42(3) are already appropriately covered by the specific clause 42A for building height variations.

<p>To include reference to 45(1)(a) and 45(1)(b) to clarify the application of the clause.</p>	<p>Furthermore, clause 28(1) specifically indicates that the clause does not apply to development where the R-Codes apply.</p> <p>Schedule 9 is recommended to be included in this clause as acceptable discretion is contained specifically within the schedule and any discretion above and beyond is removed.</p> <p>Amending the clause to refer specifically to clauses 45(1)(a) and 45(1)(b) removes any ambiguity as these are separate subclauses of clause 45 not subclauses of clause 45(1).</p>
<p>5. Modify clause 42(2)(b) as it relates building heights permitted for lots in the Residential zone bound by Roberts Road, Hamilton Street, York Street and Catherine Street are modified to provide for additional height.</p>	<p>This modification gives effect to the building heights proposed by the draft NSSP at 3 storeys. The existing wording is deleted as the draft NSSP sets out the intended built form outcomes for the area having regard to preservation of amenity and the character of the precinct.</p>
<p>6. The amendment is modified to insert a new clause 42(5) Residential R-AC0 clause in the Residential Zone section. The following clauses are renumbered accordingly.</p>	<p>This modification gives effect to the intended development standards for land north of Subiaco Road, setting a maximum height limit at 4 storeys with discretion to no higher than 12 storeys subject to specific criteria.</p>
<p>7. Delete subclause 45(1)(b) and replace with a modified provision to apply the intended maximum plot ratio provisions for the Commercial/Residential Zone east of Townshend Road.</p>	<p>This modification gives effect to the intended development standards in the draft NSSP by aligning the permissible plot ratio standards with the given building height standards.</p>
<p>8. Modify clause 45(3) so it applies to land not subject to the North Subiaco Structure Plan.</p>	<p>This modification ensures that the existing development standards of the commercial/residential zone are retained for land west of Townshend Road.</p>
<p>9. Modify clause 45(4)(a) so that it applies to land not subject to the North Subiaco Structure Plan.</p>	<p>This modification maintains the existing provisions for Commercial/Residential land that is not within the draft NSSP.</p>
<p>10. Delete 45(4)(c) and replace with a modified clause to give effect to building heights set out in the North Subiaco Structure Plan. Insert additional wording to articulate the maximum permissible floor to floor heights of ground/first floors and all levels above the first floor.</p>	<p>This modification gives statutory effect to the building heights set out in the draft NSSP, which removes any discretion for additional height beyond this. The building height map is inserted to provide for a maximum number of storeys for specific locations within the draft NSSP area. Maximum floor to floor heights for the ground and first floor and all other floors ensure that buildings cannot exceed a certain height in meters.</p>
<p>11. Modify the objectives of the Centre zone to identify the need to designate and plan for the development of the land as an activity centre.</p>	<p>The modification inserts objectives that are specific to the Centre zone from the model provisions in the LPS Regulations. This provides for a strong link between the Scheme and the SACP for use when undertaking an assessment on proposed land uses within the activity centre area.</p>
<p>12. Refer all development standards in the centre zone to Schedule 9.</p>	<p>This clause refers all development in the new Centre zone to the standards set out in schedule 9 of the Scheme, the entire remaining SACP is still required to be given 'due regard' in accordance with the LPS Regulations.</p>

13. Insert key development standards from the Subiaco Activity Centre Plan into the Scheme, including building height, setbacks and transitional provisions, as 'Schedule 9.	The proposed Schedule 9 contains key development standards of the SACP that the city does not wish to be subject to discretion. This approach provides certainty to all stakeholders regarding acceptable building heights, plot ratios and setbacks in the SACP area.
14. Remove the proposal to insert Special Control Area provisions into the Scheme.	The Department of Planning no longer supports the implementation of Special Control Areas except under certain circumstances that are not applicable to the SACP or the draft NSSP.
15. Remove the proposal to insert Local Development Plan (LDP) provisions into the Scheme.	This is not required as the LPS Regulations deemed provisions provide for an approved Activity Centre Plan to trigger the need for an LDP
16. Modify the proposed new definitions in Schedule 1: Definitions;	This modification inserts a new definition for "minor projections", which is proposed to be considered as part of Schedule 9 to ensure that the city's approach of "no discretion" to building height is able to accommodate appropriate rooftop structures within the intended built form outcomes, such as lift overruns.
17. Enable the implementation of recent modifications to the Subiaco Activity Centre Plan to refer to the existing Schedule 8 of the scheme for any development in relation to the Pavilion Markets Site.	This modification replaces the map that previously showed reduced building heights for the Pavilion Markets site, noting that the WAPC also required this modification to the SACP in its recent approval. This ensures clarity that development within the 'Town Centre Development Zone' is to be in accordance with Schedule 8 of TPS 4.

Public Consultation Period

Amendment No. 32 was previously advertised for a period of 42 days from 30 June 2017 to 12 August 2017. A total of 17 submissions were received during the consultation period. All submissions either supported or had no objection to the amendment. However, a number of matters were raised which have been addressed through the proposed modifications as follows:

1. The amendment did not convey the intended planning and development outcomes for the Pavilion Markets Site.
2. The amendment did not include Lot 3 (274) Barker Road in table 5, as intended.

The proposed modifications effectively respond to the all relevant valid planning considerations raised during the public consultation period. The Pavilion Markets Site is not appropriately notated in the building height map with reference to Schedule 8 of TPS 4 and the exclusion the aforementioned property of 274 Barker Road, Subiaco has been resolved through the modified approach, table 5 has been deleted.

Consultation

Council is required to advertise modifications to the proposed Scheme Amendment for a period of not less than 21 days in accordance with Regulation 51(5) of the LPS Regulations. As the consultation period will extend beyond 18 December 2017, Local Planning Policy 1.4 'Public Consultation for Planning Proposals' requires the extension of the consultation period by 14 days in recognition of the festive season.

At the conclusion of the public consultation period, Council is required to consider the proposal again including any submissions that have been received and to resolve to either adopt the proposal with or without modifications or to not adopt the proposal.

Regulation 50(3) of the LPS Regulations prevents the city from advertising any further modifications to the Amendment without prior approval of the Commission.

Strategic Implications

The proposed amendment will ensure that the Scheme and the city's approach to planning is more aligned with the current planning framework and best planning practice to assist with an easier transition to LPS 5. These provisions will provide the city with certainty on key matters from the Subiaco Activity Centre Plan.

The amendment to the Scheme is consistent with the objectives, strategies and actions in the Local Planning Strategy, specifically those relating to Population and Housing, Economy and Employment/Retail and Commerce, and Community Facilities/Recreation and Open Space. It is also consistent with focus areas three to five of the Strategic Community Plan:

- Subiaco is a popular destination for everyone. There is a lively atmosphere, an exciting range of entertainment options and local businesses are well-positioned to generate wealth;
- Our heritage buildings, places and streetscapes are protected and maintained, and new developments have been integrated with a respect for this heritage. The city has planned effectively for the increased residential population and business community;
- There is a range of sustainable transport options and supporting infrastructure available, making it easy to get into and around the city.

and the associated strategies in the Corporate Business Plan.

Statutory and Policy Considerations

Clause 34 of the *Planning and Development (Local Planning Schemes) Regulations 2015* outlines the requirements relating to the Scheme amendment process.

Section 75 of the *Planning and Development Act 2005* outlines the statutory provisions relating to Local Planning Scheme Amendments.

Risk and Asset Implications

The amendment intends to create certainty about key development standards, such as building height and limit the decision maker's discretion associated with the Subiaco Activity Centre Plan. The city may proceed with the amendment without re-advertising the proposed changes, however, it is likely that the decision of the WAPC will be to direct the city to re-advertise the amendment prior to making a decision.

Financial

There are no financial implications associated with the recommendations of this report.

Social and Environmental Implications

There are no environmental or social implications associated with the recommendations of this report.

Attachments

1. Modified Scheme Amendment Text
2. Previously Adopted Scheme Amendment Text
3. Schedule of Submissions

C6 DRAFT PARKING MANAGEMENT PLAN TOWN CENTRE PRECINCT***REPORT FROM DIRECTOR COMMUNITY AND DEVELOPMENT SERVICES**

Author: Michael Duckett - Project Specialist
Date: 5 December 2017
File Reference: A/2771
Voting Requirements: Simple - more than half elected members present required to vote in favour

COUNCIL DECISION

Moved Cr Rowe/seconded Cr Matheson

That Council defer considering whether to undertake community consultation on the proposed draft Town Centre Precinct Parking Management Plan to a Council meeting early in 2018 as soon as practicable for the following reasons:

- 1. Better and more parking has just been announced as a succinct message to the community that Subiaco is open for business and our approach to parking in the Town Centre is easier and more attractive to visitors and our local community;**
- 2. Proposals should not be sent out for public comment when we as a Council are not happy with the proposals in the first place and they are likely to raise significant concerns; and**
- 3. Every consultation process should be reported to Council before they are acted on by staff (refer point 4 in the resolution) to enable Council to take ownership of the feedback received.**

CARRIED 11/0

8.14pm

OFFICER RECOMMENDATION

Moved by Cr Richardson/seconded by Cr McAllister

That Council:

1. Endorse the proposed Subiaco Town Centre Precinct Parking Plan for the purpose of public consultation to commence in early February 2018 with a subsequent report to be presented to the Council for consideration during March 2018.
2. Approve the consolidation of Barker Road Car Station 11 and Churchill Avenue Car Station 23 to be operated, in the short-term, as a shopper car park offering the first hour free to customers.
3. Approve the commission of a parking demand analysis across the Town Centre and Subiaco East Precincts to assess the adequacy of the quantum of current parking supply and whether the supply managed by the City should be presented differently to possibly contribute more or less to the demands generated by the two key user groups, shoppers and daily commuters.
4. Note the results of the trial related to Rowland Street Car Station 13 and propose that this facility, along with Car Station 12, the consolidated Car Station 11 and 23, and Car Station 62, be operated the same as Forrest Street Car Station 14, a change that shall, provided there is no adverse feedback, be implemented immediately following community consultation without referral back to the Council.

LOST 0/11

MAYOR TAYLOR, CRS McALLISTER, STROUD, NASH, RICHARDSON, McMULLEN, MATHESON, DAVIS ROWE, MANSFIELD AND MUMMERY VOTED AGAINST

8.10pm

ALTERNATIVE RECOMMENDATION

Moved Cr Rowe/seconded Cr Matheson

That Council defer considering whether to undertake community consultation on the proposed draft Town Centre Precinct Parking Management Plan to a Council meeting early in 2018 as soon as practicable for the following reasons:

1. Better and more parking has just been announced as a succinct message to the community that Subiaco is open for business and our approach to parking in the Town Centre is easier and more attractive to visitors and our local community;
2. Proposals should not be sent out for public comment when we as a Council are not happy with the proposals in the first place and they are likely to raise significant concerns; and
3. Every consultation process should be reported to Council before they are acted on by staff (refer point 4 in the resolution) to enable Council to take ownership of the feedback received.

CARRIED 11/0

8.14pm

Background

On 25 February 2014 Council endorsed the creation of series of precincts to assist with a systematic review of parking management throughout the city. There were originally eight such precincts, with the two located south of Aberdare Road now in the City of Perth, the remaining six precincts are:-

1. Subiaco Town Centre
2. Subiaco East
3. Darglish Jolimont
4. Subi Centro
5. Central Subiaco; and
6. Shenton Park

Note the boundary of the Town Centre Precinct has been adjusted to exclude the area immediately west of Station Street containing Hood and Roydhouse Streets.

This area is subject to major redevelopment and has only recently been the subject of community consultation in relation to parking management in Roydhouse Street. This area will become part of the Subi Centro Precinct Review.

The purpose of this report is to present the proposed parking plan for the Subiaco Town Centre Precinct, enabled and prioritised in part by the following events:-

- Research undertaken and recommendations by an independent consultant
- Adoption, on 24 May 2016, of a set of principles to be considered when preparing parking schemes in this and the Subiaco East Precinct.
- Adoption of the Transport Access and Parking Strategy on 25 July 2017
- Termination of Australian Football League and other major events from Subiaco Oval.
- Progress of the Subiaco East Precinct Parking Plan.

Comment

The set of principles, developed in response to research and recommendations provided by an independent consultant, and adopted in May 2016 to guide the development of this plan and the one for the Subiaco East Precinct can be summarised as follows:-

- Reduce number of, and utilise more consistent time controls

- Consistent hours of application for all parking controls
- Controls that maintain 85% occupancy in short-stay parking stations
- Paid on street parking priced to encourage use of off-street facilities as the preferred option
- Parking for people with disability to be in off-street facilities
- Paid on-street parking within 250m of train stations hospitals and schools, but, as proposed by Council, only as far south to Roberts Road in relation to Subiaco Train Station.
- Conclusion of the free parking trail in Rowland Street Car Station 13.

In relation to this particular precinct, the review process was to consider the presentation of parking in Subiaco Square Car Station 61 with an initial period of free parking for 10 minutes to create some equity with parking services provided elsewhere in the Town Centre.

The approach for parking in the Transport Access and Parking Strategy, not specifically to this particular precinct, but more globally, can be summarised as follows:-

Implement a tiered parking management system as follows:-

- (i) Designation of parking that is to be presented as all day storage for commuter vehicles and price that parking such that it is fully occupied;
- (ii) timed ticket parking in core activity centres and other areas where commercial and retail visitor parking is dominant and turnover is paramount and price that parking such that occupancy does not exceed approximately 85%;
- (iii) timed parking restrictions on the fringes of activity centres and other places where all day parking is not desirable and enforce that parking so that occupancy does not exceed 85%;
- (iv) parking areas focused on preservation of residential access and amenity;
- (v) Provide compliance enforcement in line with community expectations of the signed parking controls (added by Council resolution).

The Transport Access and Parking Strategy also requires annual analysis and surveys to measure the success of the parking management regimes that are implemented and upon adoption, the Council proposed staged implementation of changes, *“sensitive to the issues and challenges that our residents and business community face and in particular recognises the need to remain competitive with alternate shopping destinations in our business environment which may require enforcement to be limited to our traditional controls and also new “drive by” patrols as distinct to on street meters.”*

The last major event to be held at Subiaco Oval was the International Rules event between Australia and Ireland on 18 November 2017. The proposed relocation of AFL to the Perth Stadium effective season 2018 is very relevant as the existing approach to parking management within the Town Centre was designed, in part, to preserve a supply of parking to those not attending events at the Oval. The City now has an opportunity to review how this parking is managed to welcome a new set of visitors to the Town Centre, particularly on weekends.

In this regard the Council already resolved, on 28 November 2017 (item C4), to convert existing car stations in the Town Centre Precinct to require payment between 8am and

5pm Monday to Friday, making access to these facilities on evenings and weekends free of charge, this decision is currently being implemented.

Parking supply within the Town Centre should aim to provide a level of service to short stay visitations or shoppers in support of local economic development rather than the daily commuter, those that come to work each day and need a space to store their vehicle. This has certainly been the approach to the presentation of parking owned and managed by the City with the only intended all day parking in the Town Centre Precinct managed by the City being Railway Road Car Station 41 adjacent to King Edward Memorial Hospital. Otherwise all day parking facilities managed by the City are located on the periphery of the Town Centre in adjacent Precincts.

This approach also complements the premise on which the larger commercial developments that have been established in the northern sector and their proximity to excellent public transport services that access Subiaco on a daily basis. These developments were granted parking concessions based on the proximity to those services.

There is a supply of approximately 1,200 bays in the Town Centre that are managed by the private sector and accessible to those looking for a location to store their vehicle all day. Typically private operators will not restrict length of stay in their car stations such that they are accessible to both short-term visitors and commuters.

The only way to determine the appropriateness of the supply and how it is presented would be the completion of a parking demand analysis across the total supply facilitating subsequent decisions regarding the presentation of bays or the need to resource the provision of more supply. Such a study is recommended, not intended to delay the review of this Precinct but to assist the City determine if more supply is needed either through development approval processes or the City investing in more supply or presenting its existing supply differently.

With a focus on providing a level of service to shoppers, it is important that parking bays turnover on a regular basis and a key method of achieving this 'churn' is by the use of ticket parking. Having to acquire and display a ticket, or virtual ticket using the pay by phone option, EasyPark, informs both the driver and compliance personnel that the parking session has a limit and the bay should be vacated to provide the same opportunity to another visitor.

Mathematically 1,000 bays over an 8 hour trading period turning over every hour increases that supply to 8,000 bays, transactions or opportunities for shoppers to visit the Precinct.

It should also be emphasised that ticket parking does not, of itself, equate to excessive parking fees, obviously pricing should not deter visitors. Most of the City's shopper car stations offer the first hour free with the second or third hour being \$3.60. A two hour stay therefore equates to parking fees of \$1.80 per hour.

More recently the Council, in response to a call for less time controls, approved a new approach to the presentation of its car stations to visitors to the Precinct. Forrest Street Car Station 14 has been changed such that a customer may purchase a longer period of stay, however, the escalating fee structure places a premium on that extended parking thereby continuing to encourage shorter periods of stay. The average period of purchase in this car station is 1.5 hours.

Based on the following table highlighting performance of car stations, the model used in Forrest Square Car Station 14 proves to be well received when compared to similar shopper car stations being Barker Road Car Station 11 and Park Street Car Station 12. Council is requested to consider, through this review process, the presentation of all its off-street shopper car parks within the Town Centre in this manner.

Car Station	Bays	Current Management. Model Mon - Sun	Ave Occ.	Mthly. Yield per Bay
Barker Rd CS 11	41	2 Hrs, 1 st hr Free then \$3.60 applies 8am - 6pm.	55%	\$ 50.96
Park St CS 12	100	2 Hrs, 1 st hr Free then \$3.60 applies 8am - 6pm.	78%	\$ 21.53
Rowland St CS 13	87	3 Hrs Free Applies 9.30am-6pm	88%	\$ 0.00
Forrest Square CS 14	100	1st hour free, no time limit, length of stay controlled by Escalating fees. Applies 8am – 6pm	78%	\$187.10
Churchill Ave CS 23	28	2 Hrs, \$3.60 per hour applies 8am - 6pm	41%	\$222.95
Subiaco Square Rd CS 61	50	30min restriction	69%	\$223.36
Railway Road CS 62	79	3 Hrs no first hour free applies 8am – 9pm.	91%	\$311.18

Car Stations 11, 12, 13, 14 and 23 are all off-street parking facilities whereas 61 and 62 are paid parking facilities within the road reserve. As can be seen Car Stations 11 and 12 are restricted by time and offer the first hour free, whereas Car Station 23 is restricted by time but does not offer the first hour free, thus the higher yield per bay.

Barker Road Car Station Car Station 11 and Churchill Avenue Car Station 23

Regardless of how the car stations may be presented as an outcome of this review, Car Stations 11 and 23, located between Barker Road and Churchill Avenue and separated by a trafficable laneway, should be consolidated and presented as a single facility with, in the short-term, conditions that similar to Car Station 11.

The current arrangement is a source of conjecture for customers who often confuse the conditions related to the two facilities.

It is also identified that the physical presentation of this facility could be enhanced, a proposal that will be pursued further leading into preparation of the 2018/2019 capital works programme and budget considerations.

Rowland Street Car Station 13

For the last 12 months Rowland Street Car Station 13 has been the subject of a trial whereby the first 3 hours, being the maximum length of stay, has been offered free of charge. The need to acquire a ticket and input vehicle registration has been maintained but delayed to commence at 9.30am to obviate parents dropping children off to school from having to obtain and display a ticket.

Council recognised the importance of parking in the context of shoppers, and in June 2016 resolved to undertake a 12 month trial of 3 hour free parking Rowland Street Car Station 13 to commence on 1 December 2016. To measure the success of the trial, the city conducted a series of surveys to measure the economic impact of the three hour free parking.

The first survey was conducted prior to the trial, in November 2016, to set a baseline for the research and involved face-to-face interviews with people parking in the Rowland Street Car Station 13. There were also face-to-face interviews conducted in May and November 2017 during the trial period to measure changes in spending and parking habits. In addition to this a business survey was conducted in November 2017 to measure the perceived changes by businesses over the trial period. There were over 600 face-to-face responses across the three surveys, and overall it showed spending patterns did not change from the pre-trial period to the trial period, it would therefore appear that no direct correlation can be drawn between extending free parking up to three hours and an increase in shopper spending and increase in economic benefit. In addition there was a significant increase in non-spenders, in particular workers and visitors, using the facility.

During the face-to-face business surveys, businesses were asked the economic and customer impacts of the three hour parking trial, fifty responses were received within a 100m radius of the car station. Quantitative feedback from a slim majority of business owners indicated that the perception was the three hour free parking trial had a positive impact on their customer patronage and overall impact on their business. However 46% of businesses stated their customers required parking for only up to an hour, which would have been free under the previous parking scheme. An additional 44% indicated that their customers would need between 1 and 2 hours. This is also supported by data from the Forrest Street Car Station 14 where the average length of purchase or stay is 1.5 hours. Although in spite of the quantitative data, the qualitative feedback was supportive of continuing the free trial, with key themes around competing with shopping centres and parking for employees.

Based on the qualitative and quantitative analysis across the surveys, as well as City of Subiaco car parking data, it appears that 1-2 hours of parking is ideal for optimal dwell and spend times from both a shopper perspective and business perspective.

At the conclusion of the trial it is recommended that the Forrest Square Car Station 14 parking fee charging model be implemented in the Rowland Street Car Station 13 which will not only offer customers optimal free dwell time but also create consistent controls within town centre car stations.

A supply of three hour free parking is now available to visitors to the Town Centre in the basement of the new Coles and Target complex in Station Street.

Subiaco Square Car Station 61

When the Council adopted the set of principles for determining the management of parking in this precinct, a decision was made to consider the management of Subiaco Square Car Station 61, proposing that to make it equitable with other parking facilities, an initial period of 10 minutes be offered free of charge.

This is not supported and it is recommended to not include this option in the community consultation. Offering an initial period of 10 minutes without ticket machine technology that requires the input of the registration number creates the opportunity for repeating that period of purchase and having to make the customer insert their registration plate details for 10 minutes would be inconvenient.

The current fee is \$2.00 for 30 mins, a single coin transaction that facilitates an expedient acquisition, appropriate given the period of stay being offered in this facility.

As resolved by the Council on 28 November 2017 this car station will be free on weekends and the need to pay mid-week will be brought back to conclude at 5pm rather than 6pm. In this particular case, however, the time limit will be maintained as opening this supply of parking up to train commuters on weekends would disadvantage the local retailers.

The council has the opportunity to review the fee in Station Square Car Station 61 but introduction of an initial free period is not recommended given the length of stay that is being offered.

The priority stock of parking in this precinct would have to be Rokeby Road and Hay Street providing the premium access to adjacent retail and hospitality and these would normally be corridors where that priority is regulated by the need to pay a premium price to access that parking supply. In response to the feedback received in relation to placement of ticket parking in Hay Street in the Subiaco East Precinct, it is proposed that this priority be managed by length of stay rather than pricing and its performance be monitored by installation of parking detection technology (such as bay sensors), which potentially provide live occupancy data to the motorist and the compliance process.

Visitors seeking an opportunity to stay longer will be directed to adjacent streets and car stations where payment will be required to take advantage of that opportunity, with the amenity of nearby residential streets being protected by "Resident Only" parking that will apply 8am-5pm Monday to Friday.

The proposed Town Centre Precinct Parking Plan can be summarised as follows:-

- The priority parking supply in Rokeby Road and Hay Street to be managed by shorter period of stay, 30 minutes is proposed and it is suggested it apply Monday to Sunday inclusive
- Shoppers seeking longer periods of stay will need to move to adjacent streets and car stations and pay a fee for that opportunity. Parking in these locations will be 2 hours in the surrounding streets and longer, if required, in the City's shopper car stations.
- As resolved by Council on the 28 November 2017, there will be no fees payable in car stations managed by the City on weekends, this decision is currently being implemented
- Manage all town centre shopper car stations in the same manner as Forrest Square Car Station 14, inclusive of the Rowland Street Car Station 13 and the consolidated Barker Road Car Station Car Station 11 and Churchill Avenue Car Station 23
- Introduction of "permit only" parking in residential streets to preserve amenity and access for that sector whilst obviating the need to display permits after hours and on weekends. The advent of Permit Only parking may have an implication for residents in that the number of visitors they can accommodate, 8am-5pm Monday to Friday, will be limited by the number of Visitor Permits they have available. This, together with how this issue can be mitigated, will be explained to residents during the consultation on this proposal. The residents in this precinct are accustomed to managing permit parking as they have for the last 20 years been subject to the Stadium event parking scheme that restricted parking to residents only on the 36 event day annual schedule
- Removal of the redundant event parking signs from this and other precincts, which is currently progressing.

- As is current practice, residents will be able to park without payment in streets that would otherwise require payment provided that particular street is nominated on their permit, Roberts Road, for example.
- A revised fee structure will be presented to the Council after the initial period of consultation for consideration.

The schematic Plan is presented such that it highlights the dominant scheme type, for example, 30 minute parking in Rokeby Road and Hay Street which will then be interspersed with parking facilities, such as shorter term bays, loading bays and taxi bays, to service specific properties and utilities. These will be determined by street and land use audits prior to finalising the Plan and legitimate use of these bays will not require display of a ticket.

Existing “no stopping” and “no parking” locations will be preserved as these are a response to traffic management and safety rather than parking management.

The following table shows the proposed redistribution of parking bays owned and managed by the City within the Precinct:-

Type	Current	Proposed
Off Street	355	355
On-street	1138	1138
Total	1493	1493
All day – No Ticket	0	0
All day (intended) - Ticket	62	62
Short Stay – Ticket (all day possible)	100	434
Short Stay - Ticket	384	613
Short Stay - No Ticket	940	237
Resident Only	7	147
Total	1493	1493

Following development of this Plan, the sequence of Precinct Parking Management Plans to be developed and presented to Council for consideration will be:-

1. Shenton Park to integrate with implementation of the Rosalie Park Parking Management Plan and opening of the Perth Children’s Hospital at the QE II Medical Centre site.
2. Subi Centro given that the current scheme endeavours to protect residential amenity against the impact of AFL at Subiaco Oval and can be reviewed post-AFL.
3. Central Subiaco, noting that earlier removal of event parking signs will be undertaken.
4. Daglish/Jolimont, this review will include the area recently annexed to the City of Subiaco from the Town of Cambridge. Earlier removal of event parking signs will be undertaken.

Consultation

No community consultation has yet been undertaken in direct association with this report. Council Policy 8.1 'Parking Control, requires that, for any proposal to change parking restrictions, the residents of properties affected by that proposal are to be consulted and given an opportunity to make a comment on the proposed changes.

The community will be given a minimum of 21 days to provide comment and a summation of that feedback will be presented back to the Council for consideration during March 2018.

Strategic Implications

The adoption of the Transport Access and Parking Strategy has enabled this and subsequent Precinct Plans to be progressed with some surety that the community have had an opportunity to gain an understanding of the need for changes.

Statutory and Policy Considerations

The creation of parking schemes and compliance is facilitated by the City of Subiaco Parking Facilities Local Law. Council Policy 8.1 requires that residential properties are consulted before changes to parking schemes are imposed and the proposed consultation will be extended in this case to all properties and occupants systematically across the precinct.

Risk and Asset Implications

The risk of not addressing the concerns of the community is ongoing reputational damage to the City. A further risk is that any vehicles displaced by proposed scheme changes may 'migrate' to nearby areas, the progressive review and implementation of revised precinct parking plans will address this issue.

Financial

The addition of ticket machines to more effectively manage on-street parking will increase revenue and better manage compliance which is the source of significant reputational damage to the City itself and the locality more generally.

A brief financial analysis of income, capital and recurrent costs associated with introduction of additional ticket machines if adopted, can be summarised as follows:-

Pay by Plate Ticket machine installed	\$8,500
No. Machines required	46
Average occupancy (Monday-Friday)	85%
Signs changes required	300
Cost per signs	\$75
Initial capital Machines	\$391,000
Signs	\$22,500
Recurrent operating cost	\$471,000
Bay sensors Capital (107)	\$7,000
Bay sensors Recurrent annual cost	\$1,900

The anticipated revenue from paid parking will be sufficient to offset the expenses associated with implementation and ongoing management.

Social and Environmental Implications

The cessation of major events at Subiaco Oval presents the city with an opportunity to review the management of parking within the Town Centre Precinct, historically designed and managed to make it difficult for event patrons from being able to monopolise parking supply during events, which are predominantly on weekends. Relaxing parking management schemes on weekends will help attract a new set of visitors to the Town Centre to enjoy the many goods and services that are on offer.

Attachments

1. Schematic Current and Proposed Subiaco Town Centre Precinct Parking Plans.

C7 TENDER A/4749 FACILITIES AND ASSET MAINTENANCE***REPORT FROM DIRECTOR TECHNICAL SERVICES**

Author: Coordinator Parks Development - Nicholas Rayner
Date: 29 November 2017
File ref: A/4749
Voting requirements: Simple – more than half elected members present required voting in favour

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Richardson/seconded Cr Mummery

That Council awards tender A/4749 for Facilities and Asset Maintenance, to Hoskins Investments Pty Ltd ATF M R Hoskins Family Trust trading as AE Hoskins & Sons for a period of Three years with two one-year extension periods at the absolute discretion of the principal, based on their tender submission and schedule of rates.

CARRIED ENBLOC 10/1
 CR MATHESON VOTED AGAINST
 6.25pm

Background

The city has a significant asset base which includes buildings, infrastructure and parks assets. These assets require regular and ongoing maintenance to ensure that they meet public expectations and address city liabilities.

The city seeks to appoint, through this tender, the services of a suitably experienced and competent contractor to conduct facility and asset maintenance.

Comment

On 21 October 2017 the tender for facilities and asset maintenance was advertised in the West Australian in accordance with the requirements of the *Local Government Act 1995*.

At the close of the tender period on 16 November 2017, eighteen submissions were received from the following companies:

1. ZD Constructions Pty Ltd
2. Workzone Pty Ltd
3. Woodcourt Pty Ltd
4. Trayd Australia
5. The Hyde Family Trust
6. Quantum Building Services
7. Protek 247
8. Oban Group
9. Meta Maya Group Pty Ltd
10. M Construction WA
11. Firestone Investments
12. Devco Builders
13. CLPM Pty Ltd
14. Budo Group
15. AWB Building Co
16. Arden Group
17. AE Hoskins & Sons
18. ABS Solutions

Assessment Criteria

The tender document specified that tenders submitted would be assessed against general compliance criteria, specific qualitative criteria and value for money.

The conforming tenders were each assessed against the following qualitative criteria:

Qualitative Criteria	Weightings
Relevant Experience	20%
Skills and Experience of Key Personnel	25%
Respondent Resources	25%
Demonstrated Understanding of Task	25%
Environmental Questionnaire	5%

The tender evaluation panel, consisting of city officers assessed the conforming submissions against the qualitative criteria, as detailed above. A quantitative assessment was subsequently carried out on the tender prices submitted (confidential attachment: tender qualitative and quantitative assessments).

Following the combined assessment of the qualitative and quantitative criteria, Hoskins Investments Pty Ltd ATF M R Hoskins Family Trust trading as AE Hoskins & Sons ranked the highest and is recommended as the best value tender to the city.

Consultation

There has been no consultation as part of the request for tender or this report.

Strategic Implications

The Strategic Community Plan focus area parks, open spaces and places, objective one, a sustainable environment that is well maintained, green and leafy, strategy 2.1.4, continue infrastructure maintenance, renewal and replacement programs.

Focus area Council leadership strategy 6.1.4, ensure best practice asset management principles are adopted. Focus area Council leadership strategy 6.1.5, Create organisational and community culture that is underpinned by sustainable practice.

Statutory and Policy Considerations

The Local Government Act 1995 Clause 3.57 and the Local Government (Functions and General) Regulations 1996, Part 4, Clauses 11 to 24 applies to tender requirements. The tender process has been undertaken in accordance with the city's Purchasing Policy.

Risk and Asset implications

Failure to have a current facilities and asset maintenance tender will result in the city being unable to carry out essential asset maintenance within an acceptable timeframe.

Financial

The financial implications of this tender relate to the anticipated annual maintenance costs of approximately \$150,000 per annum which has been provided for in the current operational maintenance budgets and the Strategic Financial Plan.

Social and Environmental Implications

There are no significant environmental and social implications associated with this report.

Attachment

1. Confidential attachment: tender qualitative and quantitative assessments.

C8 POLICY REVIEW (GOVERNANCE AND OFFICE OF THE CEO)***REPORT FROM DIRECTOR CORPORATE SERVICES**

Author: Coordinator Governance, Bana Brajanovic
Date: 4 December 2017
File Reference: A/4493
Voting Requirements: Simple - more than half elected members present required to vote in favour

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Rowe/seconded Cr McAllister

That Council:

1. **Adopts the following revised policies:**
 - a) **Nuclear Free Zone**
 - b) **City Relationships (Sister Cities)**
 - c) **Code of Conduct**
 - d) **Candidate Information and Councillor Induction**
 - e) **Notification of Significant Matters**
 - f) **Legal Representation: Costs Indemnification**
 - g) **Elected Member Election and Retirement**
 - h) **Elected Member Entitlements**
 - i) **Election Policy**
 - j) **Acting Chief Executive Officer**
 - k) **Honorary Freeman of the City**
2. **Adopts the new Social Media policy.**
3. **Rescinds the Local Laws and Regulations policy.**

CARRIED 10/1
 CR RICHARDSON VOTED AGAINST
 8.21pm

Background

Determining local government policies is one of the roles of Council outlined in section 2.7 of the *Local Government Act 1995*.

Regular review of the city's policies is required to ensure their continued relevance and applicability. The review uses a range of methods to establish whether a policy works in practice and to determine the merit, or value of any improvements which could be made.

The overarching principles in conducting the review are to:

- Reflect current legislative and regulatory requirements;
- Meet the functional and operational requirements; and
- Be responsive and reflective of the needs of the community.

Comment

Of the thirteen (13) policies attached for review - four (4) policies required minor amendments; seven (7) policies required no amendments, there is one (1) new policy and one (1) policy is to be rescinded. The remaining policies tabled at the concept forum held 31 October 2017 were referred to the Policy and Priority Committee.

Each policy has been reviewed with input from the elected members, executive leadership team and branch managers.

Comments received and matters raised during discussion at the elected members' concept forum held 31 October 2017, have been taken into consideration in the compilation of this report.

There are no changes, other than format and definitions, recommended by officers to the following policies:

- Nuclear Free Zone
- City Relationships (Sister Cities)
- Legal Representation: Costs Indemnification
- Elected Member Election and Retirement
- Election Policy
- Acting Chief Executive Officer
- Honorary Freeman of the City.

Code of Conduct Policy

The objective of the Code of Conduct is to set out the standards of ethical and professional behaviour expected of the elected members, committee members and employees.

One sentence has been added to the policy to reflect the legislative requirement.

Candidate Information and Councillor Induction Policy

This policy provides support to community members who may be interested in nominating for council and assisting in the induction of newly elected members of council.

The policy has been updated to be in line with the determination of the Salaries and Allowances Tribunal regarding elected members' Information Technology Allowance.

Notification of Significant Matters Policy

This policy informs elected members of pending legal action against the city and other significant matters including appeals, government decisions, official visits and petitions.

The policy has been slightly amended to include other minor insurance claims under matters not considered significant.

Elected Member Entitlements Policy

This policy outlines the financial support that is provided to elected members through the payment of meeting attendance fees and other allowances within the provisions the relevant regulation.

The policy has been amended to be in line with the determination of the Salaries and Allowances Tribunal regarding elected members' remuneration.

Proposed Social Media Policy

The policy has been developed to provide guidance to elected members on appropriate use of social media.

Local Laws and Regulations Policy

The officer recommendation is to rescind this policy.

The City of Subiaco has made a number of local laws which regulate and manage activities throughout the city. These local laws carry the weight of legislation and can be enforced through the courts.

Consultation

Public consultation was not relevant to the development of the report.

Strategic Implications

Strategic Community Plan

Focus Area 6 – Council Leadership

Strategy 6.1.1 - The Mayor and councillors provide strong, consistent and decisive leadership

Statutory and Policy Considerations

Section 2.7(2)(b) of the *Local Government Act 1995* states the role of Council in determining its policies.

Each policy has been referenced against the relevant legislation and the city's local laws, where applicable.

Risk and Asset Implications

There are no specific risk and asset implications to this report.

Financial

There are no specific financial implications to this report.

Social and Environmental Implications

There are no specific social and environmental implications to this report.

Attachments

1. Nuclear Free Zone policy
2. City Relationships (Sister Cities) policy
3. Code of Conduct policy
4. Candidate Information and Councillor Induction policy
5. Notification of Significant Matters policy
6. Legal Representation: Costs Indemnification policy
7. Elected Member Election and Retirement policy
8. Elected Member Entitlements policy
9. Election policy
10. Acting Chief executive Officer policy
11. Honorary Freeman of the City policy
12. Social Media policy
13. Local Laws and Regulations policy

C9 BUDGET REVIEW – NOVEMBER 2017***REPORT FROM DIRECTOR CORPORATE SERVICES**

Author: Manager Financial Services, Bianca Jones
Date: 4 December 2017
File Reference: A/1049
Voting Requirements: Absolute Majority - 7 elected members required to vote in favour

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Richardson/seconded Cr Mummery

That Council adopts the amendments to the 2017/2018 annual budget, as detailed in the attached schedule.

CARRIED BY AN ABSOLUTE MAJORITY VOTE 10/1
 CR MATHESON VOTED AGAINST

8.25pm

Background

The purpose of this report is to recommend to Council a number of re-allocations to its adopted Budget for the 2017/2018 financial year. There are also adjustments required for carried forward budgets from the 2016/17 financial year and instances that arise during the year that require adjustments to the adopted Budget.

Comment

Managers reviewed the expenditure and revenue under their control and assessed their progression towards the annual budget. Where necessary and possible they are required to take remedial action to contain expenditure within budget or achieve budgeted revenue. Where remedial action is not possible they are required to seek adjustment through this budget review process. Managers are required to identify offsetting reductions in expenditure or increases in revenue to compensate for over expenditures within their own area of control before seeking re-allocations within their directorate, or seeking agreement from other directorates. In addition where Council has made decision that have budget implications, funds have been provided to enable implementation of those decision.

Budget review items are detailed in Attachment Two of this report, however some of the larger items are explained below:

- The budgeted opening balances of reserve accounts have been adjusted to reflect the actual opening balances as determined in the annual financial statements for 30 June 2017. The bulk of these adjustments relate to carried forward works that weren't completed by 30 June and funded from reserve.
- As part of the budget review process, where changes have been made, corresponding adjustments to overhead allocation are required. These are accounting entries only and do not affect the operating surplus/deficit.
- Carried forward budgets have been adjusted to account for delays in completing works and the resulting payments in the 2017/18 financial year. The adjustment to the 2016/17 accumulated surplus is an offsetting adjustment that represents works not completed by 30th June 2017.

- Carried forward expenditure of \$420,000 relates to the implementation of the Customer Request Manager (“CRM”) project that was endorsed by Council in August 2017 and scheduled for implementation in the 2017/18 financial year.
- Carried forward expenditure of \$141,000 for the replacement of Front Loader truck which was ordered but not received in the 2016/17 year. The purchase is funded from the Plant & Equipment Replacement Reserve net of any applicable proceeds from trade-in.
- An expense budget of \$545,000 has been applied for payment of Rates & Charges on city owned investment properties. A corresponding revenue budget of \$545,000 has been applied as these charges are on-charged to the tenants under their lease agreements. This represents a processing change and does not affect the operating surplus/deficit.
- Increase of \$198,000 in capital works for the E H Parker Library for improvements, which includes refurbishment works, toilet and air conditioning upgrades. This project is funded by reductions in other budgeted council building works which are funded from the Council Buildings & Facilities Reserve.
- Budget of \$500,000 applied to undertake stage 1 of the administration office refurbishment, required to bring the existing staff workspaces up to a reasonable standard, including new work stations, new carpet and air conditioning. This budget adjustment was approved by council at its October 2017 meeting.
- Budget of \$215,000 has been carried forward for the replacement of road and footpath maintenance trucks which were ordered but not received in the 2016/17 year. The purchase is funded from the Plant & Equipment Replacement Reserve net of any applicable proceeds from trade-ins.
- Reduction in budget for replacement of a tractor (\$65,000) and road sweeper (\$325,000) as replacement has been deferred until 2018/19 as both items are still in good condition. The reserves and proceeds budgets have been adjusted accordingly.
- Budget of \$470,000 has been applied for replacement of the side loader recycling truck. As a result of the decision for the city to continue with the Multi Unit Developments and Commercial Waste Service in-house, it is now necessary to replace the existing side loading waste truck which was purchased in 2010 and has reached the end of its useful life, to allow the city to provide the current level of service.
- Funding of \$375,000 has been provided to undertake Stage 1 of initial works that will be required arising from the Integrated Streetscape Plan for Rokeby Road (south of Bagot Road).
- Transfer of \$550,000 to the Parking & Public Transport Improvements Reserve for the purchase of additional / renewal of existing ticket machines and upgrade of car parking stations. Funds were generated from parking revenue where a conservative approach was taken as it was not known if budget forecasts would be met due to uncertainty around Princess Margaret Hospital.

As a result, budget adjustments for 2016/17 were made through budget review and adjustments were also made in the Strategic Financial Plan to remove funding of asset renewal to offset the anticipated loss in revenue expected.

- Budget of \$150,000 applied for the provision of infrastructure to enable development of public Wi-Fi. This is an action contained within the Economic Development Strategy and is subject to preparation of a business case but had no funding provision to implement any outcome of the Business Case.
- Additional budget of \$100,000 applied to undertake upgrades to gym area at Lords Recreational Facility.

Summary of opening budget to closing budget:

Net Surplus arising from 2016/17 annual financials	4,173,285
Budgeted carried forwards provided in 2017/18 adopted budget	(797,184)
Additional operating carried forward projects	(555,570)
Additional capital carried forward projects	(1,449,000)
Parking Revenue (transfer to reserve)	551,230
2017/18 grants received in advance and other revenue	(269,430)
Current year operating project adjustments	(665,130)
Current year capital project adjustments	(1,192,000)
Current year Grant and Proceeds adjustments	(105,040)
Transfers from Reserves associated with capital projects	919,619
Transfers to Reserves associated with Parking revenue and grant funds	(610,780)
TOTAL	0

Consultation

Public consultation was not relevant to the development of this report.

Strategic Implications

The review further advances the city's strategic directions based on the Strategic Community Plan, Corporate Business Plan and the Strategic Financial Plan. It recognises the city's commitment to responsible stewardship by funding a wide range of activities throughout the community whilst seeking to keep the rates burden on the ratepayer at a reasonable level.

Statutory and Policy Considerations

Section 6.2 of the Local Government Act 1995 requires each local government to prepare and adopt its annual budget by absolute majority. Since the review is amending the City's annual budget, an absolute majority is similarly required.

Council's policy 10.4 requires reviews of the annual budget in November and March each year.

Risk and Asset Implications

It is a statutory requirement for local governments to review its budgets following adoption of the annual financial statements to allow adjustments to carried forward funds. Council is required to maintain a balanced budget and the adjustments as detailed in the attachment brings the budget back into balance.

The impact on the city's assets is detailed in the attachment as adjustments to capital works.

Financial

The detailed financial implications of this report are contained within the attached schedule. This budget review has shown that the City is progressing towards its budgeted objectives for the 2017/2018 year, addressing council decisions and unfunded projects.

Social and Environmental Implications

There are no social or environmental implications for this report, other than the initiatives addressed within the review.

Attachments

1. Revised Rate Setting Statement (1 page)
2. November 2017 Budget Review Summary (4 pages)

C10 MATTERS FOR INFORMATION***REPORT FROM CHIEF EXECUTIVE OFFICER**

Author: Executive Assistant, Kerry Plantinga
Date: 4 December 2017
File Reference: A/4469
Voting Requirements: Simple - more than half elected members present required to vote in favour

OFFICER RECOMMENDATION/COUNCIL DECISION

Moved Cr Richardson/seconded Cr Mummery

That Council receive the information in this report.

CARRIED ENBLOC 10/1
 CR MATHESON VOTED AGAINST
 6.25pm

Background

The City of Subiaco regularly receives and produces information for receipt by the Elected Members.

The purpose of this item is to keep Elected Members informed on items for information received by the City.

Comment

The following reports are presented to Council at the Ordinary Council meeting of December 2017:

1. November 2017 Monthly Planning Report
2. Building and Health Monthly Statistics – November 2017
3. Capital Works Program under \$50,000
4. Facebook Stats – 8 November to 5 December 2017
5. Seal Register –November 2017

Consultation

No community consultation was considered necessary in relation to the recommendation of this report.

Strategic Implications

There are no strategic implications for this report.

Statutory and Policy Considerations

There are no statutory or policy implications for this report.

Risk and Asset Implications

There are no risk and asset implications for this report.

Financial

There are no financial implications for this report.

Social and Environmental Implications

There are no social or environmental implications for this report.

Attachments

1. November 2017 Monthly Planning Report
2. Building and Health Monthly Statistics – November 2017
3. Capital Works Program under \$50,000
4. Facebook Stats – 8 November to 5 December 2017
5. Seal Register – November 2017

11. ELECTED MEMBERS' MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

12. NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON PRESIDING OR BY A DECISION OF THE MEETING

Nil.

13. MEETING CLOSED TO THE PUBLIC**COUNCIL DECISION**

Moved by Cr Richardson/seconded by Cr Mummery

That the meeting be closed to the public for the purpose of discussing items P2 and P3 as it is required that these matters be dealt with behind closed doors under section 5.23 (2) (c) (d) of the *Local Government Act 1995*.

CARRIED 11/0

8.26pm

Reasons:

5.23 (2) (c) *a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting*

5.23 (2) (d) *legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting*

The presiding member adjourned the meeting at 8.26pm until 8.30pm.

The meeting reconvened at 8.30pm.

NEW BUSINESS OF AN URGENT NATURE APPROVED BY THE PERSON PRESIDING OR BY A DECISION OF THE MEETING

Under *Meeting Procedures Local Law 2013 2.6*, the presiding member agreed to hear new business of an urgent nature.

16-20 YORK STREET SUBIACO

P2 2 UPHAM STREET – OPERATIONS CENTRE - OPTIONS – CONFIDENTIAL

P3 55 SALVADO ROAD, SUBIACO - OPTIONS – CONFIDENTIAL

COUNCIL DECISION

Moved Cr Richardson/seconded Cr McAllister

That the meeting comes out from behind closed doors.

CARRIED 11/0

9.46pm

14. CLOSURE OF MEETING

The presiding member declared the meeting closed at 9.51pm.