



MINUTES

ORDINARY COUNCIL MEETING

**COUNCIL CHAMBERS
241 ROKEBY ROAD, SUBIACO**

TUESDAY 23 FEBRUARY 2021

**COMMENCEMENT: 5:31PM
CLOSURE: 8.12PM**

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1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member declared the Ordinary Council Meeting of the 23 February 2021 held in Council Chambers at the City of Subiaco open at 5.31pm. The Presiding Member welcomed Councillors, Staff, the Media and Members of the Community.

The Presiding Member acknowledged the Whadjuk Noongar people as the traditional custodians of the area and recognised their cultural connection to the land and waterways of Subiaco, and their continuing contribution to our City.

The Presiding Member informed the public that the Meeting was being recorded and live-streamed via the City's website.

2. ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Elected Members Present

Mayor Penny Taylor (Presiding Member)

Cr Jodi Mansfield	Central Ward
Cr Lynette Jennings	Central Ward
Cr Angela Hamersley	Central Ward
Cr Rick Powell	South Ward
Cr David McMullen	South Ward
Cr Stephanie Stroud	North Ward
Cr Rosemarie de Vries	North Ward
Cr Derek Nash	North Ward
Cr Matt Davis	East Ward
Cr Murray Rowe	East Ward
Cr Blake Phelan	East Ward

Staff Members Present

Cliff Frewing	A/Chief Executive Officer
Scott Hawkins	Director Corporate Services
Marion Morton	Director Community & Development Services
Alan Millard	Director Technical Services
Alex Petrovski	Manager Planning Services
James Hambly	Manager Transport & Infrastructure Development
Bianca Jones	Manager Finance & Governance Services
Monica Kavanagh	Manager People & Organisational Development
Anthea Astone	Governance Support Officer
Anna Mitrofanova	Public Liaison

Apologies

Nil

Leave of Absence

Nil

Observers

3 members of the public

1 media

COUNCIL DECISION

Moved Cr Hamersley / Seconded Cr Mansfield

That Cr Murray Rowe be granted a leave of absence for the period 17 March 2021 to 30 April 2021 inclusive.

CARRIED 12/0

5.34pm

3. DISCLOSURE OF INTEREST

Cr Lynette Jennings declared an **IMPARTIALITY** interest in item C5 pursuant to Regulation 11 of *the Local Government (Rules of Conduct) Regulations 2007*. The nature of the interest is:

“A friend was a member of the Heritage Reference Group constituted for advising on the draft Local Heritage Survey of the Triangle Precinct.”

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

At the Special Council Meeting held on 28 January 2021, the following question was asked and taken on notice. The response has been provided and advised in writing.

Malcolm Mummery, 93 Keightley Rd, Shenton Park asked the following question:

Given a petition proposing a change to the method of filling the office of mayor requires petitioners be enrolled to vote, it follows that councillors will likely want to know that those that make submissions on the topic are also electors. How can the City confirm submitters are electors if they are neither required to provide their full name nor provide a signature?

The Director Corporate Services provided the following response:

Under the Local Government Act 1995, Section 2.12(1) requires 250 electors to sign the proposal in order to initiate the process. Section 2.12A(1) requires the City to provide Local Public Notice and the Council to consider any submissions received. There is no requirement under the Act for electors to be identified as part of the Submissions process.

5. PUBLIC QUESTION TIME

The A/Chief Executive Officer made the following statement in regards to public attendance at the meeting:

“The conditions of entry and behaviour to this Council Meeting are contained in a statement displayed on the door on entry to the Council Chamber. Please ensure you are familiar with the conditions so that the Meeting can be conducted at an appropriate standard.”

Helen Leeder, 3 Cuthbert Street, Shenton Park asked the following question:Question 1

All concerned are to be congratulated for the diligence being shown in the recruitment process of the new CEO. My thanks to those committed elected members whose skills both ensured the rigorous process and will now contribute to the depth and experience of the recruitment panel.

Assuming this diligence and commitment to be routine - ie not only because of the Local Government (Administration) Amendment Regulations 2021 that came into effect on the 3rd Feb - I have looked back through minutes relevant to the process that resulted in the employment of the previous CEO.

I found that on that recruitment panel only Cr Gedero, the then deputy mayor, had substantial experience of Subiaco Council while Mayor Taylor and Cr Nash had been elected some 5 months earlier - but after that all relevant decisions were made confidentially.

My question (and without referencing the 3rd Feb amendment): How did the process for the recruitment of the previous CEO differ from that which is now being followed?

The Acting Chief Executive Officer provided the following response:Question 1

The City follows standard CEO recruitment processes that are required under the Local Government Act. There has been two elected member workshops held and the need to adjust the current process to comply with the legislative changes made in February.

Paul Clements, 102 Barker Road, Subiaco asked the following question:Question 1

A successful elected member's motion called for a Subi East Update to be included at each ordinary council meeting to keep councillors and the community up to date. Unfortunately a Subi East update has not been included for some time. Therefore in the interest of transparency and accountability could the City advise what meetings on matters pertaining to Subi East have occurred with relevant parties, such as Development WA, Minister Saffioti, WAFC and the Department of Education and when was the last time Councillors were briefed on Subi East? Please include who attended the meetings to represent the City & the community's position, what organisations or Ministers were at the meeting, what topic were discussed and any agreed outcomes negotiated by the City.

Question 2

Development WA have appointed JLL to handle developer enquires for Subi East and Minister Saffioti in her media release of 14 January 21 2021 stated, "*In 2020, subdivision approval was granted for the creation of 26 residential lots within the City of Subiaco, encouraging economic growth and vibrancy.*" Could the City please provide details of who approved these lots, when it was approved, have any deposits or lots been sold and did the City take part in this process? Please email or provide the link to a map of what lots are included and their location within the Subiaco East redevelopment.

The Director Community & Development Services provided the following response:

Question 1

The Council resolution required a Subiaco East update in the Matters for Information report until the completion of the master planning process, which occurred in October 2020.

Development WA provided an update to elected members at a Strategic Workshop on 3 December 2020 regarding the Subiaco East Public Realm and Landscaping Works. A report regarding the development application will be presented to the March 2021 Ordinary Council Meeting.

The public can keep updated on Subiaco East through the City's website.

Question 2

The Director Community & Development Services took this question on notice.

Sharon Williams, Larundel Road, City Beach asked the following questions:

Question 1

The Subiaco Oval Landscaping and Public Realm Development Application public comment period closed on 8 February 2021. Could the City please explain why it appears it has not commented on a plan that is unsafe, unhealthy, deficient, against council decisions & plans, against feedback and severely under delivers on the Department of Local Government Sporting & Cultural Industries (DLGSCI) guidelines for the provision of active playing fields for denser infill developments (as per Perth & Peel @3.5M) for future and current residents?

Question 2

The long awaited and overdue Subi East shared user oval agreement is still outstanding. Could the City update the community on this important agreement and include who is managing the process and if there is more than one agreement between the three parties? Please also include who and what parties are holding up the finalisation of the shared oval agreement and an estimate on when agreement is likely to be reached. If that is not the case and all three parties have reached agreement why hasn't the shared oval user agreement been published for this council's and the community's consideration?

The Director Community & Development Services provided the following response:

Question 1

A report regarding the Subiaco East Public Realm and Landscaping Works development application will be presented to the March 2021 Ordinary Council Meeting. This timeframe has been agreed with DevelopmentWA.

The City is not aware of any aspects of the plan that are unsafe or unhealthy.

Question 2

Negotiations with the Department of Education and West Australian Football Commission regarding the use of Subiaco Oval have progressed and will be presented to Council for consideration in due course.

6. PUBLIC STATEMENT TIME

Nil

7. PETITIONS AND APPROVED DEPUTATIONS

Nil

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

8.1 Ordinary Council Meeting – 15 December 2020

COUNCIL DECISION

Moved Cr Stroud / Seconded Cr Davis

That the Minutes of the City of Subiaco Ordinary Council Meeting held on Tuesday 15 December 2020 be confirmed as a true and correct record.

CARRIED 12/0

5.46pm

8.2 Special Council Meeting – 28 January 2021

COUNCIL DECISION

Moved Cr Nash / Seconded Cr Rowe

That the Minutes of the City of Subiaco Special Council Meeting held on Thursday 28 January 2021 be confirmed as a true and correct record.

CARRIED 11/1

CR HAMERSLEY VOTED AGAINST

5.47pm

8.3 Special Council Meeting – 15 February 2021

COUNCIL DECISION

Moved Cr Stroud / Seconded Cr Davis

That the Minutes of the City of Subiaco Special Council Meeting held on Monday 15 February 2021 be confirmed as a true and correct record.

CARRIED 12/0

5.47pm

9. ANNOUNCEMENTS BY THE PRESIDING MEMBER

One of my favourite parts of the job is meeting people across our community and seeing what amazing positive work they are doing.

Perth Social Sports have been working to create social sporting opportunities for high school age children that promote having fun and keeping active and look to fill a different role to competitive club sport and the commitment that goes with that.

Communities that participate in sport develop strong social bonds and have proven to be safer. People that live in them are generally happier and healthier. They are inspired, empowered and motivated.

Recreation is especially important to teenagers as it improves their health, strength and emotional balance whilst teaching them about teamwork. Teenagers learn to rely on each other and motivate each other to achieve a common goal. Even the best player is unable to win a game without their team mates.

Sport teaches teenagers to play fair; respecting the rules, opponents, officials and team mates. Kids who play sports have positive outcomes in other areas of life.

Social sport achieves all of this without the need to be the best on the field, the most coordinated or to have played since you were young. Social sport is also less expensive and more accessible to people from all backgrounds.

Young Quokkas is a volleyball training session organised by Perth Social Sports for teenagers. They started with 1 court with 16 teenagers but, since their inception in August 2020, have grown remarkably quickly. They now have 4 courts with approximately 40 teenagers attending every week.

The City of Subiaco is very fortunate to have such groups growing communities of new friends from all walks of life, genders and ages together, doing sports and spreading love and happiness. I want to thank all volunteers, supporters, referees, friends and families for your hard work and commitment.

I know this is one sporting example of many across our community. You are all providing a true service to our community. Thank you on behalf of the City of Subiaco.

COUNCIL DECISION

Moved Cr Mansfield / Seconded Cr Nash

That Items C2, C3, C4, C6, C7, C8, C10, C11, C13, C14 contained in the agenda of the Ordinary Council Meeting of 23 February 2021 be adopted en bloc.

CARRIED 12/0

5.52pm

10. OFFICER REPORTS

- C1 DRAFT LOCAL PLANNING POLICY 1.1 ‘RESIDENTIAL DEVELOPMENT – SINGLE HOUSES AND GROUPED DWELLINGS’ AND DRAFT LOCAL PLANNING POLICY 1.2 ‘RESIDENTIAL DEVELOPMENT – APARTMENTS’ – FINALISATION POST ADVERTISING***

REPORT FROM DIRECTOR COMMUNITY AND DEVELOPMENT SERVICES

Authors: Manager Planning Services, Alexander Petrovski
Senior Strategic Planning Officer, Jutta Kober

Date: 9 February 2021

File Reference: A/5967

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

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Mansfield / Seconded Cr Jennings

1. **In accordance with Schedule 2 (Deemed Provisions), Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council:**
 - (a) **proceeds with Local Planning Policy 1.1 ‘Residential Development – Single Houses and Grouped Dwellings’ (Attachment 1) and Local Planning Policy 1.2 ‘Residential Development – Apartments’ (Attachment 2); and**
 - (b) **Publishes a notice of the finalisation of the Polices in a newspaper circulating in the scheme area.**
2. **In accordance with Schedule 2 (Deemed Provisions), Clause 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council revokes the following local planning policies by publishing a notice of revocation in a newspaper circulating in the scheme area:**
 - (a) **4.1 Jolimont Precinct;**
 - (b) **4.2 Darglish Precinct;**
 - (c) **4.8 Triangle Precinct;**
 - (d) **4.9 West Subiaco Precinct; and**
 - (e) **4.10 Shenton Park Precinct.**
3. **In accordance with Schedule 2 (Deemed Provisions), Clause 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council undertakes a minor amendment to the City’s existing local planning policies (Attachment 5) in accordance with the following numbering model:**
 - (a) **1.0 Residential;**
 - (b) **2.0 Commercial;**
 - (c) **3.0 Heritage;**
 - (d) **4.0 Environment and Natural Resources;**
 - (e) **5.0 Transport and Infrastructure;**

- (f) **6.0 Design Guidelines and Precinct Plans;**
 (g) **7.0 Planning Procedures; and**
 (h) **8.0 Miscellaneous.**

CARRIED 9/3

CRS STROUD, PHELAN AND JENNINGS VOTED AGAINST

6.20pm

AMENDMENT

Moved Cr Stroud / Seconded Cr Hamersley

The motion be amended to read as follows:

1. In accordance with Schedule 2 (Deemed Provisions), Clause 4 of the Planning and Development (Local Planning Schemes) Regulation 2015 Council:
 - a) proceeds with Local Planning Policy 1.1 'Residential Development – Single Houses and Grouped Dwellings' (Attachment 1);
 - b) proceeds with Local Planning Policy 1.2 'Residential Development – Apartments' (Attachment 2) as amended in the following manners:
 - (i) Inserting an index.
 - (ii) Amend the definition of Established Neighbourhood Character to read:
The dominant visual characteristics of the surrounding area formed by the interrelationship of built form, vegetation and formed topographic characteristics in both the private and public domains within that area including the streetscape.
 - (iii) Amend the definition of Character to read:
As defined in clause 4.6.1 of the City of Subiaco Local Planning Strategy dated 28 February 2020.
 - (iv) Amend the definition of Desired Future Character to read:
The desired characteristics of an area subject to change over time as expressed in the relevant Precinct Character Statement set out in clause 7.4 of this Policy.
 - (v) Amend the third paragraph of clause 4.1 (page 9 of the draft) to read:
Sub-precinct 1 includes land zoned and developed at an R50 density. Any redevelopment of these sites needs to respond to the special character of the surrounding neighbourhood. The policy provisions in Part 4 assist in integrating new apartment development into the existing low density character areas.
 - (vi) Amend the fourth paragraph of clause 4.1 (page 9 of the draft) to read:
Sub-precinct 4 includes areas which are transitioning from a low density residential neighbourhood to a higher density development area over an extended period of time. New development will need to respect the amenity of existing low density dwellings, many of which may not be redeveloped in the near future. Part 4 of this Policy

amends or replaces specific Acceptable Outcomes of the R-Codes to manage the transition.

- (vii) Amend dot point 2 of A2.2.3(c) and A2.2.4(d) of Table 2, O2.2.3(d) and A2.2.4(b) of Table 3 and O2.2.4(d) and A2.3.4(b) of Table 3 to read:

The development is considered to be of high quality by the City's Design Review Panel as determined in accordance with its Terms of Reference as applicable at the time of assessment and with particular regard to built form and scale, and context and character, and landscaping.

- (viii) Amend A2.2.4(a) of Table 2 and A2.2.4(a) of Table 3 to read: is setback so that the majority of the additional storey is not visible from the middle of the primary outdoor living area of an adjoining pre-existing low density dwelling; and

- c) Publishes a notice of the finalisation of the Policies in a newspaper circulating in the scheme area.

2. In accordance with Schedule 2 (Deemed Provisions), Clause 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council revokes the following local planning policies by publishing a notice of revocation in a newspaper circulating in the scheme area:

- (a) 4.1 Jolimont Precinct;
- (b) 4.2 Darglish Precinct;
- (c) 4.8 Triangle Precinct;
- (d) 4.9 West Subiaco Precinct; and
- (e) 4.10 Shenton Park Precinct.

3. In accordance with Schedule 2 (Deemed Provisions), Clause 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council undertakes a minor amendment to the City's existing local planning policies (Attachment 5) in accordance with the following numbering model:

- (a) 1.0 Residential;
- (b) 2.0 Commercial;
- (c) 3.0 Heritage;
- (d) 4.0 Environment and Natural Resources;
- (e) 5.0 Transport and Infrastructure;
- (f) 6.0 Design Guidelines and Precinct Plans;
- (g) 7.0 Planning Procedures; and
- (h) 8.0 Miscellaneous.

LOST BY THE CASTING VOTE OF THE MAYOR 6/7
MAYOR TAYLOR AND CRS PHELAN, NASH, MANSFIELD, DAVIS AND ROWE
VOTED AGAINST

6.17pm

Additional Comment

The draft Local Planning Policies 1.1 and 1.2 were presented to the 15 December 2020 Ordinary Council Meeting (Item C3). Council resolved to defer consideration to the 23 February 2021 meeting for the following reasons:

- *Proper and orderly planning*
- *The significant changes to the original draft policies LPP1.1 and LPP 1.2 following public consultation, has prompted additional feedback which may have merit for further amendment.*
- *There are for example, a number of issues and concerns, particularly with draft policy 1.2 regarding interface areas, setbacks, bonus height provisions and transition areas*
- *The opportunity for community members to communicate with their local government on the changes to these LPPs and for elected members to consider issues raised and take advice from Administration (planning) on these complex and important documents has not been sufficient.*
- *The community were assured that LPPs would “fix” the tensions of TPS5 and we owe it to our community, present and future, to fully respect the public consultation process and achieve the best planning outcomes possible.*
- *The potential benefits outweigh any unlikely adverse consequences of not having the “new” LPPs in place over the Xmas holiday period.*

Council did not provide further material to substantiate its reasons for deferral.

Following a subsequent review of the draft local planning policies no further modifications are recommended. The policies strike a balance between protecting low density residential properties at the interface with higher density lots while enabling higher density development in accordance with the allocated R-Code density.

Table 1A considers the relevant matters raised by community in the three public statements at the 15 December 2020 Ordinary Council Meeting. As discussed in the table below, all relevant matters have been addressed in the preparation of the draft local planning policies which are recommended to finalised.

Table 1A: Consideration of matters raised at 15 December 2020 Ordinary Council Meeting

Concern raised	Officer response
Mature trees should be required to be planted within the interface area on higher density lots adjacent to low density lots.	<p>The R-Codes Volume 2 include a requirement for provision of tree canopy and deep soil areas, which can only be modified with the approval of the Western Australian Planning Commission (WAPC).</p> <p>Obtaining WAPC approval would delay the finalisation of the draft LPP 1.2 by several months and the outcome is uncertain.</p> <p>The City is proposing to prepare a separate LPP relating to trees on private property. Requiring mature trees to be planted within the interface area can be investigated and the approval of the WAPC sought as part of preparation of the policy relating to trees.</p>
The scope for bonus storeys should be removed.	<p>Draft LPP 1.2 does not include ‘bonus storeys’. The draft LPP seeks to limit the exercise of discretion to one additional storey subject to specific criteria. The draft LPP requires all of the following criteria to be met:</p> <p>The additional storey:</p> <ul style="list-style-type: none"> • Is setback to be not substantially visible from the primary outdoor living area of an adjoining low density lot; and • Is not considered to have any undue adverse effect of the existing or desired future streetscape and adjoining

	<p>properties; and</p> <ul style="list-style-type: none"> • The maximum plot ratio stipulated in R-Codes Volume 2 Table 2.1 cannot otherwise be achieved; and • The development is considered to be of high quality by the City’s Design Review Panel in respect to built form and scale, and context and character, and landscaping. <p>Discretion is inbuilt in the planning system and cannot be removed by a local planning policy.</p> <p>In the absence of specific criteria, assessment of additional building height is in accordance with the R-Codes Volume 2 Element Objectives and does not limit the additional height to one storey.</p>															
<p>Pre-existing low density dwellings in transition areas have very little protection in addition to the R-Codes Volume 2 provisions.</p>	<p>Transition areas are those areas which have a higher density under LPS 5 than they had under TPS 4. While it is acknowledged that some interface issues may arise in the short to medium term, in the long term redevelopment of these areas is likely. The local planning policies have been prepared to enable the transition to higher density to occur without prejudicing future development.</p>															
<p>The provision contained in the advertised LPP requiring any portion of a building with a building height difference of two storeys or more to be setback to not be substantially visible from a primary outdoor living area of an adjoining low density property has been removed. This should be reinstated.</p>	<p>The draft provision in the advertised LPP 1.2 was based on a 6 metre setback for a building height difference of 3 storeys and above.</p> <p>This is now proposed to be 12 to 15 metres which offers additional separation between buildings of different densities. Specific minimum setback distances for each storey are now stipulated as shown in the following table:</p> <table border="1" data-bbox="584 1126 1401 1431"> <thead> <tr> <th>Building height difference (storeys):</th> <th>Minimum setback for development site dimension 30m or less</th> <th>Minimum setback for development site dimension more than 30m</th> </tr> </thead> <tbody> <tr> <td>Nil</td> <td>3m</td> <td>6m</td> </tr> <tr> <td>1</td> <td>6m</td> <td>9m</td> </tr> <tr> <td>2</td> <td>9m</td> <td>12m</td> </tr> <tr> <td>3 or more</td> <td>12m</td> <td>15m</td> </tr> </tbody> </table> <p>Retaining the advertised draft provision would result in the upper storey(s) not being of viable size.</p>	Building height difference (storeys):	Minimum setback for development site dimension 30m or less	Minimum setback for development site dimension more than 30m	Nil	3m	6m	1	6m	9m	2	9m	12m	3 or more	12m	15m
Building height difference (storeys):	Minimum setback for development site dimension 30m or less	Minimum setback for development site dimension more than 30m														
Nil	3m	6m														
1	6m	9m														
2	9m	12m														
3 or more	12m	15m														
<p>The minimum setback for new higher density development adjacent to a two-storey low density dwelling is 3 metres. This should be increased to 6 metres.</p>	<p>Setback distances vary based on the dimension of the higher density development site.</p> <p>A 3 metre setback applies to the first two storeys where the higher density development site has a dimension of 30 metres or less. On a development site with a dimension of more than 30 metres the minimum setback is required to be 6 metres. The diagrams below are included in draft LPP 1.2:</p>															

	<p>The diagrams illustrate building setbacks between two lots. The left lot is labeled $\leq R30$ and contains a single-story house. The right lot is labeled $\geq R50$ and contains a multi-story building. A vertical dashed line indicates the lot boundary. Red double-headed arrows show the setbacks from the lot boundary to the building on the right lot. The top diagram, labeled 'Development site dimension $\leq 30m$', shows setbacks of 3m, 6m, and a minimum of 9m. The bottom diagram, labeled 'Development site dimension $> 30m$', shows setbacks of 6m, 9m, and 12m.</p>
<p>The interface between land zoned Local Centre and low density residential lots has not been addressed. The draft LPPs should apply to land zoned Local Centre. Alternatively LPS 5 should be amended to address the interface.</p>	<p>Development in a Local Centre zone is addressed in LPS 5 which includes specific provisions to guide building height, setbacks and plot ratio in a Local Centre zone. A local planning policy cannot conflict with a scheme provision and as a result cannot apply more onerous development requirements than LPS 5.</p> <p>A Local Centre has the function of providing a community focal point with a range of land uses to support the needs of the local community. Higher intensity development is therefore appropriate within local centres. Development controls have been included in LPS 5 to minimise any impact on surrounding residential properties while enabling new development to occur in accordance with the objectives for a local centre.</p>
<p>Seeking a full planning report outlining the City's planning goals.</p>	<p>This matter is not related to the local planning policies. The City's Local Planning Strategy includes direction for the future development of Subiaco over the long term.</p>

R-Codes Volume 1 Update

On 2 February 2021, the City was made aware that the interim review of the State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes Volume 1) was approved and will be gazetted on 2 July 2021.

Draft Local Planning Policy 1.1 – Residential Development – Single Houses and Grouped Dwellings (LPP 1.1) has been updated as a result of the modifications to the

R-Codes. The changes are minor and include updated numbering and minor text changes which do not change the intent or provisions of the draft LPP.

Attachment 1 and **For Information 1** have been updated to reflect the modifications.

Minor update to draft LPP 1.2

Draft Local Planning Policy 1.2 – Residential Development – Apartments is updated with minor textual modifications for clarity and consistency. There are no changes to the intent or provisions of the policy.

Attachment 2 and **For Information 2** have been updated to reflect the modifications.

Executive Summary

Draft Local Planning Policy 1.1 ‘Residential Development – Single Houses and Grouped Dwellings’ (LPP 1.1) and draft Local Planning Policy 1.2 ‘Residential Development – Apartments’ (LPP 1.2) have been prepared following the review of the City’s precinct policies and recent changes to the planning framework including the finalisation of the Local Planning Strategy and Local Planning Scheme No. 5.

Preparation of the policies were informed by a 20 member community working group and its 7 July 2020 Ordinary Council Meeting, Council resolved to commence broader public consultation.

The draft policies were advertised for 42 days between 31 July and 10 September 2020. During advertising 77 submissions were received with 33 submitters commenting on draft LPP 1.1 and 70 submitters commenting on draft LPP 1.2. All submissions received have been carefully considered.

Modifications are recommended to both draft LPPs based on matters raised in submissions, further officer review, and design testing by members of the City’s Design Review Panel.

Key modifications following consultation to draft LPP 1.1 include:

- Additional diagrams included for clarity; and
- Minor modifications to assist implementation of the provisions.

Key modifications following consultation to draft LPP 1.2 include:

- Definition of ‘interface area’ increased from six metres to 12 or 15 metres depending on the depth of lots subject to a development applications; and
- Setbacks increased for each storey by three metres.

The modifications undertaken for both policies address the matters raised in submissions and result in contemporary planning policies to guide the future residential development of Subiaco. It is recommended that the draft policies are finalised accordingly.

The draft policies will replace the existing precinct policies which are recommended to be revoked. It is also recommended to administratively amend the existing local planning policies by renumbering them with a new numbering model.

Introduction

This report considers the draft Local Planning Policies (LPPs) dealing with residential development that result from a review of the City of Subiaco's (the City's) precinct policies.

The City has five residential precinct policies that were initially prepared to guide development in Town Planning Scheme No. 4 (TPS 4).

The policies aim to preserve the established neighbourhood character in each precinct and sub-precinct by adding to or changing the development controls of State Planning Policy 7.3 Residential Design Codes Volume One (R-Codes Volume 1) to ensure new development is respectful of the existing streetscape and neighbouring properties.

The review of the policies has been informed by preliminary engagement through a Community Working Group (CWG).

Scope of Policies

With the gazettal of LPS 5 and the recent release of State Planning Policy 7.3 Residential Design Codes Volume Two (R-Codes Volume 2), a comprehensive review of the existing precinct policies is necessary to provide guidance for development proposals under the new local planning framework.

The review of the R-Codes has resulted in two volumes with single houses and grouped dwellings being considered in Volume 1 and apartments in Volume 2 of the R-Codes respectively. The new policies have been aligned with the new R-Codes format by consolidating the five precinct policies into two new policies:

- Local Planning Policy 1.1 (LPP 1.1) Residential Development – Single houses and grouped dwellings (**Attachment 1**)
- Local Planning Policy 1.2 (LPP 1.2) Residential Development – Apartments (multiple dwellings) (**Attachment 2**)

The draft LPPs aim to:

- preserve established neighbourhood character;
- achieve the objectives of LPS 5;
- manage the interface between higher and lower density areas; and
- establish a desirable future character statement to guide development in areas where the character is expected to change over time due to a change in density under LPS 5.

The scope of the draft LPPs is guided by the ability to amend or replace specific provisions of the R-Codes.

State Planning Policy 7.3 Residential Design Codes (R-Codes)

Clause 7.3.1 of the R-Codes Volume 1 provides for LPPs to amend or replace specific deemed-to-comply provisions of the R-Codes, provided the amended or replaced provisions are consistent with the relevant design principle. A LPP can also augment the R-Codes *'by providing local housing objectives to guide judgement about the merits of proposals for any aspect of residential development that does not meet the requirements or is not provided for, under the R-Codes'*.

Clause 1.2.2 of the R-Codes Volume 2 provides for LPPs to amend or replace specific Acceptable Outcomes of the R-Codes, provided the amended or replaced provisions are consistent with the relevant Element Objective.

Background

The report refers to the different dwelling types as referred to in the R-Codes:

- Single house: a separate house on its own lot.
- Grouped dwellings: two or more houses located next to each other on the same lot, also known as townhouses.
- Apartments (multiple dwellings): two or more dwellings where one part of a dwelling is located above a different dwelling.

The following steps were undertaken in the review of the City's LPPs:

- Local planning policy review schedule endorsed – Ordinary Council Meeting (OCM) on 28 November 2017 (Item C2).
- Process for the LPP review endorsed – OCM on 20 August 2019 (Item C1).
- Elton Consulting engaged to assist in the recruitment and facilitation of the Community Working Group (CWG) – 28 October 2019.
- Adoption of the draft LPPs for the purpose of advertising – OCM on 7 July 2020 (Item C3).

Consultation

Preliminary Engagement – Community Working Group

The City established a CWG to assist with the review of the existing precinct policies and the preparation of new LPPs to address key actions in the Local Planning Strategy.

The City recruited members for the CWG through:

- Expressions of Interest (EOI) process from 25 November 2019 until 13 January 2020.
- 41 EOIs received and 20 CWG members selected by Elton Consulting.

Four CWG workshops were held between February and April 2020 to discuss all aspects of the draft LPPs. The results of the preliminary engagement are documented in the engagement outcome report, received by Council at the OCM on 7 July 2020 (Attachment 3 to Item C3).

Five members of the CWG made a submission during the formal advertising process:

- Two express strong support for the draft LPPs, one of which suggests minor improvements and one states all concerns are addressed.
- Two are critical of the draft LPPs.
- One rejects the notion that established character should be protected and does not support provisions that amend or replace R-Codes provisions.

Advertising for Public Consultation

The draft LPPs were advertised for public comment for 42 days from 31 July 2020 to 10 September 2020 by the following means:

- Notice on the City's online engagement platform 'Have Your Say Subiaco';
- Notice published in a local newspaper on 31 July 2020;
- Notice in the Subi Scene on 7 August 2020;
- Advertising on the City's social media;
- CWG members and anyone who expressed an interest to be on the CWG were notified by email;

- Letters sent by email to everyone who made a submission on the draft Local Planning Strategy and/or draft LPS 5 during the 2018 and 2019 consultation periods;
- Two community drop-in sessions held on Thursday evening, 13 August 2020 and on Saturday morning, 29 August 2020.

Results of public consultation

The consultation page on 'Have Your Say Subiaco' received 730 visits:

- These visits were from 471 unique people (some visited more than once);
- There were 195 downloads of documents from the 'document library';
- 214 people visited multiple pages on HYSS; and
- 19 people made a submission via the online survey.

The City received four phone calls and attended two counter appointments relating to the draft LPPs. No one attended the community drop-in session on Thursday evening and four parties (a total of six individual people) attended the Saturday drop-in session.

Submissions

The City received a total of 77 submissions of which:

- 75 were received during the consultation period; and
- 2 were late submissions.

Of the 77 submissions received:

- 33 commented on draft LPP 1.1 'Single houses and grouped dwellings'; and
- 70 commented on draft LPP 1.2 'Apartments'.

All submissions have been carefully considered and the key issues raised are summarised in **Table 1**, **Table 2** and **Table 3** below and addressed in the Comment section of this report. The complete schedule of submissions, including officer responses, is provided in **Attachment 3** for draft LPP 1.1 and **Attachment 4** for draft LPP 1.2.

Comments which relate to both draft LPPs are summarised in **Table 1**.

Table 1: Summary of general comments on draft LPP 1.1 and draft LPP 1.2

Key issues raised in submissions	Officer Response
General	
Discretion and development bonuses should not be available for any development.	Discretion is inbuilt into the R-Codes and the wider planning framework. A LPP cannot remove discretion but can guide how discretion is exercised. Development bonuses are not considered as part of the draft LPPs. Draft LPP 1.2 allows for development to be shifted and reallocated on the site away from lower residential density land.
The language is technical and difficult to understand.	The LPP follows the structure and language of the R-Codes. An information sheet has been prepared that explains the draft provisions in plain English. Additional diagrams are recommended to be included for clarity.
Matters relating to R-Codes provisions such as boundary setbacks, requirements for tree planting, overshadowing, visual privacy and boundary walls were raised.	The draft LPP is limited by the extent to which the R-Codes permit LPPs to amend or replace specific deemed-to-comply provisions (R-Codes Volume 1) or acceptable outcomes (R-Codes Volume 2). The draft LPPs cannot modify provisions relating boundary setbacks, tree planting, overshadowing or visual privacy.

Comments relating to density and the need for buffer zones.	The LPP cannot change zoning or density. Draft LPP 1.2 aims to shift the bulk of higher density development away from the interface with low density properties thereby creating a buffer within the higher density site.
The draft LPPs should give certainty to developers and residents	The LPPs have been prepared following a robust engagement process and are based on contemporary planning principles. The LPPs are consistent with relevant legislation and the planning framework which provides significant rigour and justification to provide as much certainty as possible.

33 submitters provided comment on draft LPP 1.1 with key issues summarised in **Table 2**.

Table 2: Summary of comments on draft LPP 1.1

Key issues raised in submissions	Officer Response
2.0 Definitions	
Additional definitions should be included for Heritage and Streetscape.	Draft LPP 1.1 does not deal with heritage; this is dealt with under separate LPPs. Streetscape is defined in the R-Codes Volume 2. Draft LPP 1.1 has been updated to reference streetscape definition
3.0 Sub-precincts 1 and 2 – General Provisions	
No restrictions other than R-Codes should be applied to enable modern homes to be built.	The intent of draft LPP 1.1 is to retain the existing neighbourhood character. A modern home with contemporary design can be built provided it contributes positively to the neighbourhood character.
The 'matters for consideration' of the current precinct policies should be retained.	The LPP 1.1 has replaced this with the local housing objectives to be consistent with the R-Codes Volume 1 and recent decisions of the State Administrative Tribunal (SAT).
Section 5.1.2 C2.4 'Buildings Mass and Form' is vague and open to subjective interpretation.	This provision requires design elements such as roof pitch and form to reflect those of the surrounding area to ensure new development responds to the local context.
The current requirement for an upper floor size limit of 15% of the site area should be retained.	The upper storey limit often causes poor design outcomes, such as a greater ground floor footprint with less open space. Variations to the maximum size of the upper floor are regularly approved and amenity concerns are addressed through other provisions.
More should be done to enhance and protect the character of the area.	New development has to respond to the specific characteristics evident within the streetscape which will provide an improved response to local character.
The draft LPP focuses only on the streetscape and should also consider the impact of new developments on adjoining properties.	R-Codes Design Element 5.1.2 refers to the streetscape. The draft LPP can only amend or replace deemed-to-comply provisions to the extent that they relate to the relevant design principle. The impact of new development on other properties is considered under other elements of the R-Codes.
Provisions relating to design of the dwelling should only relate to the primary street and should allow more flexibility for the secondary street.	These provisions are intended to apply to any portion of the dwelling visible from the street to ensure the character of both the primary and secondary streets are retained.
An upper storey should be setback 2.5m from the secondary street boundary rather than 1.5m behind the ground floor on the secondary street.	The proposed provision provides additional articulation to the secondary street façade and reduces the dominance of the upper storey. A fixed setback of 2.5m from the boundary may result in unintended outcomes as existing ground floor setbacks can vary substantially.

More flexibility should be available for carports and garages to be located behind the building line of a property.	Modifications are recommended to delete the reference to an internal driveway and provide an option for a carport or garage to be setback 1m behind the main building line of the dwelling.
4.0 Sub-precinct 2	
Fencing height limit should match sub-precinct 1	The lower fence height is a distinct characteristic of the sub-precinct 2 area and contributes to the local character.

6.0 Sub-precinct 4	
A third storey should be setback consistently with the LPP for Apartments where the interface is across the road.	A modification is recommended to explicitly include lower density lots abutting across a public street in the requirement for building height to be Category B (2 storeys).

70 submitters commented on draft LPP 1.2 with key issues summarised in **Table 3**.

Table 3: Summary of comments on draft LPP 1.2

Key issues raised in submissions	Officer Response
General	
Building height should be expressed in metres as well as storeys.	Building height is expressed in storeys to correspond to the approach used in R-Codes Volume 2. The R-Codes Volume 2 Table 2.2 provides an indicative building height in metres which is to be read in conjunction with draft LPP 1.2.
LPPs should apply to lots zoned Local Centre.	Development standards for the Local Centre zone are included in LPS 5 and cannot be modified by draft LPP 1.2.
The LPP is biased in favour of new high density development.	Draft LPP 1.2 cannot impose restrictions that would make development to the applicable density code impossible. Draft LPP 1.2 seeks to balance the protection of lower density properties with the need to ensure higher density development can be built to the potential envisaged by the R-Code density.
1.0 Definitions	
The interface area should be increased to a minimum of 15m.	Draft LPP 1.2 has been modified to increase the interface area to 12-15m depending on the dimension of lots.
The Interface Area definition should include lots separated by a right-of-way (ROW).	A ROW provides separation for development at different densities. In addition, ROWs usually have a very different character to a primary street. It is not considered appropriate to require additional setbacks from a ROW in addition to the setbacks required under the R-Codes.
4.0 Transition areas	
The building height difference should be one storey maximum within the interface area.	Transition areas are expected to transition to higher density development over time. Draft LPP 1.2 includes the protection of existing houses constructed under a lower density by requiring additional boundary setbacks for upper levels. Draft LPP 1.2 avoids constraining the redevelopment of the area by imposing further restrictions on new development which is inconsistent with the allocated density for that land.
Street setbacks should be addressed in areas that are transitioning.	Primary street setbacks in transition areas are covered in the R-Codes Volume 2. It is not considered

	appropriate to prescribe a specific setback as these areas will redevelop over time and transition to a higher density.
5.0 Areas with a density interface – side or rear boundary of a low density lot	
The building height difference should be one storey maximum within the interface area.	Modifications have been made to draft LPP 1.2 to address these concerns. Specifically, the building height difference is changed to be a maximum of two storeys with stepped setbacks increasing by 3m for each storey. Any portion with a building height of more than two storeys building height difference is to be setback behind the 12m or 15m interface area.
Side and rear setbacks within the interface area should be increased to a minimum 6m for the first and second storey and increased by 3m or 4.5m for each subsequent storey	
Heritage properties and areas need greater protection.	Heritage listed properties and heritage areas are protected through the LPS Regulations. Draft LPP 1.2 introduces the requirement for a heritage impact assessment to ensure the impact on any adjoining heritage listed properties or heritage areas are appropriately considered.
6.0 Areas with a density interface – across a public street	
Part 6 of the draft LPP is supported as it appropriately addresses the interface across a public street.	Noted.

Comment

Response to key issues raised in submissions

The matters raised which are relevant to both draft LPPs are considered as follows.

Overall comments

The key issues raised in regard to both draft LPPs are considered below.

Density

A number of submissions expressed concern about the location of higher density or the lack of a medium density buffer between higher and lower density lots. This concern is noted. Density is set by LPS 5 and cannot be modified by a LPP. The request for a gradual stepping of densities would result in more of the City's low density character areas being increased to medium density with potential for infill development. This approach was rejected by the community as part of advertising of draft LPS 5 in 2018. The intent of the draft LPP 1.2 is to shift the bulk of new apartment development away from the boundary with a low density property to create a transition area within the higher density development site.

Discretion and development bonuses

A number of submissions expressed concern with the ability of the decision-maker to make discretionary decisions or to apply development bonuses for new development.

The planning framework, including the R-Codes, is based on the ability of the decision-maker to exercise discretion when determining an application for development. A LPP cannot remove this discretion. Draft LPP 1.2 sets out clear criteria for the exercise of discretion which will ensure that the impact on adjoining properties is appropriately considered. In the absence of any specific criteria in the LPPs the R-Codes provisions will apply.

A number of submissions detail that development bonuses are available for 'good design' as part of draft LPP 1.2 which is not the case however development bonuses are considered in the LPPs. Development bonuses are generally used as a means to

achieve a specific community benefit that goes above and beyond compliance with normal development provisions or design standards.

Draft LPP 1.2 seeks to limit building height discretion to one storey above the maximum height stipulated under the R-Codes where additional floor area is required to achieve the full plot ratio available to a site. A number of other criteria are stipulated including a requirement for the additional storey to be setback so it is not substantially visible from the street or an adjoining property.

Certainty

A number of submissions request that the draft LPPs, or specific aspects of them, are modified to provide certainty to developers and residents by using clear language and unambiguous, measurable provisions with which any developer has to comply. This includes policy objectives and character statements, which some submitters suggest are too vague and open to interpretation.

The purpose of policy objectives is to outline the rationale for the development controls. Similarly, the character statements describe the current character of each of the precincts and the desirable future character statement describes how the area is expected to develop. Rather than mandate a future character, draft LPP 1.2 describes what the expected future character is.

LPPs are considered with due regard that is generally defined as ‘proper, genuine and realistic consideration’. The LPPs have been prepared following a robust engagement process and are based on contemporary planning principles. The LPPs are consistent with relevant legislation and the planning framework which provides significant rigour and justification to provide as much certainty as possible.

R-Codes matters

Some submissions raise matters that are adequately addressed in the R-Codes or that require Western Australian Planning Commission approval.

- Draft LPP 1.1 can amend or replace specific deemed-to-comply provisions of the R-Codes Volume 1 to the extent that they still meet the relevant design principles.
- Draft LPP 1.2 can amend or replace specific acceptable outcomes of the R-Codes Volume 2 to the extent they still meet the relevant element objectives.

Matters relating to visual privacy, boundary setbacks, tree planting and overshadowing cannot be modified by a LPP and any new development is required to satisfy the relevant provision of the R-Codes with regard to these matters.

Language and diagrams

Terminology used in the LPPs was in some instances considered to be difficult to understand and it is acknowledged that many planning documents use complex and technical terms.

The draft LPPs follow the structure and language of the R-Codes to ensure they can be read in conjunction and avoid unnecessarily duplicating terms. Care has been taken to simply terms where possible and the LPPs have been modified to include additional diagrams.

An information sheet was prepared as part of the advertising materials to explain the draft provisions using less complex terminology. These information sheets will be updated and made available once the LPPs are finalised.

Draft LPP 1.1 – Residential Development – Single Houses and Grouped Dwellings

The matters raised in the 33 submissions commenting on draft LPP 1.1 are considered as follows with a full schedule of submissions provided at **Attachment 3**.

Modifications are proposed to address matters raised in submissions and to provide additional clarification. All recommended modifications to draft LPP 1.1 are shown in a tracked changes copy of the draft LPP 1.1 in **For Information 1**.

Definitions

Generally submitters agree or partially agree with the definitions. A number of modifications are recommended to the definitions to provide additional clarity, including a new definition for 'Established Street Setback Pattern', additional notes under the definition of 'Line of sight', and reference to the definition of 'Streetscape' in R-Codes Volume 2.

Sub-precincts 1 and 2 – General Provisions

Submitters make a number of suggestions to the provisions for sub-precincts 1 and 2 ranging from broad ideas to specific policy provisions. Key issues include concern with the changed approach from prescriptive to outcome-based provisions. Specifically, some submitters want to retain existing precinct policy provisions including those specifying a maximum size of the upper storey and restriction of its location on the lot as well as retaining the 'matters for consideration' of the current precinct policies.

The proposed outcome-based approach is more responsive to the character of the specific locality. For example, the existing precinct policies require a roof pitch of 30-32 degrees which generally reflects the typical roof pitch of traditional houses built in the early 20th century. However, this may not reflect the character of the specific streetscape in which the new development is set. The draft LPP requires a roof pitch to reflect the predominant roof pitch of the surrounding area to ensure new development is required to respond to the local context.

The outcome-based approach enables greater flexibility for design to respond to the local context. The limit on the size of the upper storey is to be deleted as it has caused poor design outcomes in new development by encouraging a larger ground floor footprint resulting in reduced open space, fewer trees, greater reliance on setback variations and lot boundary walls.

Variations to the maximum size of the upper floor are regularly approved and the impact on adjoining properties is addressed through visual privacy and overshadowing provisions. The requirement for a second storey to be setback behind the line of sight is retained in draft LPP 1.1 to create the appearance of a single storey streetscape within areas with a single storey character.

The 'matters for consideration' in the current precinct policies are to be replaced with local housing objectives for consistency with the R-Codes Volume 1 and recent decisions of the State Administrative Tribunal (SAT).

Modifications are proposed to Sub-precinct 1 and 2 provisions to provide greater clarity and to address issues raised in submissions including:

- Clarification that the purpose of the line of sight provision is to retain the appearance of a single storey streetscape when viewed from the primary street (clause 5.1.2 C2.1ii.a);
- Clarification that building height provisions of the R-Codes are modified by clause 26(1) of LPS 5 for Category A area buildings (clause 5.1.6 C6.1); and
- Modification to the location of garages and carports to be setback one metre behind the main building line of the dwelling and clarification that any carports in the front setback area, where this is permitted, are limited to single width carports.

Sub-precinct 2

Submissions specifically relating to sub-precinct 2 comment on the fencing provisions. Modifications to existing deemed-to-comply requirements for fencing provisions are not recommended as these contribute to the character of the area.

Sub-precinct 3

Submitters were generally supportive of sub-precinct 3 provisions and no modifications to the draft LPP 1.1 are recommended.

Sub-precinct 4:

Submissions include a request for properties across a ROW to be included in the provisions relating to transition and interface areas. This approach is not recommended as a ROW has its own character. New development should relate to the character of the respective primary street rather than the character on the other side of the ROW.

One submission requests any third storey of single houses and grouped dwellings to be set back consistently with draft LPP 1.2 for Apartments where the density interface is across a public street. A modification is recommended to explicitly include lower density lots abutting across a public street in the requirement for building height to be Category B (two storeys) for consistency with draft LPP 1.2.

A further modification is recommended to clarify that reference to a secondary street setback includes a ROW. This will require an additional setback where the ROW separates higher and lower density lots to match those required on a secondary street.

Precincts

A number of general modifications are recommended in relation to the precincts, including:

- Updated sub-precinct map to ensure all sub-precincts are numbered consistently;
- Updated transition area map to remove adjoining low density areas; and
- Modified triangle precinct character statement to include reference to tree lined streets.

Draft LPP 1.2 – Residential Development – Apartments

The matters raised in the 70 submissions commenting on draft LPP 1.2 are considered as follows with a full schedule of submissions provided at **Attachment 4**.

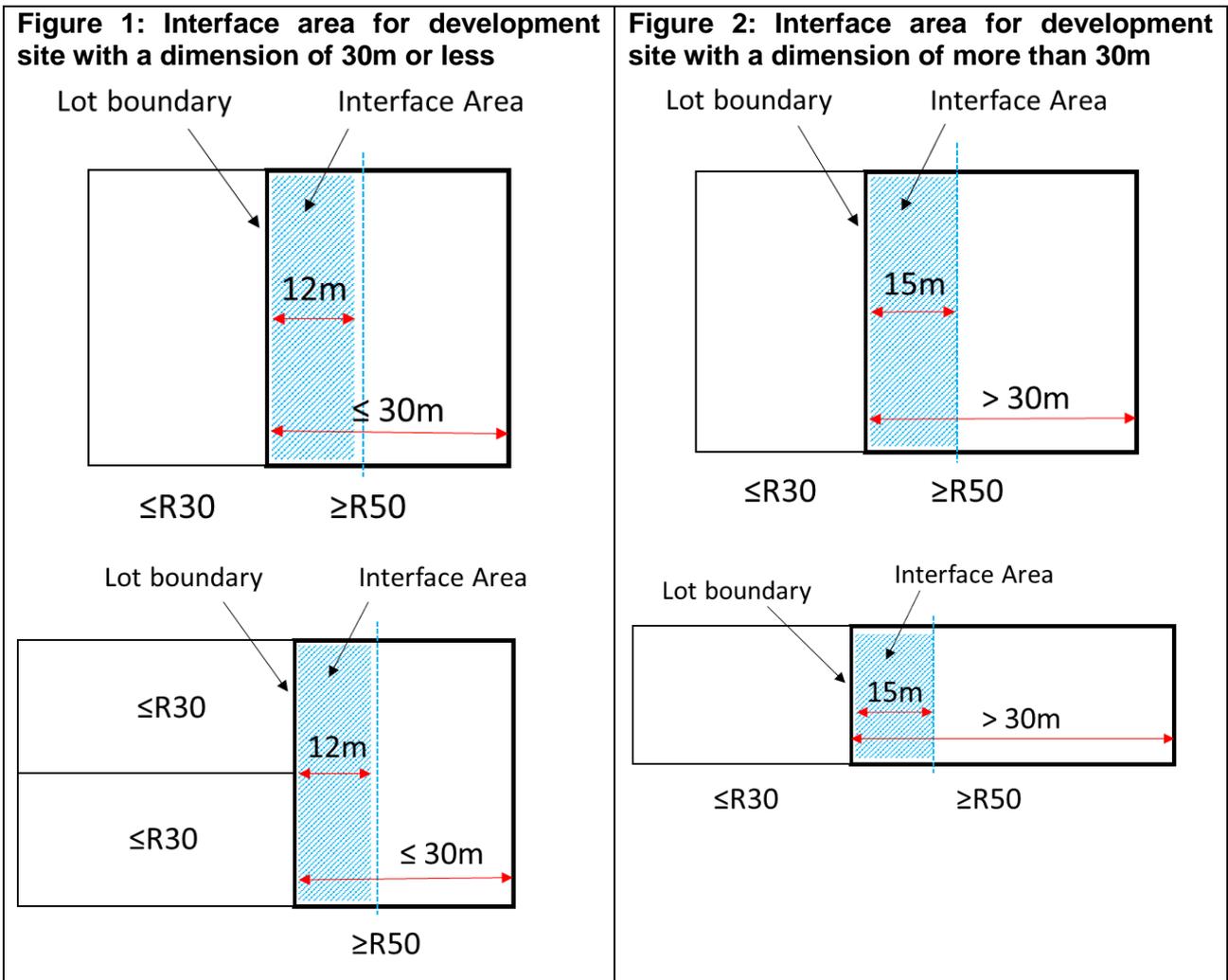
Modifications are proposed to address matters raised in submissions and to provide additional clarification. All recommended modifications to draft LPP 1.2 are shown in a tracked changes copy of the draft LPP 1.2 in **For Information 2**.

Setbacks and building height within the interface area

Submissions express disagreement with how the draft LPP 1.2 addresses the interface between densities and in response to submissions, further investigation has been undertaken to consider this matter and to ensure the lower density lots subject to a higher density interface are appropriately considered.

Modifications are recommended to draft LPP 1.2 to address the concerns raised and have been tested by members of the City’s DRP to ensure the draft policy provisions can be implemented and achieve their intended purpose.

The modifications include additional setbacks based on the dimension of the higher density development site, measured perpendicular to the shared boundary with the low density lot. This dimension dictates how much a building has to be setback from the boundary. The width of the interface area is recommended to be 12m for a development site with a dimension of 30m or less and 15m for a development site dimension of more than 30m in accordance with **Figures 1 and 2**. The Interface Area relates to dimensions evident on affected lots within the City of Subiaco and is based on the presumption that new higher density development should be shifted away from low density land as much as possible without significantly impacting on the development potential that would otherwise be available under the R-Codes Volume 2.



Setbacks are proposed to be increased for each storey of building height to increase the stepping of the building away from the shared boundary with the low density lot. **Table 4** shows the minimum setbacks for each storey based on the two interface area scenarios.

Table 4: side and rear setbacks for lots with a density interface

Building height difference (storeys):	Minimum setback for development site dimension 30m or less	Minimum setback for development site dimension more than 30m
Nil	3m	6m
1	6m	9m
2	9m	12m
3 or more	12m	15m

Any portion of a building with a building height difference of more than two storeys is required to be set back outside the interface area of either 12m or 15m, depending on the development site dimension.

Additional diagrams are recommended to be included in the draft LPP to illustrate the different setback scenarios based on the development site dimensions and the different maximum building height limits of the adjoining low density lots. These are generally either Category A (single storey) or Category B (two storeys).

A new provision has been recommended which clarifies that the City may support reduced boundary setbacks, including a lot boundary wall on more than one boundary, on boundaries not affected by a density interface subject to specific criteria. This provides flexibility to push a building further away from the lower density lot in appropriate circumstances.

Building height

A number of submitters raised concern about the building height being expressed in storeys rather than in metres and state that this is misleading and creates uncertainty.

Building height is expressed in storeys to correspond to the approach in the R-Codes Volume 2. The R-Codes Volume 2 Table 2.2 provides an indicative building height in metres which is to be read in conjunction with the draft LPP. The R-Codes Volume 2 support the approach to expressing building height in storeys to allow for flexible design solutions, promote generous floor-to-ceiling-heights and provide for future building adaptability. The heights listed in Table 2.2 are intended to allow for rooftop services, articulation and topographic changes. The relevant Element Objectives require consideration of how a development responds to the future scale and character of the street and the existing context as well as any changes in topography.

Local Centre Zone

A number of submissions express concern that draft LPP 1.2 does not apply to lots that are not zoned Residential, including those zoned Local Centre or Mixed Use.

LPS 5 includes specific provisions for each of the Local Centre and Mixed Use zoned areas which a development will have to comply with, including plot ratio, building height and setback provisions where appropriate. A LPP cannot conflict with a scheme provision and as a result, the draft LPP cannot include development requirements for these areas that impose greater limitations on these non-residential zoned sites.

Heritage protection

A number of submitters state that heritage listed properties and heritage areas abutting higher density lots need greater protection. This is particularly relevant to the interface of the higher density lots along Railway Road with the heritage area along Sadlier Street.

Heritage listed properties and heritage areas are protected under clause 67 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* which requires a decision-maker to consider the effect of the proposal on the cultural heritage significance of a place or area. Draft LPP 1.2 includes a requirement in A2.4.4 for a heritage impact assessment to be undertaken where a development adjoins a heritage listed property or heritage area, to assess the impact of new development on the heritage area or place.

The recommended modifications to draft LPP 1.2 will increase the setbacks for new development adjoining low density lots and therefore further reduce the impact on any low density streets.

Transition areas

A number of submitters request provisions for transition areas to match those of the areas with a density interface. Draft LPP 1.2 includes separate provisions for transition areas that have been increased in density under LPS 5. These areas are expected to transition to higher density development over time, even though some existing houses constructed prior to gazettal of LPS 5 under a lower density may remain for a longer time.

Draft LPP 1.2 balances the need to provide protection for existing houses without constraining redevelopment of the area over time and requires additional boundary setbacks at upper levels. It is not considered appropriate to include significant additional requirements which may result in inequitable outcomes for new development.

One submitter suggests street setback requirements should be included for transition areas which was considered in the initial preparation of the initial draft policy. Given the variety of scenarios to which draft LPP 1.2 will apply, and the difficulty of balancing existing and future setbacks, the street setback provisions of the R-Codes Volume 2 are on balance considered appropriate for transition areas. The R-Codes require consideration of the existing or proposed landscape character of the street. This is considered to provide sufficient flexibility to consider street setbacks on their merits and based on each individual streetscape context.

Other modification

Other modifications are recommended to the draft LPP for clarification, including additional diagrams. All recommended modifications are shown in a tracked changes copy of draft LPP 1.2 in **For Information 2**.

Design testing

Given the recommended modifications to draft LPP 1.2 result in a substantial increase in setback requirements, it was considered appropriate to re-test the draft LPP to ensure the proposed provisions can be implemented. Draft LPP 1.2 was tested by DRP members through design-based scenarios based on two development sites as outlined in **Table 5**.

Design testing found that draft LPP 1.2 is effective in providing additional (stepped) setbacks above the minimum requirements in the R-Codes. On smaller sites the allowable plot ratio may not be readily achieved which may require car parking at basement level and may encourage the amalgamation of small lots.

The proposed 10 metre street setback for development above two storeys was considered by testing to result in an undesirable outcome as it does not significantly

reduce the appearance of building bulk from the street. It also introduces additional floor space limits which may lead to a less desirable development outcome in other parts of the lot.

Policy numbering

Over time a number of the City's LPPs have been revoked and numbering is no longer continuous. The ongoing review of all LPPs and the preparation of a range of new LPPs provides an opportunity to review the numbering to ensure LPPs are easy to find and numbered continuously.

The Western Australian Local Government Association (WALGA) has prepared a draft guide for LPPs which includes a model numbering system. It is proposed that the City adopt a numbering system similar to the WALGA model to assist in standardising the LPP framework across different local governments.

The WALGA's model is recommended to be modified to make the heritage policies more prominent within the numbering system due to their importance in the City of Subiaco. Heritage policies have not been included in WALGA's draft model and WALGA recommends that where required these should be included at the end under point 8.0. Heritage policies are recommended to be included in a more prominent location, as point 3.0, to reflect their importance to the local community.

The proposed numbering model includes all headings proposed by WALGA and the City may not have policies under all of these headings. However, if the proposed headings are adopted and Council later adopts new policies they can be included under the relevant heading without the need to adopt new headings or for substantial renumbering. An example is the proposed heading *6.0 Design Guidelines and Precinct Plans*. The City currently has no policies that would come under this heading. However, once Development WA (formerly Metropolitan Redevelopment Authority) normalises the Subi Centro sites, relevant design guidelines will be transferred to the City. These could then be adopted as LPPs under heading 6.0.

Table 5 shows the existing headings, draft WALGA model and proposed numbering model.

Table 5: Proposed numbering model

Existing Numbering	WALGA model numbering	Proposed Numbering
1.0 Planning Procedures	1.0 Residential	1.0 Residential
2.0 General Planning Policies	2.0 Commercial	2.0 Commercial
3.0 Conservation and Heritage	3.0 Environment & Natural Resources	3.0 Heritage
4.0 Precinct Policies	4.0 Transport & Infrastructure	4.0 Environment & Natural Resources
	5.0 Design Guidelines & Precinct Plans	5.0 Transport & Infrastructure
	6.0 Planning Procedures	6.0 Design Guidelines & Precinct Plans
	7.0 Miscellaneous	7.0 Planning Procedures
	8.0 Heritage	8.0 Miscellaneous

Attachment 5 shows the proposed numbering of existing LPPs based on the model in **Table 5**.

Conclusion

Draft LPPs 1.1 and 1.2 have been carefully considered to address a number of actions in the City's Local Planning Strategy in relation to retention of neighbourhood character, and to respond to areas with a density interface in LPS 5.

The draft LPPs were prepared with significant input from the CWG following review of the existing precinct policies. Modifications are recommended to both draft LPPs based on issues raised in submissions during the advertising period and as a result of further officer review as well as re-testing of the draft policy provisions by members of the City's DRP.

Given the rigorous process of preparation and review of the draft LPPs and the modifications which address key matters raised during consultation, it is recommended that Council accepts the recommended modifications and proceeds with the draft LPPs.

Strategic Implications

Objective two of the Strategic Community Plan within the built environment focus area states:

- *A sustainable city that balances the requirements of an increasing population, whilst maintaining its valued character.*

This Strategic Community Plan objective has been further considered in the draft Local Planning Strategy through actions in the Population and Housing and Urban Design, Character and Heritage elements:

- Implement appropriate planning controls through structure plans, activity centre plans, local development plans and local planning policies as appropriate to manage appropriate built form.
- Modify the planning framework (possibly through local planning policies) to identify the existing and desirable neighbourhood character and prepare provisions that ensure that new development positively contributes to the desirable neighbourhood character.
- Develop planning controls through draft LPS 5 and/or local planning policies to ensure new development is respectful to existing character in terms of built form, appearance and impact on the streetscape and adjoining dwellings.
- Prepare local planning policies for each precinct that identify and define the area's character and to protect that character where appropriate.

Statutory and Policy Considerations

The preparation, advertising and adoption of draft LPP 1.1 and draft LPP 1.2 has been undertaken in accordance with Schedule 2, clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

Risk and Asset Implications

The gazettal of LPS 5 in February 2020 increased the residential density for a small number of targeted areas close to transport corridors and activity centres.

The proposed LPPs address the density increases with a key focus on including provisions to control development where there is an interface between different densities.

A delay in finalising the draft LPPs risks a planning framework which does not have locally tailored planning controls to ensure new development is appropriately scaled

and considers its current and future context as appropriate. In the absence of suitable LPPs the standard provisions of the R-Codes apply.

Financial

There are no financial implications for this report.

Social and Environmental Implications

There are no social and environment implications for this report.

Attachments

1. Draft Local Planning Policy 1.1 – Residential Development – Single Houses and Grouped Dwellings
2. Draft Local Planning Policy 1.2 – Residential Development – Apartments
3. Schedule of Submissions on Draft LPP 1.1
4. Schedule of Submissions on Draft LPP 1.2
5. Draft Local Planning Policy numbering schedule

For Information

1. Draft Local Planning Policy 1.1 – Residential Development – Single Houses and Grouped Dwellings – tracked changes version
2. Draft Local Planning Policy 1.2 – Residential Development – Apartments – tracked changes version

C2 DRAFT LOCAL PLANNING POLICY 2.1 ‘RESTAURANT/CAFÉ DEVELOPMENT ON LAND ZONED RESIDENTIAL (R80 AND ABOVE)’ – FINALISATION POST ADVERTISING*

REPORT FROM DIRECTOR COMMUNITY AND DEVELOPMENT SERVICES

Authors: Manager Planning Services, Alexander Petrovski
Senior Strategic Planning Officer, Jutta Kober

Date: 9 February 2021

File Reference: A/5967

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

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Mansfield / Seconded Cr Nash

In accordance with Schedule 2 (Deemed Provisions), Clause 4 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Council:

- 1. Proceeds with Local Planning Policy 2.1 ‘Restaurant/Café Development on Land Zoned Residential (R80 and Above)’ (Attachment 1); and**
- 2. Publishes a notice of the finalisation of the Policy in a newspaper circulating in the scheme area.**

CARRIED EN BLOC 12/0

5.52pm

Executive Summary

- Local Planning Scheme No. 5 lists ‘Restaurant/café’ use as discretionary for land zoned Residential and allocated a density of R80 and above, and refers to a local planning policy to guide the consideration of such uses.
- Draft Local Planning Policy 2.1 – *Restaurant/café development on land zoned residential (R80 and above)* has been prepared. The draft policy includes guidance on location, design, floor area, parking and servicing so that development contributes as a positive local amenity and any impacts are considered and minimised.
- In the absence of a local planning policy, decision-making is guided by the standard provisions in clause 67 of the Deemed Provisions.
- The draft policy was advertised for 21 days and no submissions were received.
- It is recommended that Council proceeds with the policy as advertised (Attachment 1).

Introduction

This report considers draft Local Planning Policy 2.1 – *Restaurant/café development on land zoned residential (R80 and above)* (LPP 2.1) following public advertising (**Attachment 1**). No submissions were received during the consultation period.

LPP 2.1 guides the use of discretion when considering a development application for a ‘restaurant/café’ use on land zoned Residential and allocated a density code of R80 and above in Local Planning Scheme No. 5 (LPS 5).

Background

LPS 5 lists a ‘restaurant/café’ as an ‘X/A*1’ land use in the zoning table for the Residential zone. The annotation *1 states: ‘Refer to local planning policy allowing for restaurant/café in Residential Zones R80 and above’.

A ‘restaurant/café’ is defined in LPS 5 as follows:

restaurant/café 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;

An 'A – Advertising Use' is one that requires public advertising and local government discretion for approval.

The previous Town Planning Scheme No. 4 (TPS 4) included a 'Restaurant/Café' use as an 'A' use in the Residential R80 zone and the permissibility of this use in LPS 5 is consistent with previous TPS 4. Draft LPP 2.1 provides guidance on the exercise of discretion.

At the Ordinary Council Meeting (OCM) on 17 November 2020 (Item C2), Council resolved to adopt draft LPP 2.1 for public advertising.

Consultation

Draft LPP 2.1 was advertised for 21 days from 20 November to 11 December 2020 in accordance with the Local Planning Policy 1.4 '*Public consultation for planning proposals*' (LPP 1.4).

Notice of advertising was included on the City's online engagement platform 'Have Your Say Subiaco' for the duration of the consultation period. A newspaper notice was published in the Subi Scene on 20 November 2020.

The consultation page on 'Have Your Say Subiaco' received 14 visits, including 10 downloads from five unique participants. No submissions were received.

Comment

Draft LPP 2.1 is prepared to guide the location and design of 'Restaurant/café' development on land zoned Residential with a density code of R80 or above. The policy aims to:

- enable appropriate small scale community focal points in suitable locations;
- minimise amenity impacts for the residential zone; and
- protect existing activity centres as the key focal points for commercial activity.

In the absence of draft LPP 2.1 decision-making is guided by the standard provisions in clause 67 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations). Draft LPP 2.1 provides clear criteria for the exercise of discretion, thereby providing greater certainty for proponents and nearby residents.

It is recommended that Council proceed with the policy.

Strategic Implications

The preparation of draft LPP 2.1 is consistent with the City's Local Planning Strategy which includes the following actions:

- *Investigate appropriate ways in which to permit small scale active and late night uses such as deli, café or similar in residential areas in specific locations, for example in close proximity to Daglish and Shenton Park Train Stations to activate the area, provide a community focal point and improve safety near these stations; and*

- *Limiting the geographic area of non-residential zoned areas under a new LPS 5 in order to focus economic activity within existing centres.*

Statutory and Policy Considerations

The preparation of draft LPP 2.1 has been undertaken in accordance with Schedule 2, Part 2, Division 2 – *Local planning policies* of the LPS Regulations and the City's LPP 1.4.

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. Draft Local Planning Policy 2.1 – Restaurant/café development on land zoned residential (R80 and above).

C3 DRAFT STATE PLANNING POLICY 4.2 ‘ACTIVITY CENTRES’ – COMMENT ON DRAFT DOCUMENTS*

REPORT FROM DIRECTOR COMMUNITY AND DEVELOPMENT SERVICES

Authors:	Manager Planning Services, Alexander Petrovski Senior Strategic Planning Officer, Jutta Kober
Date:	9 February 2021
File Reference:	A/5967
Voting Requirements:	Simple - more than half elected members present required to vote in favour

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Mansfield / Seconded Cr Nash

The Western Australian Planning Commission is advised in relation to draft State Planning Policy 4.2 ‘Activity Centres’ that the City of Subiaco:

- 1. Supports draft State Planning Policy 4.2 in principle; and**
- 2. Forwards the comments in Attachment 1 to the Western Australian Planning Commission as its formal submission.**

CARRIED EN BLOC 12/0

5.52pm

Executive Summary

- The Western Australian Planning Commission has released draft State Planning Policy 4.2 ‘Activity Centres’ for public comment. The current version of the policy was gazetted in August 2010.
- The draft policy establishes a hierarchy and network of activity centres as multi-functional community focal points, providing planning guidance to inform land use and development controls.
- The public comment period closes on 12 February 2021 and the City received an extension from the Department of Planning, Lands and Heritage to provide comments by 5 March 2021.
- The modified draft policy is supported in principle.
- A complete list of survey questions and recommended responses is included in **Attachment 1**.
- It is recommended that the City raises concerns regarding the requirement for precinct structure plans, land uses, movement and access, needs assessment and the provisions relating to bulky goods/large format retail and supermarkets.

Introduction

State Planning Policy 4.2 ‘Activity Centres’ (SPP 4.2) provides a framework for the holistic planning of activity centres as multi-functional community focal points. SPP 4.2 establishes a hierarchy and network of activity centres to service community need.

Activity centres are the focus for enterprises, services, shopping, employment and social interaction and are suitable for higher intensity development.

A number of activity centres are located within the City of Subiaco (City), including:

- Subiaco Secondary Activity Centre (including the Subiaco town centre);
- Jolimont District Centre; and
- A number of neighbourhood and local centres

The State Government has reviewed SPP 4.2 and is seeking comments on the draft policy. The review of SPP 4.2 intends to:

- Simplify and streamline the policy;
- Align the policy to current SPPs, particularly the Design WA policy suite;
- Expand the scope of SPP 4.2 to areas outside of Perth and Peel; and
- Improve implementation issues.

The hierarchy of activity centres has not been reviewed as part of the draft SPP 4.2 and is not proposed to change.

Draft SPP 4.2 includes the following documents:

- Draft SPP 4.2 'Activity Centres'; and
- Draft SPP 4.2 'Implementation Guidelines'.

Background

The Western Australian Planning Commission (WAPC) prepares State Planning Policies under part 3 of the *Planning and Development Act 2005* as broad general planning and facilitating the coordination of local government planning.

SPP 4.2 was gazetted on 31 August 2010 and guides activity centre planning in the *Perth and Peel @3.5 million Framework* and includes details for the preparation of Activity Centre Plans.

A comprehensive review of SPP 4.2 became necessary due to the finalisation of State Planning Policy 7.2 'Precinct Design' (SPP 7.2) in December 2020, which establishes a framework for precinct planning of activity centres.

Consultation

The WAPC released the draft SPP 4.2 for consultation from 30 October 2020 to 12 February 2021. The City obtained an extension until 5 March 2021 to consideration at the Ordinary Council Meeting.

Comment

The key changes in Draft SPP 4.2 include:

- Revised format and legibility to make it easier to read and understand.
- The Model Centre Framework has been removed and the provisions relevant to precinct structure plans have been incorporated into SPP 7.2.
- SPP 4.2 has been expanded outside of the Perth and Peel region to include the Greater Bunbury region. The objectives and policy measures may be applied in other areas as a guide for local planning proposals.
- Retail Needs Assessment has been changed to Needs Assessment and the focus on retail reduced in favour of a broader scope that includes a wide range of land uses. Additional guidance for the preparation of needs assessments is included.
- Retail Sustainability Assessment has been changed to Impact Test and the focus broadened to include the impact of a proposal on the community.
- Activity centre functions and characteristics table has been modified to reduce detail and focus on higher level guidance to improve flexibility. This table describes the intended purpose and focus of each level of centre within the hierarchy.
- Activity centre density targets and the extent of the walkable catchment have been increased.

- Diversity targets for land uses have been modified to a target ratio of retail floor space to other non-residential uses.
- Guidance has been included on community benefit for the purpose of an Impact Test.
- Additional guidance has been provided on bulky goods and large format retail and for supermarket land uses.

The City generally supports draft SPP 4.2 subject to a number of concerns which will need to be addressed by the State Government before the draft policy is finalised.

Attachment 1 includes the City's comments in detail and the concerns are included as follows:

Land Use

SPP 4.2 encourages the development of multi-functional activity centres with a range of land uses such as office, commercial, retail, food and hospitality, entertainment, education, leisure, cultural/tourist, residential and mixed-use.

The policy states that higher-density housing should be incorporated within and immediately adjacent to activity centres to support the non-residential functions of the activity centre, establish a sense of community and increase activity outside normal business hours.

Residential density targets and a diversity ratio of retail to non-retail land uses are included in the draft policy and implementation guidelines respectively to provide guidance.

Recommendation:

Support in part/not support in part.

The general principle of activity centres being multi-functional community focal points with a wide variety of land uses is supported.

The updated residential density targets and changes to walkable catchments are supported in principle. The density target measured in dwellings per gross urban zone hectare within the walkable catchment of secondary centres has been increased as follows:

Provisions for secondary centres	Existing SPP 4.2	Draft SPP 4.2
Residential density target within walkable catchment	Minimum: 25 Desirable: 35	Target: 40+
Walkable catchment	400m	800m

The definition of 'walkable catchment' requires the 800m radius to be measured from an agreed central point within the activity centre and suggests that this could be a town square, rail station or major bus interchange.

If the Subiaco train station is used to measure the 800m catchment, most of the walkable catchment would fall within the existing activity centre boundaries and only a small portion would fall within the low density residential area.

It is recommended that the draft SPP 4.2 is amended to clarify that density outside activity centre boundaries, but within walkable catchments, is to be determined by the

local government in a local planning document (such as a precinct structure plan or local planning strategy) based on the specific local context.

Inclusion of a diversity performance target is supported in principle to encourage a range of land uses in addition to any retail uses. However, this needs to allow for flexibility as a specific ratio of retail to other residential land uses is not always appropriate. For example the Jolimont District Centre serves a support function to the Wembley District Centre and has little retail uses.

Precinct Structure Plan

Draft SPP 4.2 requires precinct structure plans to be prepared for strategic, secondary, district and specialised activity centres to ensure the development of the activity centre is integrated, cohesive and accessible. A precinct structure plan or local development plan (LDP) may be required for neighbourhood and local centres at the discretion of the decision-maker.

Recommendation:

Support in part. It is recommended that some flexibility is available for when a precinct structure plan is required. A precinct structure plan is appropriate for an activity centre that expects significant redevelopment over time. Established activity centres which are not proposed to be increased in density and where appropriate scheme provisions are already in place may not benefit from a precinct structure plan. A LDP could be used to guide built form outcomes and coordinate development appropriately. In the City of Subiaco, a precinct structure plan is appropriate for the Subiaco Secondary Activity Centre, which is zoned Centre R-AC0 and requires guidance on density and development standards. This is currently provided by the Subiaco Activity Centre Plan. However, the Jolimont District Centre is zoned Mixed Use and has appropriate guidance on density and land use in Local Planning Scheme No. 5 (LPS 5). A LDP is appropriate to guide built form and coordinate infrastructure.

Movement and Access

Draft SPP 4.2 requires activity centres to be planned to reduce private car dependence and to support access by walking, cycling, public transport, and shared mobility. The draft policy encourages parking caps to be considered for strategic metropolitan and specialised activity centres.

Recommendation:

Support high level guidance and stated aims. Recommend that parking caps should be considered for secondary centres in accordance with the guidance on parking in SPP 7.2. A cap on car parking within the Subiaco Secondary Centre would reduce the amount of car parking available within the activity centre and would encourage use of alternative modes of transport, including public transport, cycling and walking. Parking caps within the Subiaco secondary centre are consistent with the City's Transport, Access and Parking Strategy (TAPS).

Needs Assessment

A Needs Assessment includes an assessment of the projected land use needs of communities in a local government area and its surrounds.

A Needs Assessment may be required in support of a:

- local planning strategy
- local planning scheme/scheme amendment
- precinct structure plan
- standard structure plan at the district or local level

Recommendation:

Support in part. The requirement for a Needs Assessment as part of a local planning strategy is supported. For a scheme amendment or precinct structure plan this should only be required where the floor space identified in the local planning strategy is exceeded. It is recommended that this is clarified in the draft policy. The reduced focus on retail need and broader focus on non-residential land uses is supported.

Impact Test

The Impact Test replaces the Retail Sustainability assessment process established in the 2010 gazetted version of SPP 4.2. The purpose of the test is to ensure that major development proposals align with the objectives of SPP 4.2 and do not negatively impact on the community.

Recommendation:

Support. The draft policy should clarify that the Impact test is to be prepared by a suitably qualified and experienced professional.

Definitions

The definition for 'Major development' excludes residential floorspace.

Recommendation:

The definition should be modified to include large residential development. Large residential developments also have implications for the activity centre and should be considered major development for the purpose of this policy. This would require a precinct structure plan to be prepared prior to a major residential development being approved.

Bulky goods/large format retail precincts

Draft SPP 4.2 requires that sufficient land is allocated in appropriate locations for bulky goods and large format retail. The preferred location for this use is on the periphery of activity centres with access to the regional road and public transport networks.

Recommendation:

Not supported. While the principle stated is supported, it is unclear how this is to be implemented. Land use permissibility is controlled within the Local Planning Scheme but there is no ability to require land to be developed for a specific use. It is recommended that the provision is deleted. Should guidance be required for the exercise of discretion to assist in assessment of development applications, a planning bulletin or similar could be prepared.

Supermarkets

Draft SPP 4.2 states that supermarkets are major generators of travel and can be important anchors for many activity centres, particularly at the local, neighbourhood and district level of the hierarchy. The planning and location of supermarkets should support the established and planned activity centre hierarchy.

Recommendation:

Not supported. While the principle stated is supported, it is unclear how this is to be implemented. Land use permissibility is controlled within the Local Planning Scheme but there is no ability to require land to be developed for a specific use.

Conclusion

Draft SPP 4.2 is supported in principle, subject to a number of concerns that are required to be addressed prior to finalisation of draft SPP 4.2.

Strategic Implications

Objective two of the Strategic Community Plan within the built environment focus area states:

A sustainable city that balances the requirements of an increasing population, whilst maintaining its valued character.

This objective is supported by the City's Local Planning Strategy which sets out Targeted Growth Areas suitable for increased density balanced with character areas, to be retained at low density.

Draft SPP 4.2 is generally consistent with the City's Local Planning Strategy subject to the concerns listed above being addressed before draft SPP 4.2 is finalised.

Statutory and Policy Considerations

There are no statutory or policy implications for this report.

Risk and Asset Implications

There are no risk 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. City of Subiaco comments on draft SPP 4.2

For Information

1. Draft State Planning Policy 4.2 – Activity Centres
2. Draft State Planning Policy 4.2 – Implementation Guidelines
3. Draft State Planning Policy 4.2 – Issues Paper
4. Draft State Planning Policy 4.2 – Changes Table

C4 PROPOSED AMENDMENT TO STATE HERITAGE REGISTER ENTRY FOR GODFREY HOUSE, 1 ROBERTS ROAD, SUBIACO TO INCLUDE THE FORMER OUTPATIENTS CLINIC AND RENAME THE ENTRY P5568 PRINCESS MARGARET HOSPITAL FOR CHILDREN (FMR)*

REPORT FROM DIRECTOR COMMUNITY AND DEVELOPMENT SERVICES

Authors: Manager Planning Services, Alexander Petrovski
Coordinator Heritage & Projects, Sofia Boranga

Date: 9 February 2021

File Reference: A/5967

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

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Mansfield / Seconded Cr Nash

1. **The Heritage Council of Western Australia is advised that the City of Subiaco:**
 - (a) **Supports amending the State Heritage Register Entry for P5568 Godfrey House to include the former Outpatients Building; and**
 - (b) **Supports renaming the State Heritage Register Entry P5568 Godfrey House to P5568 Princess Margaret Hospital for Children (fmr), Subiaco.**
2. **The process to register the former Outpatients Building at the Princess Margaret Hospital Site on the City of Subiaco Heritage List with the classification of exceptional significance (level 1) is commenced pursuant to Schedule 2 (Deemed Provisions), Clause 8 of the Planning and Development (Local Planning Schemes) Regulations 2015.**

CARRIED EN BLOC 12/0

5.52pm

Executive Summary

- The Heritage Council of Western Australia is seeking comment on a proposal to include the former Outpatients Clinic, located on the grounds of the Princess Margaret Hospital site, on the State Register of Heritage Places.
- The Outpatients Clinic is one of only two surviving buildings from the earliest phase of the development of Princess Margaret Hospital (the other being Godfrey House) and is of aesthetic, historic, social and scientific value to the State.
- HCWA is proposing to amend the State Heritage Register Entry for Godfrey House to include the former Outpatients Clinic and to rename the Register entry as Princess Margaret Hospital for Children (fmr).
- It is recommended that Council supports the amended Register Entry and also commences the process of including the former Outpatients Clinic on the City of Subiaco's Heritage List.

Introduction

The Heritage Council of Western Australia (HCWA) has identified that the former Outpatients Clinic on the grounds of the Princess Margaret Hospital (PMH) site is of cultural heritage significance to Western Australia. As a result it is considering amending the State Heritage Register (the Register) entry for Godfrey House, also on the grounds of the former PHM site, to include the former Outpatients Clinic and to rename the Register entry as Princess Margaret Hospital for Children (fmr).

As the PMH site is located within the City of Subiaco the HCWA is seeking comment from the City on the proposal.

This report and attachment considers the cultural heritage significance of the former Outpatients Clinic and recommends supporting entry of the place on the Register. Furthermore, it is recommended that Council, in accordance with *Local Planning Policy 3.1 Additions and amendments to the Local Heritage Survey, the Heritage List and Heritage Areas* (LPP3.1), commences the process of including the former Outpatients Clinic on the City's Heritage List.

Background

The former Outpatients Clinic and Godfrey House were included in the City's Local Heritage Survey on 24 November 2002.

Godfrey House, was entered on the State Register of Heritage Places on 26 August 2003 and on the City's Heritage List on 22 May 2012.

The HCWA recently assessed the cultural heritage significance of the former Outpatients Building and has concluded that is of cultural heritage significance to Western Australia.

Consultation

HCWA has a statutory obligation to consult with all land owners regarding proposals relating to the entry of places on the Register. As the place is located within the boundaries of the City of Subiaco HCWA has also requested comment from the City. The City has obtained an extension to the consultation period until 5 March 2021 to enable the matter to be considered at the Ordinary Council Meeting (OCM) on 23 February 2021.

Should Council resolve to also consider including the former Outpatients Clinic on the Heritage List the City will undertake consultation as required under Schedule 2, Part 3 of the Planning and Development (Local Planning Schemes) Regulations 2015 (LPS Regulations) and in accordance with LPP 3.1 a further report will be presented to Council following consultation.

Comment

The former Outpatients Clinic is a timber framed and clad hospital building, constructed in 1909 and designed in the Federation Style. The Outpatients Clinic and Godfrey House are the oldest buildings within the former Princess Margaret Hospital site and the only surviving remnants of the earliest phase of the development of the former hospital. These two places demonstrate the early establishment of PMH as well as the social concern for public health in the early Twentieth Century. They have the potential to provide information relating to the operation of the hospital during its early years and are of value to former patients and staff of the hospital.

The HCWA assessment documentation comprehensively outlines the heritage values of the two buildings and is included as **Attachment 1**.

Inclusion on the Register will ensure that the cultural heritage values of the former Outpatients clinic are recognised and protected and that the history of this building and the important role it has played in the history of the hospital and of Western Australia is celebrated and interpreted.

Clause 3.1 of LPP3.1 requires that places being considered for inclusion on the Register are also referred to Council for consideration for inclusion on the Heritage List. Inclusion on the Heritage List will acknowledge the local significance of this place to the City of Subiaco.

Conclusion

Given the significance of the former Outpatients Clinic it is appropriate that Council supports its inclusion in the Register and also considers it for inclusion on the City's Heritage List.

Strategic Implications

The recommendations of this report are consistent with Focus Area 4 of the Strategic Community Plan, specifically strategy 4.1.1 to "identify and protect significant heritage buildings" and the associated actions identified in the City's Corporate Business Plan specifically to "identify and record significant places".

Statutory and Policy Considerations

The *Heritage Act 2018* requires the HCWA to establish and maintain a register of places of cultural heritage significance that make an important contribution to understanding the heritage of Western Australia. The Register is managed by the Heritage Council of Western Australia with the assistance of the Department of Planning Lands and Heritage (DPLH). Entry in the Register means that any changes or works proposed for the place need to be referred by the responsible local government to DPLH for approval.

Schedule 2, Part 3, clause 8 of the LPS Regulations requires the Council to establish a Heritage List to identify places within the Scheme area that are of cultural heritage significance and worthy of conservation.

Clause 3.1 of LPP3.1 requires that places being considered for inclusion on the State Register be automatically referred to Council for consideration for inclusion on the Heritage List.

Risk and Asset Implications

There are no risk or asset implications associated with the recommendations of 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. Draft assessment documentation

C5 DRAFT LOCAL HERITAGE SURVEY OF THE TRIANGLE PRECINCT – FOR PUBLIC ADVERTISING*

REPORT FROM DIRECTOR COMMUNITY AND DEVELOPMENT SERVICES

Authors: Manager Planning Services, Alexander Petrovski
Coordinator Heritage & Projects, Sofia Boranga

Date: 9 February 2021

File Reference: A/5967

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

Cr Jennings declared an impartiality interest in this item.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Mansfield / Seconded Mayor Taylor

- Pursuant of Part 8, Section 103 of the *Heritage Act 2018*, the draft Local Heritage Survey for the Triangle Precinct (For Information Attachment) is endorsed for public consultation for a period of no less than twenty eight (28) days.**

CARRIED 12/0
6.21pm

Executive Summary

- The *Heritage Act 2018* requires the preparation and review of a Local Heritage Survey (previously referred to as the Municipal Inventory or Local Government Inventory).
- The City's Local Heritage Survey (LHS) was reviewed in 2002. The Heritage Strategy commits to reviewing the LHS on a precinct basis commencing with the Triangle Precinct. In March 2020, Council resolved to review the Triangle Precinct LHS.
- The Triangle Precinct LHS review has been informed by a Heritage Reference Group who have met regularly to inform the process.
- The draft Triangle Precinct LHS includes 185 individual place and four heritage areas. 152 of these places remain from the 2002 LHS, with the four heritage areas and 33 new places included in the draft.
- Inclusion on the LHS does not directly impact planning controls and serves as an information source.
- It is recommended that the draft Triangle Precinct LHS is advertised for 28 days to review community feedback. The advertising process may allow for additional properties to be nominated for inclusion.
- Following public advertising the results will be presented in a further report for Council consideration.

Introduction

This report considers the review of the draft Triangle Precinct Local Heritage Survey (LHS) (For Information **Attachment**).

The Triangle Precinct is the area bounded by Thomas Street, Rokeby Road and Churchill Avenue as identified in **Figure 1** below.

The draft LHS includes an introduction, a historic overview of the precinct, outlines the methodology used for the review, and includes place record forms for each place and

area. Overall 185 individual places and four heritage areas are proposed to be included in the draft LHS and two places removed.

Figure 1 – Boundaries of the Triangle Precinct, Individual places and heritage areas included on the LHS and new nominations for inclusion on the LHS



Background

The *Heritage Act 2018* (the Act) requires the preparation of a LHS and that it be compiled with regard to the Guidelines for Local Heritage Surveys prepared under Section 105 of the Act.

In 1995, the City adopted its first LHS (previously referred to as the Municipal Heritage Inventory or Local Government Inventory). In 2002 the City reviewed and updated the LHS.

Since 2002 Council has endorsed minor amendments to the LHS as individual places and areas of heritage value have been identified and considered for inclusion. Of the most significant inclusions are four heritage areas in the Triangle Precinct.

At its OCM on 10 December 2019 (Item C2) Council adopted the City of Subiaco Heritage Strategy 2019-23. The City's obligation to update and review its LHS is covered by Actions K3 & K4 of the Heritage Strategy. This is undertaken on an area specific basis with the Triangle Precinct the first precinct to be reviewed.

At its OCM on 17 March 2020 (Item C3) Council resolved to review the LHS in the Triangle Precinct generally as follows:

- Establish a Heritage Reference Group (HRG) comprising of residents of the Triangle Precinct;

- Engage a heritage consultant to review the existing places on the LHS and assess new nominations;
- Undertake activities to promote the precinct's heritage and educate and inform the community about the LHS; and
- Call for nominations for inclusions in the LHS from the public

In June 2020 the City sought Expressions of Interest from community members to join the HRG. Ten community members were appointed to the group and the group has met five times between July and December 2020.

Consultation

The HRG assisted in establishing the consultation/engagement process with the wider community and to define the key messages and preferred methods for project communications and engagement.

Engagement and consultation activities undertaken in the lead up to and during the nomination period included:

- 5 x Videos - which in total received more than 1500 views and more than 1000 engagements (like, share, link click etc.).
- Customised letters and brochure distributed to all owners of property in the Triangle Precinct (c1400) advising of the LHS and inviting them to participate in the review process and nominate places for inclusion.
- See Subi on Sunday Walk – Heritage in the Triangle.
- Information on Have Your Say Subiaco (HYSS) (587 people visited the page, 320 accessed information and 23 participated in surveys)
- Subiaco Scene in The Post newspaper.
- Promotional stall at Subi Farmers Market.
- Social media posts.
- Promotion through the City's e-newsletters.

Following the closure of the nomination period preliminary consultation was undertaken with all owners of nominated properties. These owners were informed of the nomination, were invited to partake in the assessment process and have been provided with copies of the draft assessments of their properties for input and feedback.

Should Council resolve to advertise the draft LHS it will be advertised for no less than 28 days. Consultation on the draft LHS will be advertised in Subi Scene, the City's website, Facebook page, and e-newsletters. An invitation to make a submission will be made in writing to the owners and occupiers of places included on the draft LHS.

Comment

The *Heritage Act 2018* (the Act) requires local Governments to prepare and regularly review its LHS (previously referred to as the Municipal Inventory or Local Government Inventory). The Act defines the purpose of an LHS as:

- I. Identifying and recording places that are, or may become, of cultural heritage significance in its district.
- II. Assisting the local government in making and implementing decisions that are in harmony with cultural heritage values.
- III. Providing a cultural and historical record of its district.
- IV. Providing an accessible public record of places of cultural heritage significance to its district.

- V. Assisting the local government in preparing a heritage list or list of heritage areas under a local planning scheme.

The LHS review has been undertaken in accordance with the Guidelines for Local Heritage Surveys prepared under Section 105 of the Act, including the establishment of a community based reference group and guidance by experienced heritage professionals.

While the Act does not mandate public advertising *Local Planning Policy 3.1 – Additions and amendments to the Local Heritage Survey, Heritage List and Heritage Areas* (LPP3.1) requires that any proposed additions, removals or amendments to the LHS are undertaken with public consultation and that the submission period is not less than twenty one (21) days.

Heritage Reference Group

Ten community members were appointed to the HRG and the group has met five times between July and December 2020.

The group has provided valuable input into the project advising on and participating in engagement activities with the wider community and actively seeking nominations and providing input into the assessment of places.

Review process

The assessment of the cultural heritage values of the places on the draft LHS was undertaken using the criteria defined under the Australia ICOMOS Charter for Places of Cultural Significance 2013 as detailed in *Local Planning Policy 3.5 – Assessment of cultural heritage significance* (LPP3.5). All assessments were guided by the City of Subiaco Thematic History and Framework (Thematic History) which was also reviewed as part of the process. The Thematic History provides an historical context for the LHS focusing on the growth of the area for the purposes of creating an overview of the main periods of development as well as identifying any key factors, stories, themes and characteristics

The assessment process consisted of a site visit to record the physical fabric with reference to the surrounding streetscape and environment. The information gathered during site visits was compiled into brief physical descriptions for each place and historical information was compiled using information from readily available sources. The cultural heritage values of each place were then ascribed and statements of significance prepared.

Levels of significance were assigned to each place with reference to their cultural heritage values and issues of Rarity, Representativeness, Condition, Integrity and Authenticity. These levels are based on best practice and are different to the levels that were used in the 2002 LHS review. This meant that each place was allocated a new level as part of the review process.

Outcome

Overall, 185 individual places and four heritage areas are proposed to be included in the draft LHS for the Triangle Precinct. This includes 152 places from the 2002 LHS (15 of which are on the Heritage List), four heritage areas (all of which are designated under the Local Planning Scheme) and 33 new places. Two places are proposed to be removed from the LHS as they have been demolished.

Individual Places

Table 1 below is a summarised extract from of LPP3.5 and describes the classifications used by the City with the recommendations associated with each level identified in the 'Further Actions to Achieve Desired Outcomes' column. A full copy of LPP3.5 has been included as **Attachment 1**.

Level of Significance	Description	Desired Outcome	Heritage	Further Action to Achieve Desired Outcomes
Exceptional Significance (Level 1)	Essential to the heritage of the City of Subiaco.	The place should be retained and conserved unless there is no feasible and prudent alternative.		The place will be nominated for entry on the State Register of Heritage Places if not already entered. The place will be entered on the Local Heritage Survey and the Heritage List.
Considerable Significance (Level 2)	Very important to the heritage of the City of Subiaco.	Conservation of the place is highly desirable unless there is no feasible and prudent alternative.		The place will be entered on the Local Heritage Survey and the Heritage List.
Some Significance (Level 3)	Contributes to the heritage of the City of Subiaco.	Conservation of the place is desirable.		The place will be entered on the Local Heritage Survey The place will be considered for individual entry on the Heritage List only if requested by the owner. Where part of a group of heritage places assess for inclusion in a Heritage Area and consider the designation of the Heritage Area.
Little Significance (Level 4)	Has elements or values worth noting for community interest but otherwise makes no contribution.	Recognise and interpret the place if appropriate.		The place will be entered on the Local Heritage Survey. The place is not eligible for inclusion on the Heritage List.

The following table presents the number of places on the draft LHS broken down by classification.

Level of Significance	Number of individual places
Exceptional Significance (Level 1)	2 places <i>(Both places offered statutory protection through inclusion on the State Register and the Heritage List)</i>
Considerable Significance (Level 2)	33 places <i>(18 of which are offered statutory protection by inclusion on the Heritage List or located within a heritage area designated under the Scheme or both)</i>
Some Significance (Level 3)	146 places <i>(36 of which are offered statutory protection by inclusion on the Heritage List or because they are located in a heritage area designated under the Scheme)</i>
Little Significance (Level 4)	4 places

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Section 5 on the draft LHS (**For Information Attachment**) lists the places by street name and by recommended classification.

The majority of individual places fall into the classification of some significance (Level 3). These places contribute to the heritage values of the City and help to illustrate an important aspect of the history of the City however they are not key representative or rare examples of their type and do not have important associations with prominent people, activities and/or events.

There are a number of places that have also been identified as having considerable significance to the City (Level 2). These places are considered to be very important to the City and generally have a high level of aesthetic, historic, scientific and social value to the community and/or are rare or key representative examples of their type. The majority of places in the draft LHS identified under this classification are not necessary key representative examples of their type however they have high historic value due to their associations with prominent people.

Heritage Areas

The four heritage areas included in the draft LHS are designated heritage areas under the City's Local Planning Scheme No.5 (LPS5). These four heritage areas cover approximately 190 properties, a small number of which are also included individually in the LHS.

Heritage areas are not allocated a classification however the LHS place record identifies the level of contribution each place makes to the significance of the area in accordance with LPP3.5. There are no changes proposed to the levels of contribution of places in the heritage areas as a result of this review.

During the nomination period the City did not receive any nominations for further areas to be included in the LHS. However the streetscape context was taken into consideration when assessing individual places and it is noted in the statement of significance if a place is one of an intact group of early twentieth century housing. Some of these groups of early housing exist in Olive Street, Bedford Avenue, Churchill Avenue, Park Street and there are discrete groups in both Barker and Bagot Roads. This information will be used to investigate future heritage area designations.

Next Steps

The draft LHS will be advertised in accordance with the process set out in the consultation section of this report.

The advertising of the draft LHS may generate further interest in and understanding of the history and heritage of the precinct. To harness this possibility the City will also make it known that if they wish do so property owners can nominate properties for inclusion in the LHS during the consultation period. Should the City receive any nominations during this period they will be assessed and considered in the further report presented to Council.

Conclusion

The draft reviewed LHS has been prepared by heritage professionals in accordance with the Guidelines for Local Heritage Surveys and has had significant input from the

community through the HRG. Given the process undertaken to review the LHS it is recommended that Council endorses the draft LHS for public advertising.

Strategic Implications

The recommendations of this report are consistent with Focus Area 4 of the Strategic Community Plan, specifically strategy 4.1.1 to “identify and protect significant heritage buildings” and the associated actions identified in the City’s Corporate Business Plan specifically to “identify and record significant places”.

Statutory and Policy Considerations

The *Heritage Act 2018* requires local governments to prepare a LHS to identify heritage places in the district and that it be prepared, reviewed and updated with regard to the Guidelines for Local Heritage Surveys published under section 105 of the Act.

Local Planning Policy 3.1 – *Additions and amendments to the Local Heritage Survey and Heritage List* (LPP3.1) details when and how the City will undertake major, minor and area specific reviews of the LHS. Area specific reviews, such as the one proposed, are to be undertaken as required.

Local Planning Policy 3.5 – *Assessment of cultural heritage significance* (LPP3.5) details the criteria the city uses for assessing cultural heritage significance and the levels of significance applied.

Risk and Asset Implications

There are no risks associated with the recommendations of this report.

Financial

If further nominations are received during the consultation period there will be additional costs incurred for this project. There is sufficient funding within operational budgets to cover any additional costs.

Social and Environmental Implications

There are no social or environmental implications for this report.

Attachments

1. Local Planning Policy 3.5 – Assessment of cultural heritage significance

For Information

1. Draft Local Heritage Survey of the Triangle Precinct

C6 ENDORSEMENT OF DRAFT BIKE PLAN 2021-2025***REPORT FROM DIRECTOR TECHNICAL SERVICES**

Authors: Manager Transport and Infrastructure Development,
James Hambly
Senior Technical Officer – Transport, David Carter

Date: 9 February 2021

File Reference: A/5967

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

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Mansfield / Seconded Cr Nash

That the Draft Bike Plan 2021-2025 (Attachment 1) be endorsed.

CARRIED EN BLOC 12/0

5.52pm

Executive Summary

- At the Ordinary Council Meeting held on 20 October 2020 Council endorsed the Draft Bike Plan 2021-2025 for the purpose of public consultation.
- Between 20 November 2020 and 23 December 2020 the City undertook community consultation via Have Your Say Subiaco to gain feedback on the draft plan.
- 278 people visited the Draft Bike Plan 2021-2025 consultation page and there were 326 downloads of the plan with 44 submissions received from the online survey.
- The City received submissions from the Department of Transport and WestCycle.
- The consultation has led to minor changes to the document, mainly to provide further clarity on its relationship with the Department of Transport's Long Term Cycle Network (LTCN)
- The purpose of this report is to provide a summary of the feedback received as part of the consultation process, outline changes the plan and recommend that Council endorse the Draft Bike Plan 2021-2025.

Background

An action of the City's Transport, Access and Parking Strategy (TAPS) is to review the City's Bike Plan. This reviewed plan will inform the City on how to best implement improvements to the benefit of all cyclists while being conscious of its impact on the broader Subiaco community.

At its Ordinary Council meeting held on the 20 October 2020 Council endorsed the Draft Bike Plan 2021-2025 for the purpose of public consultation.

The purpose of this report is to provide a summary of the feedback received as part of the consultation process, outline changes to the plan and recommend that Council endorse the Draft Bike Plan 2021-2025.

Comment

The development of this current plan has placed a strong emphasis on community consultation to drive the actions and projects of the plan. Additionally, it was important

that the proposed projects remain high-level, providing a degree of flexibility in the proposed treatment options. Treatment designs for each individual project will be further informed by more targeted consultation approaches.

The plan provides cycling route infrastructure projects along the designated network, in addition to identifying bicycle parking, shelter and other end of trip facility infrastructure. Furthermore, the plan identifies long term investigative actions such as the potential closure of streets to vehicles to improve cycling and pedestrian amenity, as well as identifying kerb treatments for improved road and footpath transitions for cyclists.

Preliminary Consultation

Consultation was undertaken as part of the development of this draft plan and consisted of two main elements:

- *Bike Plan Community Working Group* – The original plan was to conduct two community workshops with this group to identify key opportunity areas for the plan to focus on, as well as what potential treatments were appropriate for each area. Due to the impacts of the COVID-19 pandemic, this approach was not possible and the working group was moved to a no contact/online format.
- *Have Your Say public mapping tool* – An interactive mapping tool was developed via the Have Your Say Subiaco page which allowed members of the public to highlight areas within the City via pin drops that they felt needed to be addressed in the Bike Plan. This helped inform the priority order for the proposed projects in the Plan.

The plan itself embeds in it an approach to consultation and engagement for each significant project that aligns with the Department of Transport's (DoT) ACE (Activation, Consultation and Engagement) guidelines.

Draft Plan Consultation

Further consultation was carried out on the draft plan document in order to seek comments from both members of the community and other local and state government stakeholders, prior to finalising the plan for endorsement. Consultation was carried out between the 20 November 2020 and the 23 December 2020, and promoted through the following media channels:

- The Subiaco Scene;
- The Post Newspaper;
- The City's website;
- The City's Facebook;
- The City's e-newsletters; and
- Direct email to local and state government stakeholders, as well as other relevant organisations such as WestCycle.

Community feedback was sought through the use of a survey on the City's Have Your Say page. 44 survey responses were received in total out of 93 survey views from both the Subiaco community and wider cycling community. As a summary, 63.6% of respondents agreed that the proposed projects reflected the needs of the community, with a further 34.1% partially agreeing. Additionally, 73.7% of respondents agreed that the 10 proposed high priority projects should be a high priority compared to the other proposed projects, with 26.3% disagreeing.

Overall, the nature of the comments and suggestions received were mostly focused on suggested changes to the priority order of actions. However there were no consistent

patterns to the suggestions and they were largely based on individual priorities which is to be expected.

In addition to community feedback, a number of responses were received from government and organisational stakeholders, including the Department of Transport and Westcycle. These comments were broadly supportive of the bike plan, with some key suggestions being around how the projects are presented, as well as how they align with the Long Term Cycle Network (LTCN).

The feedback received has resulted in two content changes to the draft plan that was released for comment:

1. A reclassification of the role of the LTCN, in that it relates more to route function than built form.
2. An additional item on behaviour change principles was added in the implementation section of the plan to further detail how behaviour change principles will be considered in the consultation components of each project.

Strategic Implications

This draft plan aligns with the Strategic Community Plan, specifically strategy 5.2.4 Invest in improved pedestrian and cycle networks. The review of the bike plan is an action of the City's Transport, Access and Parking Strategy.

Statutory and Policy Considerations

As this plan is high-level, there are no direct statutory or policy considerations.

Risk and Asset Implications

The plan allows the City to align its strategic direction for cycling infrastructure with the strategic direction and funding model of the DoT, through its alignment with the Long Term Cycle Network (LTCN). The extent of consultation that has informed the finalisation of the plan will help to ensure its direction is aligned with the interests of the community as a whole. Without this plan and the extensive consultation involved in its development, there is a risk that the identified projects will not be implemented in a planned process, and that cycling infrastructure would not meet the needs of the local and wider cycling community.

Financial

The plan aligns with the LTCN, which was endorsed by Council in April 2020. Many of the infrastructure projects are aligned with the LTCN network, which allows them to be eligible for state government funding for up to 50% for the project costs.

The bike plan if endorsed by Council will inform future cycling projects as part of the annual Strategic Financial Plan review and the City's annual budget process.

Social and Environmental Implications

Environmental and social implications of this plan provide for a consistent framework to ensure that the City and its community are meeting the health needs of the community. Improved cycling infrastructure is expected to lead to more cycling uptake. This in turn leads to both personal health benefits through increased exercise, as well as social/environmental benefits through reduced car usage.

The Bike Plan is consistent with the objectives of the Strategic Community Plan, Sustainability and Resilience Strategy, Subiaco Place Plan, and Positive Aging Plan.

Attachments

1. Draft Bike Plan 2021-2025

C7 ADMINISTRATION CENTRE BUILDING**REPORT FROM DIRECTOR CORPORATE SERVICES**

Author: Manager Commercial Services and Property, Joel Guest
Date: 9 February 2021
File Reference: A/5967
Voting Requirements: Simple - more than half elected members present required to vote in favour

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Mansfield / Seconded Cr Nash

1. **Council authorises the CEO to engage a third party consultant to investigate the potential refurbishment / redevelopment options for the City's Administration Centre building in the context of the broader Civic Precinct and perform a high-level options analysis, consistent with Part A of the project management framework outlined in this report.**
2. **Council requests that the CEO table the options analysis at a future Council meeting for further deliberation and debate, with the intention that Council will select a preferred option or options for the purposes of community engagement and more detailed consideration.**

CARRIED EN BLOC 12/0

5.52pm

Executive Summary

The Subiaco East development is likely to increase the City's population by approximately 30%. When combined with the future redevelopment of the King Edward Memorial Hospital site, as well as infill developments such as One Subiaco, the City's population will increase by at least 50% over the next 20 years.

The City's Administration Centre building at 241 Rokeby Road, Subiaco WA is in a poor state of repair and is struggling to respond to the needs of the community, let alone a rapidly growing community. As a result, the City needs to develop a strategy for the Administration Centre. Without a strategy, crucial capital works will continue to be deferred, the building condition will continue to deteriorate, and the City will be ill-prepared for the future.

There is now a unique opportunity to:

- Refurbish or redevelop the Administration Centre building.
- Provide safe, structurally sound and functional office accommodation for the City's administration staff.
- Plan and prepare for the future, including future population growth.
- Provide better community facilities including function rooms, event spaces, cultural spaces, display areas and meeting facilities.
- Improve the facilities for elected members.
- Create a stronger connection between the Civic Precinct (in particular, the Administration Centre) and the community.

- Investigate a community “square” or “piazza” between the Library, Museum and Administration Centre.
- Investigate the incorporation of commercial tenancies within the Administration Centre to help fund ongoing maintenance to the building.
- Develop options that address the shortage of parking in the area.

The City seeks Council support to engage a third party consultant to investigate the potential refurbishment / redevelopment options and perform a high-level options analysis.

Background

On Tuesday 1 December 2020 a Strategic Workshop was held with Elected Members to discuss the City’s Administration Centre building.

The outcome of the Workshop was as follows:

There appeared to be a broad consensus that, based on the expert advice, the building needs to be refurbished or redeveloped.

There also appeared to be a broad consensus that the current issues with the Administration Centre building presents an opportunity to consider the building in the context of the broader civic precinct.

It was discussed that dependent upon the option chosen, community consultation may need to be undertaken to further explore potential opportunities.

Staff will table a Council report in early 2021 recommending that Council authorise the CEO to engage a third party consultant to perform a high level options analysis.

It is envisaged that the options analysis (including high-level costings) will then be presented to Council for further debate.

During the Workshop, it was noted that the Administration Centre building was constructed in the 1960’s, partially extended in 1979 and last refurbished in 1996.

The building has experienced significant water penetration and water damage over a number of years, which has become increasingly common over the last 10 years.

There have been multiple proposals to redevelop or refurbish the Administration Centre including, most recently, in 2008 and again in 2015. These proposals did not proceed. The building condition is now in a poor state.

Except for some minor works (including ongoing roof repairs; upgrades to the air-conditioning system; upgrades to Council Chambers; repairs to the Mayor’s Office; and replacement of the carpet tiles in the public areas) no material works have been undertaken since 1996. The existing fit-out is almost 25 years old.

Comment

Building condition

In May 2020, following a further major incident of water penetration and flooding resulting in significant damage to the Mayor's office, the City engaged specialists to undertake engineering and building biology assessments of the building.

In broad terms, the results identified material issues with the:

- roof;
- roof plumbing and drainage;
- window frames;
- condition of the building fit-out;
- occupancy levels; and
- air-quality,

as well as issues associated with prolonged water penetration, including damage to furniture.

Immediate steps undertaken to ensure health and wellbeing

The City has already taken immediate steps in response to the results, to ensure the indoor air quality is improved as quickly as possible. These measures include:

- Augmenting the building's existing air-conditioning system to increase the fresh outside air intake from 7 Litres per person per second to 10 Litres per person per second (which is twice the recommended flow rate).
- Re-programming the building's existing air-conditioning system running time from 6am – 6pm to 4am – 10pm (i.e. an extra 6 hours per day) Monday to Friday to purge any carbon dioxide which may have accumulated throughout the night / day.
- Continuing to clean all air-conditioning return air filters monthly.
- Replacing all mould-affected ceiling tiles.
- Banning the use of all aerosols, sprays and perfumes in the office.
- Limiting the use of desk-based alcohol hand sanitiser dispensers. The high alcohol content of these was found to be contributing to poor indoor air quality.

Whilst implementing these measures will buy some time, it won't fix the underlying structural issues resulting in persistent water penetration.

Population growth

The Administration Centre building was constructed in the 1960's and was partially extended in 1979. Although the footprint of the building has remained the same for over 40 years, the City has experienced a substantial increase in population during that time – and the trend looks likely to continue.

In 2019, the Australian Bureau of Statistics estimated the City's population to be 17,251 people. According to Development WA's Subiaco East Master Plan Report, the Subiaco East development is targeted to accommodate 2,900 new dwellings (approximately 6,000 new people) over the next 20 years. That is, the Subiaco East development alone is expected to increase the City's population by approximately 30%. When combined with the future redevelopment of the King Edward Memorial Hospital site, as well as infill developments such as One Subiaco, the City's population will increase by at least 50% over the next 20 years.

As the City's population continues to increase, it is inevitable that the City will need to review its staffing and office accommodation requirements to ensure that it maintains its service levels.

Population growth is not the only factor driving the City's staffing and office accommodation requirements. Growing community needs and expectations, as well as more onerous legislative requirements on local governments (including compliance and reporting requirements), also have an impact. In the present context, it is inevitable that the City's workforce will need to grow and evolve to remain effective.

To plan and prepare for the future, it is vital that the strategy for the Administration Centre building has regard to population growth. The option chosen must have the capacity to respond to the needs of the growing community.

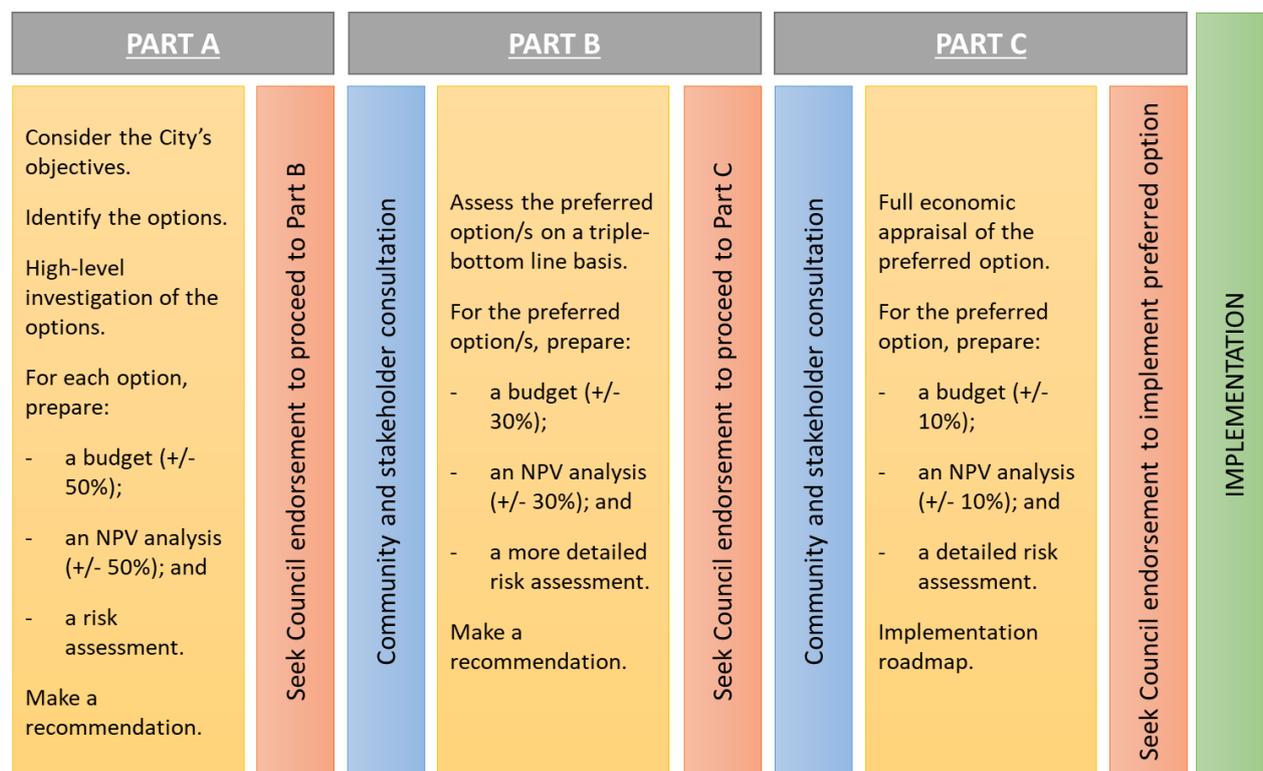
There is now a unique opportunity to address all of the matters identified in the Executive Summary of this report.

Funding options

The City's former Operations Centre staff accommodation and depot, located at 2 Upham Street, Jolimont WA, is currently vacant. The property is intended to be sold, and the proceeds could be earmarked for the Administration Centre redevelopment. The sale proceeds are incorporated into the City's Strategic Financial Plan and budget.

Project management framework and next steps

The City proposes to adopt the following project management framework for this project:



The City seeks approval to proceed with Part A only at this time.

Part A will deliver a high-level options analysis, which will then be tabled at Council for further deliberation and debate.

If the recommendations contained in this report are approved, the next report to Council will seek approval to proceed with Part B.

Consultation

Community and stakeholder engagement will occur at the commencement of Part B and again at the commencement of Part C.

Community feedback will be used to help assess the preferred option/s on a triple bottom line basis.

Community engagement will be vital in achieving a fit-for-purpose solution that endeavours to maximise value for the community.

Strategic Implications

The City needs to develop a strategy for the Administration Centre. Without a strategy, there is a material risk that crucial capital works will continue to be deferred, the building condition will continue to deteriorate, and the City will be ill-prepared for the future (including future population growth). The strategy that is ultimately selected has the potential to tick a number of boxes under the City's *Corporate Business Plan 2020 – 2024* including with respect to 'our sense of community', 'parks, open spaces and places', 'Subiaco as a destination', 'the built environment' and 'Council leadership'.

Statutory and Policy Considerations

At this stage, there are no direct implications.

Risk and Asset Implications

The City needs to develop a strategy for the Administration Centre.

Without a strategy, there is a material risk that:

1. the City will be ill-prepared for the future, including future population growth;
2. crucial capital works will continue to be deferred;
3. the building's condition will continue to deteriorate;
4. the health and wellbeing of staff and patrons will be compromised;
5. there may be legal implications (e.g. with respect to duty of care);
6. there may be insurance implications; and
7. rare opportunities (including opportunities to incorporate new community and event spaces) will be missed.

Financial Implications

The City estimates the cost of Part A to be in the order of \$15,000 – \$25,000 plus GST. This includes the cost of any sub-consultants, e.g. architect fees. The cost of Part A may be accommodated as part of the City's existing FY2020/21 capital works budget.

Social and Environmental Implications

At this stage, there are no direct implications.

Attachments

There are no attachments to this report.

C8 AGENDA BRIEFING FORUM AND ORDINARY COUNCIL MEETING DATES 2021

REPORT FROM DIRECTOR CORPORATE SERVICES

Author: A/Coordinator Governance, David Bentley
Date: 9 February 2021
File Reference: A/5967
Voting Requirements: Simple - more than half elected members present required to vote in favour

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Mansfield / Seconded Cr Nash

1. That the following meeting dates, times and places for 2021 be adopted and advertised for public information.

Council Agenda Briefing Forums – 5:30pm in Council Chambers	Ordinary Council Meetings – 5:30pm in Council Chambers	Annual Electors' Meeting – 6:00pm
16 March 2021	23 March 2021	
13 April 2021	20 April 2021	
11 May 2021	18 May 2021	
8 June 2021	15 June 2021	
13 July 2021	20 July 2021	
10 August 2021	17 August 2021	
14 September 2021	21 September 2021	
5 October 2021	12 October 2021	
16 November 2021	23 November 2021	
7 December 2021	14 December 2021	2 December 2021

CARRIED EN BLOC 12/0
5.52pm

Executive Summary

This report deals with the City's legislative requirement to convene and advertise ordinary council meeting dates, times and locations for the 12-month period for 2021.

Background

The *Local Government Act 1995* requires a local government, at least once a year, to give local public notice of dates, times and places at which the ordinary meetings of the Council are to be held in the following twelve-month period.

Council also resolved at its meeting on 20 October 2020 to set the February 2021 Ordinary Council Meeting date for 23 February 2021.

Comment

There is no change proposed to the meeting structure of the Council from 2019 or 2020.

The following meeting structure is proposed for 2021:

- Council Agenda Briefing Forum;
- Ordinary Council Meeting.

It is proposed that City of Subiaco Agenda Briefing Forums and Ordinary Council Meetings will be held in the City of Subiaco Council Chambers and commence at 5:30pm.

It is proposed that the Electors' General Meeting be held on Thursday 2 December 2021.

The particulars of each type of meeting proposed in this structure are set out below.

Council Agenda Briefing Forum

It is proposed that Council Agenda Briefing Forums are held on the Tuesday, the week before the Ordinary Council Meeting. Council Agenda Briefing Forums will involve Elected Members, Officers as determined by the Chief Executive Officer and external advisors (where appropriate) and will be open to the public. Council Agenda Briefing Forums will provide the opportunity for Elected Members to be informed and seek additional information on matters that will be presented on the agenda at the next Ordinary Council Meeting for formal consideration and decision.

2020 Annual Electors Meeting

The 2020 Annual Electors' Meeting has needed to be rescheduled due to the COVID-19 pandemic and delays to the finalisation of the 2019-20 Annual Financial Statements. An Annual Electors' Meeting cannot proceed until the Annual Financial Statements, incorporating legislative changes brought in on 6 November 2020, have been signed off by the Auditor General and subsequently included within the Annual Report that is to be presented to Council. The Council must hold an Annual Electors Meeting within 56 days after the Council has accepted the Annual Report. The Annual Electors Meeting will be held within the first half of 2021.

In determining meeting dates, consideration has been given to public holidays and their impact on agenda distribution.

In order to accommodate the Christmas holiday period, the December Ordinary Council Meeting has been scheduled one week earlier, as is current practice.

Consultation

Public consultation was not required in the development of this report. Once adopted, the meeting dates will be advertised by the giving of local public notice as required by the *Local Government Act 1995*.

Strategic Implications

Strategic Community Plan

Focus Area 6 Council Leadership

Strategy 6.1.2 Actively engage with the community to inform decision making.

Statutory and Policy Considerations

In accordance with section 5.3 of the *Local Government Act 1995* and regulation 12 of the *Local Government (Administration) Regulations 1996*, Council must set its Ordinary Meeting dates and times for the next twelve months and these must be published at least once a year.

Regulation 12(1) of the *Local Government (Administration) Regulations 1996* provides:

- (1) *At least once each year a local government is to give local public notice of the dates on which and the time and place at which:*
- (a) *the ordinary council meetings; and*
 - (b) *the committee meetings that are required under the Act to be open to members of the public or that are proposed to be open to members of the public, are to be held in the next 12 months.*

Risk and Asset Implications

Failure to set and advertise Council's meeting dates will contravene the requirements of the *Local Government Act 1995*.

Financial

The cost of advertising Council Meeting dates can be accommodated within the City's existing budget allocations.

Social and Environmental Implications

There are no social or environmental implications for this report.

Attachments

There are no attachments to this report.

C9 REVIEW OF WARDS AND COUNCILLOR REPRESENTATION – SUBMISSION TO THE LOCAL GOVERNMENT ADVISORY BOARD*

REPORT FROM DIRECTOR CORPORATE SERVICES

Author: Manager Finance & Governance Services, Bianca Jones
Date: 19 February 2021
File Reference: A/5967
Voting Requirements: Absolute Majority – 7 elected members required to vote in favour

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Mansfield / Seconded Cr Nash

A submission be made to the Local Government Advisory Board in accordance with the provisions of Section 9 of Schedule 2.2 of the *Local Government Act 1995*, recommending the making of the following orders:

1. Pursuant to section 2.2(1) of the *Local Government Act 1995*, to adjust the ward boundaries of the City of Subiaco's current four wards to a revised four ward structure as depicted in the map in Attachment 1.
2. Pursuant to section 2.18(3) of the *Local Government Act 1995*, to reduce the number of Councillors from eleven to eight (two per ward) plus the Mayor to take effect from the October 2021 local government elections.

CARRIED BY AN ABSOLUTE MAJORITY 8/4
 CRS MCMULLEN, JENNINGS, POWELL AND DE VRIES VOTED AGAINST

7.50pm

COUNCIL DECISION

Moved Cr Hamersley / Seconded Cr Jennings

That, pursuant to clause 4.18 of the City of Subiaco Meeting Procedures Local Law 2013, clauses 4.10 and 4.11 be suspended.

CARRIED 8/4
 CRS MCMULLEN, NASH, MANSFIELD AND ROWE VOTED AGAINST

7.23pm

Cr Nash left the chamber at 7.23pm and returned at 7.25pm.

Cr Mansfield left the chamber at 7.23pm and returned at 7.27pm.

PROCEDURAL MOTION

Moved Cr Nash / Seconded Cr Mansfield

That, pursuant to clause 7.8 of the City of Subiaco Meeting Procedures Local Law 2013, the question be now put.

LOST 5/7
 CRS HAMERSLEY, PHELAN, MCMULLEN, JENNINGS, POWELL, DE VRIES AND
 STROUD VOTED AGAINST

7.33pm

COUNCIL DECISION

Moved Mayor Taylor / Seconded Cr Rowe

That, clauses 4.10 and 4.11 of the City of Subiaco Meeting Procedures Local Law 2013 be resumed.

CARRIED 12/0

7.49pm

Executive Summary

The City of Subiaco received notification from the Department of Local Government, Sport and Cultural Industries that the City of Subiaco is required to undertake a ward and representation review and provide the process, documentation and the Council decision to the Local Government Advisory Board by 28 February 2021.

At the Ordinary Council Meeting held on 18 August 2020 Council resolved to “*Request the Department of Local Government to provide a further extension of time to the end of February 2021 so that the timetable can be adjusted with a view to a final decision of council being made at its February 2021 meeting*”. This request was approved however the Board has informed that “*in granting this extension, which is the second since the City was originally requested to undertake a review in April 2019, the Board would like to advise that no further extensions can be granted, as the City may potentially be in breach of the Local Government Act 1995.*”

At the Ordinary Council Meeting held on 22 September 2020 Council endorsed the Review of Ward Boundaries and Councillor Representation Discussion Paper for the purposes of community consultation and resolved to give local public notice of its intention to undertake the review and invite public submissions for a period of 42 days as required by clause 7(1) of Schedule 2.2 of the Local Government Act 1995.

Community consultation for the review of wards and representation was conducted between 16 October 2020 and 30 November 2020. Council is now required to consider the results of the community consultation and make a proposal to the Local Government Advisory Board to recommend the making of orders to the Minister of Local Government.

The City engaged an independent research consultant to undertake the community consultation as well as analyse and interpret the data received to determine the Electorate’s preferred outcome (Attachment 5). This Ordinary Council Report outlines the background and the outcomes of the independent research. The report recommendation for Council consideration is based upon this research to ensure a proposal can be made to the Local Government Advisory Board before the 28 February 2021 deadline.

Should Council not make a submission to the Board before the 28 February 2021 deadline, the Local Government Advisory Board under Clause 10 of Schedule 2.2 of the *Local Government Act 1995*, may in a written report to the Minister, recommend the making of any order it thinks fit. If this occurs, Council could be removed from the decision making process on the number of wards and councillor representation for the City of Subiaco. This could lead to the Minister enforcing an outcome that was least preferred by the electors of the City (for example no wards with 6 councillors, an option that was 40% least preferred).

Based on the results of the community consultation as detailed in the independent research consultant report (Attachment 5) and consideration of the statutory criteria, the recommendation is that Council provide a submission to the Board to retain the existing four wards, re-draw ward boundaries to equalise representation ratios and reduce the number of Councillors to eight (two councillors per ward plus the Mayor).

Background

Schedule 2.2 of the *Local Government Act 1995* (the Act) provides that a local government with a ward structure is required to undertake a review of its ward

boundaries and the number of Councillors for each ward from time to time, so that not more than eight years elapse between successive reviews.

In 2016, the *City of Perth Act 2016* came into effect which caused a change to the City's boundaries and due to the resignation of an elected member who was no longer eligible to remain a Councillor, created an extraordinary vacancy in the South Ward, leaving the City with eleven Councillors.

Due to this change the City conducted a review of its wards and councillor representation in November 2016. Council resolved to recommend a revised four-ward option with twelve Councillors plus the Mayor to the Board, who then made a recommendation to the Minister for Local Government.

Following assessment of Council's submission, the Minister rejected the Council's proposal to increase the number of Councillors to twelve, citing it did not meet the results of the community consultation that called for a reduction in the number of Councillors, *"The City's proposal was not accepted due to part 2 of the resolution (which increases the number of offices of councillor from eleven to twelve) being opposed by the majority of public submissions to the review."* The Board provided Council with the opportunity to reconsider its proposal for submission to the Minister that *"is more consistent with the community's expectations and wishes"*. At the Ordinary Council meeting held on 28 March 2017, Council did not come to a resolution by absolute majority to change its recommendation of twelve Councillors. Therefore the City of Subiaco has continued with eleven Councillors plus the Mayor.

The City conducted a further review of its wards and representation in 2018. At its meeting on 12 February 2019, Council resolved to inform the Board that Council was unable to agree by an absolute majority on a change to the preferred number of councillors and wards and was therefore unable to make a formal submission on the recommended ward and councillor structure.

The Board considered Council's position and noted that the Council was unable to come to a unanimous decision in relation to its current ward and representation structure. The Board also noted the disparity in the councillor to elector ratios in the North Ward and in the South Ward. In accordance with clause 6(3) of Schedule 2.2 of the *Local Government Act 1995*, the Board requested that the City of Subiaco undertake a further ward and representation review to finalise and submit by October 2020. The City received an extension due to COVID-19 impacts to finalise and submit by 31 January 2021.

At the Ordinary Council Meeting held 17 March 2020, Council resolved to undertake a review of the City of Subiaco's ward boundaries structure and councillor representation and that a further report on ward options including a discussion paper be presented to Council.

At the Ordinary Council Meeting held on 18 August 2020 Council considered the draft paper titled "Review of Ward Boundaries and Councillor Representation Discussion Paper". Council resolved to redraft the discussion paper and *"Request the Department of Local Government to provide a further extension of time to the end of February 2021 so that the timetable can be adjusted with a view to a final decision of council being made at its February 2021 meeting"*.

The City requested the Board to provide this additional extension so that that the Council could consider its final decision at its February 2021 meeting. This request was approved, however the Board has informed that *“in granting this extension, which is the second since the City was originally requested to undertake a review in April 2019, the Board would like to advise that no further extensions can be granted, as the City may potentially be in breach of the Local Government Act 1995.”*

At the Ordinary Council Meeting held on 22 September 2020 Council endorsed the redrafted Review of Ward Boundaries and Councillor Representation Discussion Paper for the purposes of community consultation and resolved to give local public notice of its intention to undertake the review and invite public submissions for a period of 42 days as required by clause 7(1) of Schedule 2.2 of the Local Government Act 1995.

The six week consultation period required under the Act was conducted between 16 October 2020 and 30 November 2020. The City engaged an independent research company, CATALYSE, to conduct the public consultation and analyse the submissions. A report on their findings is provided as **Attachment 5**.

Comment

The Department of Local Government has issued a guideline titled *“A Guide for Local Governments: How to conduct a review of wards and representation for local governments with and without a ward system”* (the “DLG Guide”). This guide was developed by the Board to assist local governments when undertaking a review of their wards and representation in accordance with Schedule 2.2 of the *Local Government Act 1995* (the Act). The guideline has been used to inform this review process.

The Local Government Advisory Board, established by the Act, is responsible for assessing the ratio of Councillors to electors. The Board considers the deviations in the City’s current representation ratios is significant and prefers deviations of less than plus or minus 10% of the average ratio of Councillors to electors between wards.

The City of Subiaco has four wards – North, East, Central, and South with three Councillors for each ward, except for South ward which has two. A ward structure should achieve a balanced ratio of Councillors to electors across all wards of a local government district. The Local Government Advisory Board considers these ratios when assessing proposals from local governments and is reluctant to accept ratios across wards where the percentage deviation is greater or less than 10% of the whole of local government’s district ratio, except in very exceptional circumstances.

As seen in Table 1, there is currently an imbalance in the Representation Ratios which are to be addressed in this review.

Table 1: Current Representation across City of Subiaco wards (based on Local Government Election October 2019)

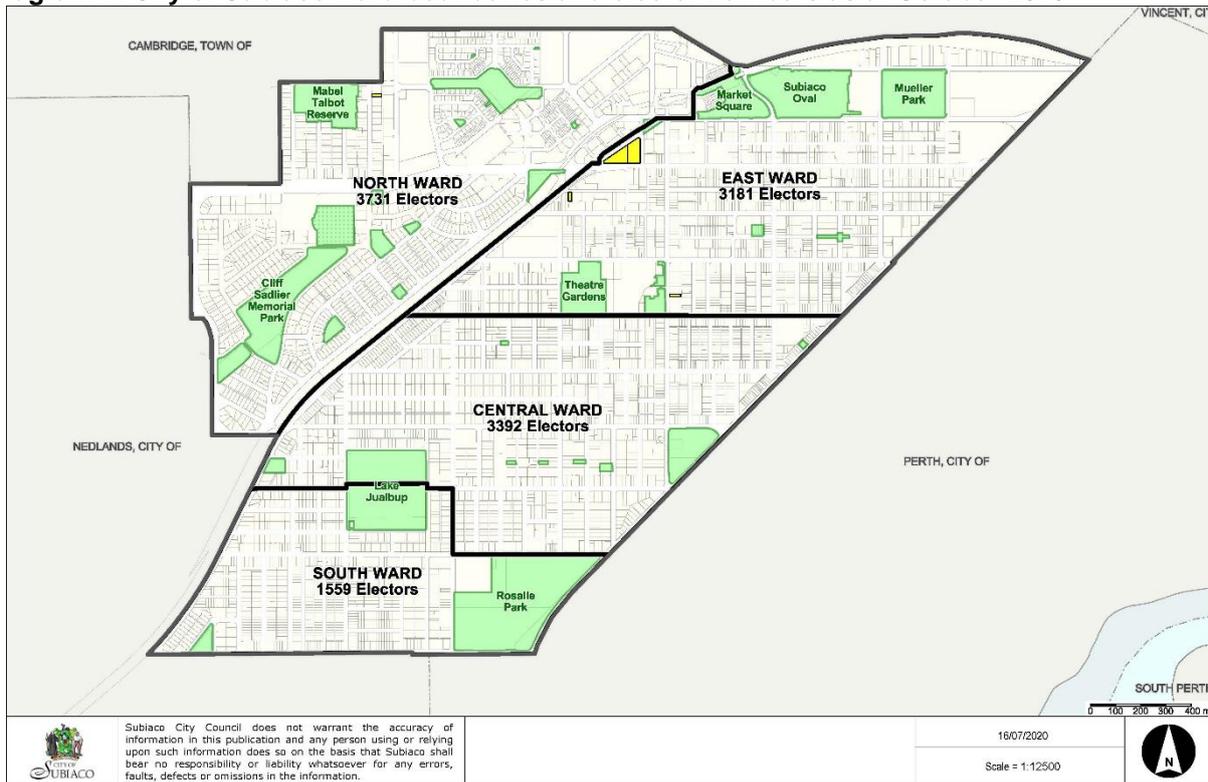
Ward	Number of electors	Number of councillors	Councillor to elector ratio	% Ratio deviation – Wards to City of Subiaco ratio	% Ratio deviation within +/- 10%*
North	3,731	3	1: 1,244	-15.32%	No
East	3,181	3	1: 1,060	1.68%	Yes

Central	3,392	3	1: 1,131	-4.84%	Yes
South	1,559	2	1: 780	27.72%	No
Total	11,863	11	1: 1,078		

*recommended deviation provided by the Local Government Advisory Board

Table 1 shows Representation Ratio percentage for each ward and how much it deviates from the average Representation Ratio for the whole of the City of Subiaco (1: 1,078), excluding the Mayor. This indicates that both the North and South Wards are outside of the acceptable deviation (+/- 10%).

Diagram 1: City of Subiaco ward boundaries and elector numbers as at October 2019



The purpose of the review is to assess current arrangements due to inequity in representation and determine a system of representation that best suits the characteristics of the City of Subiaco and its community. As outlined within the DLG Guide the City may consider any of the following within the review:

- Creating new wards;
- Changing the boundaries of a ward;
- Abolishing any or all of the wards;
- Changing the name of a district or ward;
- Changing the number of offices of Councillor; and
- Specifying or changing the number of offices of Councillor for a ward.

As part of the review of ward boundaries and councillor representation, the community was invited to consider the appropriateness and effectiveness of the City's current ward system and representation and respond with their preferences and/or suggest an option.

Current Structure

Relevant Factors for Consideration

When considering changes to wards and representation, Schedule 2.2 of the Act specifies that the following factors (Table 2) must be taken into account by a local government as part of the review process:

Table 2: Factors for Consideration under Schedule 2.2

Community interests of	<ul style="list-style-type: none"> • Sense of community identity and belonging, similarities in the characteristics of the residents of a community and similarities in the economic activities. • Dependence on the shared facilities in an area as reflected in catchment areas of local schools and sporting teams, or the circulation areas of local newspapers. • Neighbourhoods, suburbs and towns are important units in the physical, historical and social infrastructure and often generate a feeling of community and belonging.
Physical and topographic features	<ul style="list-style-type: none"> • These may be natural or man-made features that will vary from area to area. Water features such as rivers and catchment boundaries may be relevant considerations. • Coastal plain and foothills regions, parks and reserves may be relevant as may other man made features such as railway lines and freeways.
Demographic trends	<ul style="list-style-type: none"> • Characteristics of human populations, such as population size, and its distribution by age, sex, occupation and location provide important demographic information. • Current and projected population characteristics will be relevant as well as similarities and differences between areas within the local government.
Economic factors	<ul style="list-style-type: none"> • Any factor that reflects the character of economic activities and resources in the area. • This may include the industries that occur in a local government area (or the release of land for these) and the distribution of community assets and infrastructure such as road networks.
Ratio of Councillors to electors in the various wards	<ul style="list-style-type: none"> • The ratio of councillors to electors is particularly significant - it is expected that each local government will have similar ratios of electors to councillors across its wards, generally falling within a deviation of plus or minus 10%

In accordance with Schedule 2.2 of the *Local Government Act 1995*, these factors are to be considered for each option. If in the Board's opinion, a proposal from a local government does not consider these factors, it may give notice to the local government

to re-consider. If the local government does not comply, the Board may recommend to the Minister the making of orders it thinks would correctly take into account those matters. Unfortunately this could mean a decision is made on City of Subiaco wards and representation that is not the preferred or recommended by Electors.

Ward and Representation Options

A discussion paper and brochure were endorsed by Council at the Ordinary Council Meeting held on the 22 September 2020. The Review of Ward Boundaries and Councillor Representation Discussion Paper (**Attachment 2**) and the Ward Review and Representation Summary brochure (**Attachment 3**) outline 12 options for consideration in relation to the number of wards and councillor representation. These documents include information on the various options and factors to be considered as part of the review process as set out in Schedule 2.2 of the *Local Government Act 1995*.

The options provided for consideration are set out in Table 3 below.

Table 3: Ward and Structure Options provided in Discussion Paper (Attachment 2)

Option	Number of Wards	Total number of councillors	Ward Map
A	No wards	6	
B	No wards	8	
C	No wards	10	
D	No wards	12	
E	Two wards (East-West)	8	
F	Two wards (East-West)	12	
G	Two wards (North-South)	8	
H	Two wards (North-South)	12	
I	Three wards	6	
J	Three wards	12	

Option	Number of Wards	Total number of councillors	Ward Map
K	Four wards	8	
L	Four wards	12	

Public Consultation Process

Before conducting a review of wards and representation, the City was required to give public notice that a review was to be carried out, with no less than six weeks for submissions to be made. The local public notice inviting submissions for the ward review was first issued on 16 October 2020. Public consultation was conducted between 16 October 2020 and 30 November 2020.

The community consultation and invitation to participate was communicated through local media and the City's owned channels:

- Subiaco Post newspaper
- City of Subiaco website
- Have Your Say Subiaco website
- Subiaco Scene advertorial
- City of Subiaco Facebook page.

The City appointed CATALYSE, an independent engagement consultant, to manage the engagement process, analyse and report on the results at the conclusion of the public consultation process. The analysis of the data received and the elector preferred option is provided in the attached report (**Attachment 5**).

The process was conducted by inviting a random sample of residents and ratepayers (by mail and email) to participate. Each random participant received a link and unique code to enable them to make a submission. By providing a unique code CATALYSE was able to target City of Subiaco electors (residents, ratepayers and business owners) across the community. A total of 5,000 invitations to participate were distributed, which included 3000 sent electronically by email and 2000 in hard copy by mail

Respondents were asked to identify their most preferred, second most preferred and least preferred options from options A to L (Table 3) as provided in the discussion paper. Respondents were also asked to provide reasons for why they chose their most preferred option and least preferred option. Lastly, respondents were asked if they would like to suggest an alternative option for Council to consider.

Results of Consultation Process

CATALYSE employed a research and analysis methodology based around random (or probability sampling) where each ratepayer has a fair and equal chance of being selected from a database. CATALYSE randomly selected and personally invited 5,000 ratepayers (from the city's database of 8,486 unique properties) to take part by mail or email.

Further explanation provided by the consultant outlines that the responses from the random sample can be seen to be both representative of the City of Subiaco electorate and the data robust in nature.

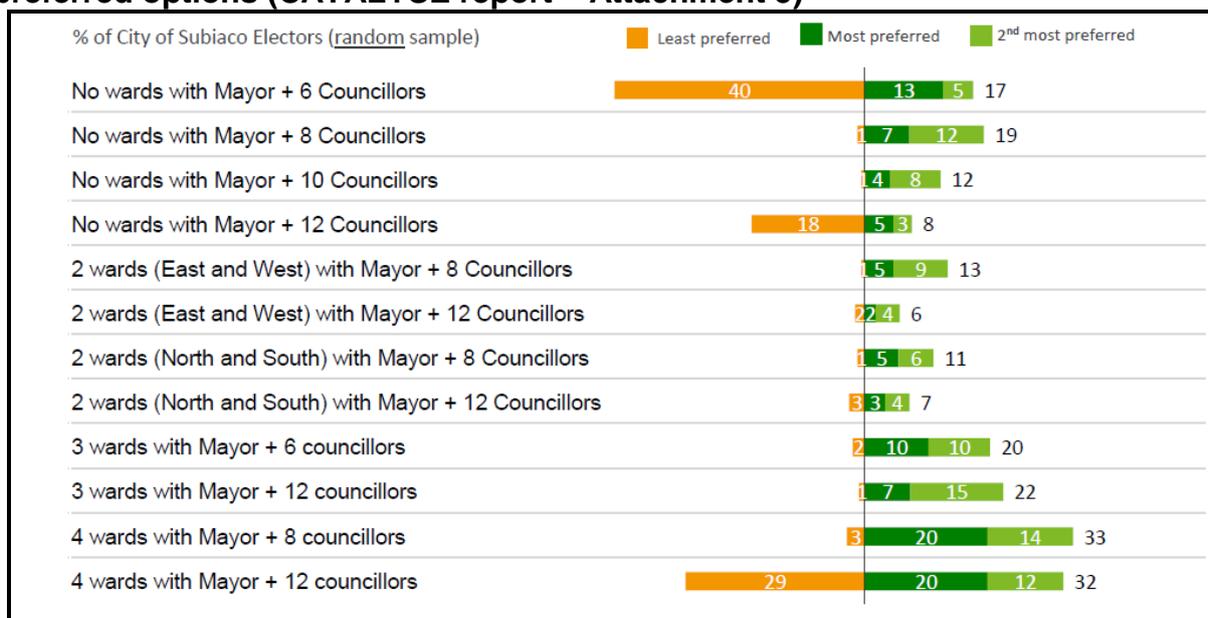
- *In this study, the sample was robust. There were 528 respondents, representing a 10.6% response rate from the sample selected or a 6.2% participation rate from the ratepayer database. The sampling error was reduced to ±4.13% at the 95% confidence interval. When the sampling error is below ±5% at the 95% confidence interval it is considered to be robust.*
- *The sample was representative. The sample profile was compared to the population profile by suburb, gender and age and found to be representative.*

Therefore the report from CATALYSE concludes that their research and analysis methodology considers the random (probability) sample to provide a “more representative indication of how electors feel across the general community”.

For additional informing data 234 submissions (214 from electors) were received from members of the public outside of the random sample (‘opt in’ in report). This non-probability sampling, or convenience sampling, provides opportunities for any and all members of the community to opt-in to have their say without being randomly selected. This information is important to identify any trends or localised issues that can provide supplementary data to the random sample data received.

Table 4 below shows the results of the consultation by first, second and least preference. As shown in the table, the 4 wards with 8 Councillors option and the 4 wards with 12 Councillors option were the most preferred options with no wards with 6 councillors being the least preferred option.

Table 4: Random sample (electors only) demonstrating preferred and least preferred options (CATALYSE report – Attachment 5)



(Note where the subtotal reported is +/-1% of the sum of the parts, this is due to decimal place rounding)

Based on the sample shown above, the 4 ward system with 8 Councillors was the **most preferred option**. This was due to the number of first and second preferences from the submissions with 20% of electors choosing this option as their first preference and 14%

as their second preference. Only 3% of submissions indicating this option was their least preferred option.

Overall, 34% of respondents preferred this option. Only 3% opposed this option.

For comparison, the opt-in sample 16% chose this option as their first preference and 16% as their second preference with only 1% as their least preference.

The common reasons provided during community consultation in favour of the 4 ward with 8 Councillors option included:

- Enhanced local focus where councillors are more likely to be well informed about local issues and that local issues are adequately represented
- Fair and balanced system in which the needs of ratepayers will likely be equally represented with reduced bias
- Wards are viewed as distinct from one another with differing requirements, cultures and demographics which require individual representation
- More efficient, streamlined and productive decision making. Higher chance of reaching a consensus with fewer Councillors

There were no common reasons provided in the consultant report opposing the 4 ward with 8 Councillors option

The **second most preferred option** was a 4 ward system with 12 Councillors. This was based on the number of first and second preferences from the submissions with 20% of electors choosing this option as their first preference and 12% as their second preference, however 29% of submissions indicated this was their least preferred option.

Overall, 32% of respondents preferred this option. However 29% opposed this option.

For comparison within the opt-in sample 50% chose this option as their first preference and 20% as their second preference with 15% as their least preference.

The common reasons provided in favour of the 4 ward with 12 Councillors option included:

- Fair and balanced system in which the needs of ratepayers will likely be equally represented with reduced bias
- Enhanced local focus where councillors are more likely to be well informed about local issues and local issues are adequately represented
- Representation of diverse and differing views is more likely with more councillors as a diverse range of candidates are more likely to be elected.
- Wards are viewed as distinct from one another with differing requirements, cultures and demographics which require individual representation

The common reasons provided from submissions indicating this was their least preferred option included:

- This option has too many Councillors
- Limits a whole city focus and there is greater chance of conflict and segregation. It is viewed as preferable to have councillors represent the entire city holistically

- Less efficient, streamlined and productive decision making. Lower chance of reaching a consensus with more councillors
- Costly to the ratepayer and possible duplication.

The 4 wards and 8 Councillors option received the highest total number of preferred responses, with the 4 ward and 12 Councillor option receiving the next highest total number of preferred responses. However of these two options the 4 ward and 12 councillor option received a much higher number of least preferred responses.

On this basis the researcher determined that the 4 ward and 8 Councillor option is the most preferred option and as such informs the recommendation for this report.

Local Government Advisory Board

Once the Board receives a proposal from the City, the Board will assess if the ward and representation review met the following requirements of the Act:

- the review was advertised
- the community had at least six weeks to make a submission
- the council considered submissions received through community consultation
- the review appropriately considered the prescribed matters in accordance with clause 8 of Schedule 2.2 of the Act.
 - Community of interests
 - Physical and topographic features
 - Demographic trends
 - Economic factors
 - Ratio of Councillors to electors in the various wards

The Board is responsible for assessing the process used for conducting a Ward and Representation review and the subsequent Council decision made. The Board provides its recommendation to the Minister who may accept or reject it. Whether the Minister approves or rejects would depend on the Board's assessment of the process and that the proposed change better suits the characteristics of the district.

If the City wishes to change its ward structure and have it come into effect ready for the next ordinary council elections (scheduled for Saturday 16 October 2021), it must submit a proposal to the Board by 28 February 2021.

Copies of the following will accompany a proposal from Council to the Board:

- Copy of 22 September 2020 Council report (including attachments) and minutes initiating the ward and representation review;
- Copy of this report (including attachments) and the Council resolution confirming Council's resolution to provide a proposal to the Board;
- Copy of local public notice advertisements;
- Copy of the Discussion Paper, Summary Brochure and Submission Form;
- Copy of the independent consultant report containing public consultation analysis and comments

Other factors for consideration

The results of the 2020 public consultation are consistent with the two previous ward and representation reviews undertaken, the consultation results from both reviews sought to reduce the number of Councillors.

In 2018, the community feedback and comments from the 328 submissions received supported:

- Reducing the number of wards from four to three (42%), 26% for no wards and 16% for four wards.
- Reducing the size of the Council, as 57% chose an option to reduce the number of councillors

In 2016, the community feedback and comments from the 111 submissions received supported:

- Retaining four wards 42%; 21% of respondents supported no wards; a combined total of 19% preferred two wards (14% of those the north-south option); 14% three wards; and 6% proposed other options.
- Reducing the size of Council for the four-ward structure to eight Councillors (83%). Of the 105 respondents who chose options from the Discussion Paper, 83% of them supported reducing Councillor numbers.

In 2017 the State Government announced a review of the Local Government Act 1995. After consultation with the community and key stakeholders a Local Government Review Panel was established to consider and recommend high-level direction and guiding principles for the new legislation.

The Local Government Review Panel's final report was handed down on 5 August 2020, which provided a host of recommendations to guide the development of a new Local Government Act.

There is a shifting focus within the local government sector towards key aspects of local government operations and the recommendations from this report provide a renewed focus on integrity, inclusive local democracy, efficient service delivery and enhanced accountability across these key areas in local government operations.

One of the recommendations from the report relates to elected member representation:

“In respect to elected member representation, the Panel recommends:

- a. *Population should be used to determine the number of elected member positions:*
 - i. *Population up to 5,000 – 5 councillors (including President)*
 - ii. *Population of between 5,000 and 75,000 – 5 to 9 councillors (including Mayor/President).*
 - iii. *Population above 75,000 – 9 to 15 Councillors (including Mayor)*
- b. *Ward boundary reviews, to ensure equitable representation is maintained, should be conducted every four years by the Office of Electoral Distribution Commissioners, with the support of the WAEC and should be conducted using similar processes and principles that are in place for state electoral boundaries in the Electoral Act 1907.*
- c. *Current classification bands 3 and 4 should not have multiple wards unless the Local Government Commission permits it in the interests of ensuring local democracy is enabled in certain communities.*
- d. *the change to wards and elected member numbers due to the above recommendations would be phased in.”*

The City of Subiaco's population is approximately 17,000. Based on the above recommendation the current appropriate number of Councillors would be between 5 to 9 (including the Mayor). It is important to note that this is only an indication of the strategic direction the State Government is considering and will not necessarily be legislated in the future.

Consultation

A Strategic Workshop was held with Elected Members in July 2020 to outline the process of the ward review and consider the discussion paper prior to being endorsed by Council. A public consultation process was subsequently conducted as detailed above. A further strategic workshop was held on 8 February 2021 following the consultation period to inform Elected Members of the outcomes of submissions received prior to Council's consideration of this 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

City of Subiaco policy 8.1 Community Engagement Policy provides a framework for how the City will engage with its community.

Schedule 2.2(6)(1) of the *Local Government Act 1995* requires the City to review its ward boundaries and councillor representation no later than every eight years between successive reviews.

Section 8 of Schedule 2.2 of the *Local Government Act 1995* sets out that Council must have regard to community of interests, physical and topographic features, demographic trends, economic features and the ratio of councillors to electors in the various wards.

Section 9 of Schedule 2.2 of the *Local Government Act 1995*, provides power for local governments to make proposals to the Local Government Advisory Board for orders about wards or changing numbers of Councillors.

A decision to provide a report to the Local Government Advisory Board seeking orders pursuant to section 9 of Schedule 2.2 of the Local Government Act 1995 must be made by an absolute majority.

Section 10 of Schedule 2.2 of the *Local Government Act 1995*, provides that the Local Government Advisory Board may recommend to the Minister the making of orders that it thinks fit that would correctly take into account the factors listed in Section 8.

Risk and Asset Implications

The City has conducted two reviews of wards and representation since 2016 with no changes implemented to address the current imbalance in the Representation Ratios. As a result there may be some reputational risk if the City does not adequately consider the results of the community consultation with significant explanation of any decision to deviate from the community's preferred option. There is a risk that a recommendation which does not consider the community's preferred option may be rejected by the Board and could result in a recommendation to the Minister that is not preferred by the electors of the City.

Additionally, the Board requires the City of Subiaco to submit a ward and representation review its recommendation by the extended date of 28 February 2021. In granting this extension, the Board has advised that no further extensions can be granted, as the City may potentially be in breach of the *Local Government Act 1995*.

Financial

There is an approximate cost of \$40,000 attributed to the appointment of each Councillor through the provision of allowances, training and development. Should Council make a recommendation to the Board (and the Board accept the recommendation) to increase its current number of Councillors this would result in an increase in costs to be incurred by the City. Similarly, should Council make a recommendation to the Board (and the Board accept the recommendation) to reduce its current number of Councillors this would result in a reduction in costs to be incurred by the City.

A budget of \$30,000 was required to engage a community consultation specialist to undertake the consultation, data analysis and reporting for this ward and representation review. The City has also incurred additional cost to advertise and communicate the review project for consultation. Further financial resources will be required to communicate Council's recommendation, as well as communicate and implement any decision made by the Minister.

Social and Environmental Implications

There are no specific social or environmental implications for this report.

Attachments

1. Map – Four Wards (North, South, East, Central) with re-drawn boundaries
2. Review of Ward Boundaries and Councillor Representation Discussion Paper
3. Ward Review and Representation Summary brochure
4. Ward Review and Representation Submission Form
5. Ward and Representation Review 2020 – Independent Consultant Report

C10 DONATION TO THE BUSHFIRE APPEAL**REPORT FROM DIRECTOR CORPORATE SERVICES**

Author: Governance Support Officer, Anthea Astone
Date: 9 February 2021
File Reference: A/5967
Voting Requirements: Simple - more than half elected members present required to vote in favour

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Mansfield / Seconded Cr Nash

- 1. A donation of \$10,000 be made to the Lord Mayor's Distress Relief Fund for the Wooroloo and Hills Bushfire Appeal 2021.**
- 2. The budget be approved as part of the budget review process.**

CARRIED EN BLOC 12/0

5.52pm

Executive Summary

This report is to consider a donation to the Lord Mayor's Distress Relief Fund to support those affected by the Wooroloo Bushfire and provide relief to the victims of these fires.

Background

The Wooroloo Bushfire started on 1 February 2021 in the north-eastern suburb of Wooroloo and spread 126 kilometres in a north-west direction through Gidgegannup, Tilden Park, Brigadoon and Shady Hills. Over 10,500 hectares, including 86 homes were destroyed in the fire.

The Lord Mayor's Distress Relief Fund was established by the City of Perth in conjunction with the State Government to provide financial assistance to individuals for the alleviation and relief of distress, suffering and personal hardships, brought about by any disaster or emergency within Western Australia declared by the State Government.

The Fund has been activated to raise and coordinate donations to financially support the victims of the fires. The cost of administering the LMDRF is covered by the City of Perth to ensure that the maximum amount of funds can be distributed to the victims of the disaster.

The Lord Mayor's Distress Relief Fund will work with the affected local governments to ensure money is disbursed to victims of the bushfire as quickly as possible and ensure that those that need help, receive help in a quick and timely manner.

Comment

The City has provided a budget allocation to enable a \$10,000 donation to be made to the Lord Mayor's Distress Relief Fund to support those affected by the bushfires in the Wooroloo and Hills area of Western Australia. A budget adjustment has been included as part of the budget review, which is a separate report also on the agenda for this meeting.

This is consistent with previous donations made by Council to support and assist those affected by disasters or emergencies. Most recently, in February 2020 a \$10,000 donation was made to the Red Cross Disaster Relief and Recovery fund which assisted emergency teams across Australia and supported those affected by the fires in Victoria to seek shelter, psychological first aid, information and practical support.

It is considered customary for many local governments to consider a donation to the Lord Mayor's Distress Relief Fund when it is activated, to assist communities in need during times of crisis.

Consultation

Public consultation was not required in the development of this report.

Strategic Implications

There are no strategic implications for this report.

Statutory and Policy Considerations

There were no statutory or policy considerations required in the development of this report.

Risk and Asset Implications

There are no risk and asset implications for this report.

Financial

A budget adjustment of \$10,000 has been provided and included as part of the budget review process, which is Item C12 on the agenda of this Ordinary Council Meeting.

Social and Environmental Implications

There are no social and environmental implications for this report.

Attachments

There are no attachments to this report.

C11 APPOINTMENT OF COMPLAINTS OFFICER AND APPROVAL OF COMPLAINTS FORM*

REPORT FROM DIRECTOR CORPORATE SERVICES

Author: A/Coordinator Governance, David Bentley
Date: 9 February 2021
File Reference: A/5967
Voting Requirements: Simple - more than half elected members present required to vote in favour

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Mansfield / Seconded Cr Nash

1. **The Chief Executive Officer be appointed as complaints officer of the City of Subiaco pursuant to clause 11(3) of the *City of Subiaco Code of Conduct for Council Members, Committee Members and Candidates* (the “Model Code of Conduct”).**
2. **The contents of the Code of Conduct Breach Complaint Form provided at Attachment 1 be approved as the method for initiating a breach complaint under the Model Code of Conduct.**
3. **A further report be presented to Council to consider a new code of conduct, noting the model code of conduct as outlined in the *Local Government (Model Code of Conduct) Regulations 2021* applies to Council Members, Committee Members and Candidates from 2 February 2021 in the absence of an approved code.**

CARRIED EN BLOC 12/0
5.52pm

Executive Summary

Each local government was previously required to develop their own code of conduct and manage behaviour in accordance with that code. These regulations replace these individual codes by introducing a Model Code of Conduct that applies to all members and candidates. It also provides for a high-level process to deal with complaints to ensure a more consistent approach between local governments and across the sector. The intent of the Model Code is to address behaviour through education rather than sanctions.

This report seeks to inform the Council on recent changes made to legislation and enact some of those changes in accordance with deadlines provided by the State Government. The first required step is to appoint a complaints officer for the City of Subiaco that is able to receive and action complaints made under the Code of Conduct, and to approve a standard form to be used by complainants to make a complaint regarding a Council Member, Committee Member or candidate breaching the Code of Conduct.

Local governments will be required to prepare and adopt the new Model Code of Conduct by 3 May 2021. A subsequent Council report is currently being prepared that explains in further detail the impacts of the changes to the legislation and Council’s ongoing role in implementing.

Background

On Tuesday 2 February 2021, the final aspects of Phase 1 of the Local Government Act Review were proclaimed and amendments to the *Local Government (Administration) Regulations 1996* were gazetted. The new *Local Government (Model Code of Conduct) Regulations 2021* were also gazetted. These final aspects of the Local Government Act review cover:

- Model standards for CEO recruitment, performance and termination;
- Council Member, Committee Member and Election Candidate Code of Conduct; and
- Employee Code of Conduct

This means that, as of Tuesday 2 February 2021, the City's currently adopted Code of Conduct no longer applies and the Model Code of Conduct, as written in Schedule 1 of the *Local Government (Model Code of Conduct) Regulations 2021* applies to Council Members, Committee Members and Candidates. It is worth noting that the Model Code of Conduct also applies to Committee Members that are not a Council Member.

Under the previous Regulations, the Chief Executive Officer was the City's appointed Complaints Officer. However, in accordance with the gazetted amendments, Council is now required to appoint the complaints officer and approve a standard form to lodge complaints of breaches of the Code of Conduct. It is therefore recommended that Council formally appoint the Chief Executive Officer to continue as the City's Complaints Officer.

Complaints of a Minor Breach are still able to be made to the Chief Executive Officer (as Complaints Officer for the purposes of these breaches) for alleged breaches of the *Local Government (Rules of Conduct) 2007* where these alleged breaches occurred before 2 February 2021, when the new system came into effect.

Comment

Each local government was previously required to develop their own code of conduct and manage behaviour in accordance with that code. These regulations replace these individual codes by introducing a Model Code of Conduct that applies to all members and candidates. It also provides for a high-level process to deal with complaints to ensure a more consistent approach between local governments and across the sector. The intent of the Model Code is to address behaviour through education and training rather than sanctions.

The Local Government (Model Code of Conduct) Regulations 2021 (Model Code Regulations) bring into effect sections 48 to 51 of the Amendment Act by introducing a mandatory code of conduct for council members, committee members and candidates. The code itself is contained within the new regulations as Schedule 1 of the regulations.

The Model Code Regulations outlines:

- overarching principles to guide behaviour
- behaviours that are required to be managed by Council and
- rules of conduct breaches that will continue to be considered by the Standards Panel.

The purpose of the Model Code is to guide decisions, actions and behaviours. It also recognises that there is a need for a separate code for council members, committee

members and candidates to clearly reflect community expectations of behaviour and ensure consistency between local governments.

One of the key differences between the new model for Code of Conduct and the City's previous Code of Conduct is that Council has a role in resolving complaints about the behaviour of Council Members, Committee Members and Candidates. These behaviours are specifically outlined in the Model Code of Conduct as well as the process that the local government must follow once a complaint is received. On the other hand Rule of Conduct breaches will still be required to be forwarded to the Local Government Standard Panel by the complaints officer

Until such time as a local government adopts a new Code of Conduct, the Model Code of Conduct outlined within the *Local Government (Model Code of Conduct) Regulations 2021* will apply. To enable the City to be compliant with the legislation changes and be able to process complaints made under the Model Code of Conduct, relating to incidents occurring after the 2 February 2021, the City must:

- appoint a person to receive complaints by either affirming the current complaint officers or appoint a new or additional officer(s), and
- approve a form for complaints to be lodged.

The form that is proposed to be used (Attachment 1) has been created using a template provided by the Department of Local Government, Sport and Cultural Industries. The recommendation is to approve the content of the form to allow for the City to make the form electronic at a later date (while retaining the content).

Local governments will be required to prepare and adopt the new Model Code of Conduct by 3 May 2021. A subsequent Council report is currently being prepared that explains in further detail the impacts of the changes to the legislation and Council's ongoing role in implementing.

Consultation

Public consultation was not required in the development of this report.

Strategic Implications

There are no strategic implications for this report.

Statutory and Policy Considerations

The Local Government (Model Code of Conduct) Regulations 2021 (Model Code Regulations) require the City to appoint a complaints officer (or officers) and approve a form that can be used for complaints against Council Members, Committee Members and Candidates.

Risk and Asset Implications

If the City does not appoint a complaints officer or approve a form that can be used for complaints, the City will not be able to receive and process complaints made under the Model Code of Conduct that relate to incidents that occur after 2 February 2021.

Financial

There are no financial implications in relation to this report.

Social and Environmental Implications

There are no social and environmental implications for this report.

Attachments

1. Code of Conduct Breach Complaint Form (2 pages)

C12 BUDGET REVIEW – 2020/21***REPORT FROM DIRECTOR CORPORATE SERVICES**

Author: Manager Finance & Governance Services, Bianca Jones
Date: 19 February 2021
File Reference: A/5967
Voting Requirements: Absolute Majority - 7 elected members required to vote in favour

Cr Davis left the chamber at 7.50pm and returned at 7.52pm.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr de Vries / Seconded Cr Nash

That Council adopts the amendments to the 2020/2021 annual budget, as detailed in the attached schedule.

CARRIED BY AN ABSOLUTE MAJORITY 11/0

7.51pm

Executive Summary

The purpose of this report is to recommend to Council a number of re-allocations to its adopted Budget for the 2020/2021 financial year. During a financial year circumstances arise that require adjustments to the adopted budget. In addition there are also adjustments required for carried forward budgets from the 2019/20 financial year.

Background

Officers have 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.

Comment

Officers 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 decisions that have budget implications, funds have been reallocated or reprioritised to enable implementation of those decisions.

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 draft annual financial statements for 30 June 2020. 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 required within the 2020/21 financial year. The

adjustment to the 2019/20 accumulated surplus is an offsetting adjustment that represents works not completed by 30 June 2020.

- Where budgets have been applied to undertake capital projects, corresponding entries have been included to transfer these budgets to the relevant reserve and enable the funds to be made available when required.
- Decrease of \$249,690 for 2020/21 Financial Assistance Grants budgeted to be received in the current financial year however was paid in advance prior to 30 June 2020.
- Budgets have been applied to implement recent council decisions including \$55,000 to appoint consultants to assist with the recruitment of a Chief Executive Officer.
- A budget of \$100,000 has been provided to undertake an internal audit of the City's IT Systems and security, following the release of an industry report issued by the Office of the Auditor General. The budget provided will also enable the City to implement recommendations from the audit, likely to be further policy development as well as implementation of additional security systems and software.
- Increase of \$70,000 for increased maintenance and management required to operate the City's plant and fleet. Ongoing requirements will be considered as part of the Strategic Financial Plan.
- Budget increase of \$190,000 to complete lighting replacement upgrades at Market Square as insufficient funds were allocated to complete the upgrade. Budget has also been increased by \$80,000 to complete irrigation works at Nicholson Road Reserve. Corresponding adjustments to the Infrastructure Replacement Reserve have been made.
- Through the Local Roads and Community Infrastructure Program (LRCI), Phase 2, the City has applied for an additional \$559,595 in grant funding to undertake local roads and community infrastructure projects. This program supports local councils to deliver priority local road and community infrastructure projects across Australia, supporting jobs and the resilience of local economies to help communities bounce back from the COVID-19 pandemic. As eligible projects must be from the City's current capital works program and delivered within the 2021 calendar year the City has nominated various local roads, irrigation and footpath improvement projects. The grant is to cover the entire cost of the projects and the City is not required to provide additional funding. Revenue and expenditure budgets have been applied accordingly.
- A \$50,000 increase to the partnerships fund has been allocated. Funding will enable the City to increase the level of support for homelessness in the City by partnering with other organisations. The City is working with other inner City Councils and are taking a coordinated approach to what is a complex and challenging social issue.
- Transfer of funds of \$175,000 from Technology Asset renewal account for the storage replacement is required. Due to an increase in costs for storage

infrastructure an additional \$50,000 in the 2020/21 financial year is required to complete this project.

- Transfer of \$64,000 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 revenue budgets were exceeded in the 2019/20 year.
- Budget of \$143,000 has been transferred to the Council Buildings & Facilities Reserve to undertake improvements to the City's Administration and other Council facilities as required.

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 and sustainability by funding a wide range of activities throughout the community whilst seeking to keep the rates burden on current and future ratepayers 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 carry forward funds. Council is required to maintain a balanced budget and the adjustments as detailed in the attachment bring the budget back into balance. As the City is still in the process of finalising its annual statements, the draft financial statements have been used in preparing this review. Any changes arising from the adopted annual financial statements will be considered in a subsequent budget review.

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 2020/2021 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 2020 Budget Review Summary (4 pages)

C13 FINANCIAL STATEMENTS AND REPORTS FOR THE MONTH ENDING 30 NOVEMBER 2020*

REPORT FROM DIRECTOR CORPORATE SERVICES

Author: Manager Finance & Governance Services, Bianca Jones
Date: 9 February 2021
File Reference: A/5967
Voting Requirements: Simple - more than half elected members present required to vote in favour

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Mansfield / Seconded Cr Nash

That the financial reports for the period ending 30 November 2020, incorporating the following items, be endorsed:

- **Financial activity statement report.**
- **Balance sheet.**
- **Cash flow statement**
- **Cash backed reserves summary.**
- **Aged trial balance (debtors).**
- **Rates reconciliation and summary.**
- **Summary of cash and investments.**
- **Payments cash book.**
- **Credit Card payment summary.**

CARRIED EN BLOC 12/0

5.52pm

Executive Summary

The purpose of the attached reports is to provide details of the financial activity that has occurred for the period ending each month and a snapshot of the financial position after those transactions have occurred. Any items requiring further explanation are detailed within the agenda report when required. The financial reports presented have been prepared in accordance with the Local Government Act 1995 and the Local Government (Financial Management) Regulations 1996 and Australian Accounting Standards (to the extent that they are not inconsistent with the Act). The financial reports presented fairly represent, in all material respects, the results of the operations for the month being reported. Officers therefore recommend that Council endorse the monthly financial reports as presented.

Background

The monthly financial reports provide an overview of the City's financial performance. These reports represent a snapshot as at 30 November 2020. These reports do not represent the final financial position for the 30 June 2020 for the City as the audit of the 2019-20 financial statements has not yet been finalised. Therefore the attached reports represent a snap shot as at the 30 November and a full set of audited financial statements will be presented to Council once the audit is complete.

Comment

Financial activity statement report

The City's revenues and expenditures are generally in line with budget expectations except as noted. Revenues and expenditures are detailed in the financial statements attached.

Balance sheet

The City has current assets of \$86,363,511. The major components of which are; cash and investments of \$70,967,124 rates debtors of \$13,685,897 and sundry debtors of \$1,665,407 (including Modified Penalties). There are current liabilities totalling \$8,335,522 and cash backed reserves of \$56,962,452. The City's net current assets equal \$78,027,989 less restricted assets (Reserves) of \$56,962,452 resulting in a net current position of \$21,065,537 at 30 November 2020.

Cash flow statement

Net cash provided by operating activities is \$5,905,702 for the period to date. The net cash used in financing activities is (\$208,709). Overall the cash flow statement shows that the City is well placed to meet its budgeted obligations.

Cash backed reserves summary

The closing balance of cash backed reserves is \$56,962,452. The reserve summary shows all movements to and from reserve to achieve the expected closing balance. The report provides information on the City's ability to allocate funds for future projects by providing a closing balance comparison to budget. Reserve movements are reconciled and adjusted in December and June each year and where major movements are planned, adjustments are also made to reserves in that period.

Aged trial balance (debtors)

The report provides a listing of outstanding debts payable to the City of Subiaco. The balance of debts outstanding at 30 November is \$1,665,407.

All debts that have been paid or adjusted after the end of month have been highlighted on the attached report. Payments and adjustments of \$199,572 were received after 30 November, reducing the balance of debts outstanding to \$1,465,835 at the time of preparing the debtors report.

There is a credit balance recorded against the account of Edgebrook Nominees. This balance is to be offset against future invoices raised by the City.

Cooper and Oxley Builders Pty Ltd vacated the premises on 31st October 2018 and the outstanding balance relates to rent and annual rates. The tenant is currently in administration. The City is an unsecured creditor. The City has lodged a proof of debt form 535 with the administrator and is waiting on the administrator for further information.

Rates reconciliation summary

Total rates, Fire & Emergency Services levy, and waste service charges levied for the year are \$34,694,491. The payments and rebates received to date total \$20,914,856. A reconciliation of the rates and waste service charges is included in the attachments. These payments and reductions resulted in a balance outstanding for rates and waste service charges of \$13,779,635 (including Deferred Pensioner Rates).

Summary of cash and investments

The City currently holds financial investments of \$60,962,452.

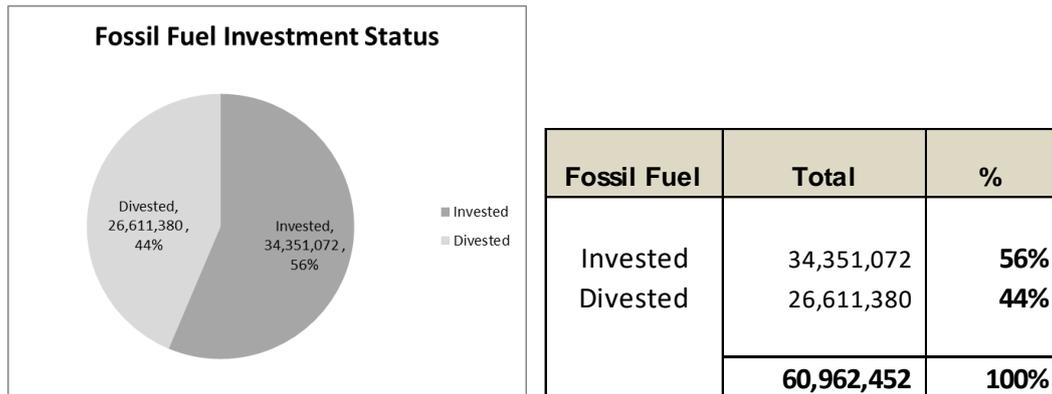
The City's investment policy operates with a view to maximising income and capital growth in relation to liquid assets. For short term liquid investment assets the policy requires that no more than 30% is to be invested with any one institution at the time of investment. The table below shows the percentage of investments held with each institution at reporting date.

Institution	Total Investment (Municipal)	Total Investment (Reserves)	Total Investment	%	Fossil Fuels
ANZ	-	5,000,000	5,000,000	8%	Invested
Bankwest	-	-	-	0%	Invested
Bendigo	-	17,302,413	17,302,413	28%	Divested
CBA	-	12,106,424	12,106,424	20%	Invested
NAB	4,000,000	13,244,649	17,244,649	28%	Invested
Suncorp	-	9,308,967	9,308,967	15%	Divested
	4,000,000	56,962,452	60,962,452	100%	

The policy also sets the requirement of a minimum A-2 rating for any institutions the City invests in short term bank deposits and bank bills. The table below shows the current value of investments held at each credit rating permitted by the policy.

Standard & Poors Short-Term Issue Credit Ratings						Total	%
A-1	9,308,967	A-1+	34,275,372	A-1-	-	43,584,340	71%
A-2	17,378,113	A-2+	-	A-2-	-	17,378,113	29%
						60,962,452	100%

The table below shows the current investment in fossil fuel divested institutions.



A summary of the cash and investments holdings is included in the attachments.

Payment to creditors

Payment from the City’s accounts for the period totalled \$5,150,242 Cheques were drawn and electronic fund transfers processed to the value of \$4,232,755 from the municipal fund and nil for payment of creditors. Employee payments, made via electronic funds transfer totalled \$917,487 for the period. Payment details for the month are contained in the payments cash book and credit card payments summary attached.

Credit card payment summary

Payment for purchases made by the City using the City’s corporate credit cards totalled \$7,774. A reconciliation of the credit card transactions is included in the attachments.

Consultation

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

Strategic Implications

The City's financial reporting contributes to achievement of the Strategic Plan aim relating to responsible stewardship: *"To manage the community's resources in the best long-term interests of all."*

Statutory and Policy Considerations

The *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996* require a local government to prepare monthly financial reports. The reports are prepared based on the following statutory and policy considerations.

- (1) *Form of financial activity statement report — s. 6.4(2) and Reg 34*
- (2) *Payments from municipal fund or trust fund— s. 6.10(12) (13)*
- (3) *Trustees Act 1962 (Part III)*
- (4) *The City's investment asset policy.*

Risk and Asset Implications

A statement of financial activity and accompanying documents as set out in sub regulation (2) are to be presented at an ordinary meeting of the Council and recorded in the minutes of the meeting at which it is presented. If this report and its attachments are not endorsed then the City will be in breach of the Local Government Act and associated regulations.

Financial

The attachments show that the City's financial performance for 2020/2021 is essentially in line with budget expectations.

Social and Environmental Implications

There are no specific social or environmental implications of this report.

Attachments

1. Financial activity statement report (2 pages)
2. Balance Sheet (2 pages)
3. Cash Flow Statement (2 pages)
4. Cash backed reserves summary (1 page)
5. Aged trial balance (debtors) (2 page)
6. Rates reconciliation and summary (1 page)
7. Summary of cash and investments (2 pages)
8. Payments cash book and schedule of accounts November 2020 (48 pages)
9. Credit Card payment summary November 2020 (1 page)

C14 FINANCIAL STATEMENTS AND REPORTS FOR THE MONTH ENDING 31 DECEMBER 2020*

REPORT FROM DIRECTOR CORPORATE SERVICES

Author: Manager Finance & Governance Services, Bianca Jones
Date: 9 February 2021
File Reference: A/5967
Voting Requirements: Simple - more than half elected members present required to vote in favour

OFFICER RECOMMENDATION

Moved Cr Mansfield / Seconded Cr Nash

That the financial reports for the period ending 31 December 2020, incorporating the following items, be endorsed:

- **Financial activity statement report.**
- **Balance sheet.**
- **Cash flow statement**
- **Cash backed reserves summary.**
- **Aged trial balance (debtors).**
- **Rates reconciliation and summary.**
- **Summary of cash and investments.**
- **Payments cash book.**
- **Credit Card payment summary.**

CARRIED EN BLOC 12/0

5.52pm

Executive Summary

The purpose of the attached reports is to provide details of the financial activity that has occurred for the period ending each month and a snapshot of the financial position after those transactions have occurred. Any items requiring further explanation are detailed within the agenda report when required. The financial reports presented have been prepared in accordance with the Local Government Act 1995 and the Local Government (Financial Management) Regulations 1996 and Australian Accounting Standards (to the extent that they are not inconsistent with the Act). The financial reports presented fairly represent, in all material respects, the results of the operations for the month being reported. Officers therefore recommend that Council endorse the monthly financial reports as presented.

Background

The monthly financial reports provide an overview of the City's financial performance. These reports represent a snapshot as at 31 December 2020. These reports do not represent the final financial position for the 30 June 2020 for the City as the audit of the 2019-20 financial statements has not yet been finalised. Therefore the attached reports represent a snapshot as at the 31 December and a full set of audited financial statements will be presented to Council once the audit is complete.

Comment

Financial activity statement report

The City's revenues and expenditures are generally in line with budget expectations except as noted. Revenues and expenditures are detailed in the financial statements attached.

Balance sheet

The City has current assets of \$85,933,611. The major components of which are; cash and investments of \$72,228,534, rates debtors of \$11,858,421 and sundry debtors of \$1,808,395 (including Modified Penalties). There are current liabilities totalling \$8,357,391 and cash backed reserves of \$56,962,452. The City's net current assets equal \$77,576,220 less restricted assets (Reserves) of \$56,962,452 resulting in a net current position of \$20,613,768 at 31 December 2020.

Cash flow statement

Net cash provided by operating activities is \$7,459,408 for the period to date. The net cash used in financing activities is (\$208,709). Overall the cash flow statement shows that the City is well placed to meet its budgeted obligations.

Cash backed reserves summary

The closing balance of cash backed reserves is \$56,962,452. The reserve summary shows all movements to and from reserve to achieve the expected closing balance. The report provides information on the City's ability to allocate funds for future projects by providing a closing balance comparison to budget. Reserve movements are reconciled and adjusted in December and June each year and where major movements are planned, adjustments are also made to reserves in that period. Reserve adjustments for December had not been finalised at time of preparing this report.

Aged trial balance (debtors)

The report provides a listing of outstanding debts payable to the City of Subiaco. The balance of debts outstanding at 31 December is \$1,808,395.

All debts that have been paid or adjusted after the end of month have been highlighted on the attached report. Payments and adjustments of \$294,118 were received after 31 December, reducing the balance of debts outstanding to \$1,514,277 at the time of preparing the debtors report.

There is a credit balance recorded against the accounts of Edgebrook Nominees and Onslow Park Tennis Club. These balances are to be offset against future invoices raised by the City.

Cooper and Oxley Builders Pty Ltd vacated the premises on 31st October 2018 and the outstanding balance relates to rent and annual rates. The tenant is currently in administration. The City is an unsecured creditor. The City has lodged a proof of debt form 535 with the administrator and is waiting on the administrator for further information.

Rates reconciliation summary

Total rates, Fire & Emergency Services levy, and waste service charges levied for the year are \$35,229,143. The payments and rebates received to date total \$23,276,984. A reconciliation of the rates and waste service charges is included in the attachments. These payments and reductions resulted in a balance outstanding for rates and waste service charges of \$11,952,159 (including Deferred Pensioner Rates).

Summary of cash and investments

The City currently holds financial investments of \$60,962,452.

The City's investment policy operates with a view to maximising income and capital growth in relation to liquid assets. For short term liquid investment assets the policy requires that no more than 30% is to be invested with any one institution at the time of

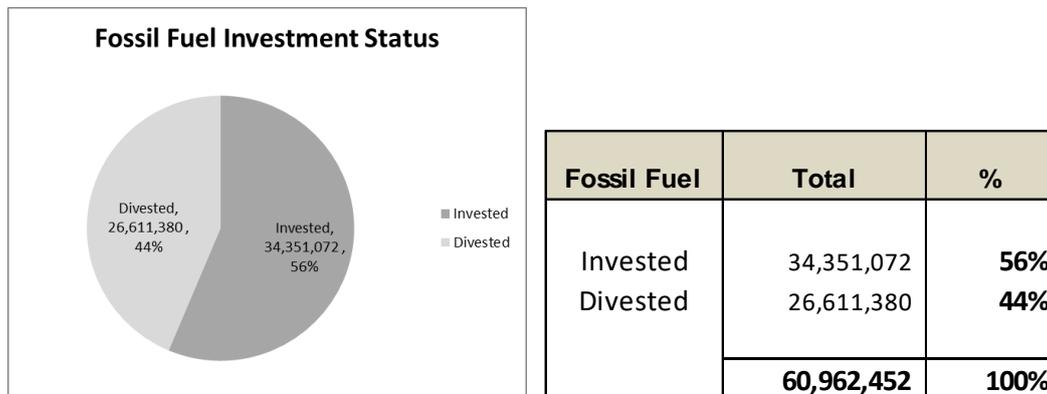
investment. The table below shows the percentage of investments held with each institution at reporting date.

Institution	Total Investment (Municipal)	Total Investment (Reserves)	Total Investment	%	Fossil Fuels
ANZ	-	5,000,000	5,000,000	8%	Invested
Bankwest	-	-	-	0%	Invested
Bendigo	-	17,302,413	17,302,413	28%	Divested
CBA	-	12,106,424	12,106,424	20%	Invested
NAB	4,000,000	13,244,649	17,244,649	28%	Invested
Suncorp	-	9,308,967	9,308,967	15%	Divested
	4,000,000	56,962,452	60,962,452	100%	

The policy also sets the requirement of a minimum A-2 rating for any institutions the City invests in short term bank deposits and bank bills. The table below shows the current value of investments held at each credit rating permitted by the policy.

Standard & Poors Short-Term Issue Credit Ratings						Total	%
A-1	9,308,967	A-1+	34,269,122	A-1-	-	43,578,090	71%
A-2	17,384,363	A-2+	-	A-2-	-	17,384,363	29%
						60,962,452	100%

The table below shows the current investment in fossil fuel divested institutions.



A summary of the cash and investments holdings is included in the attachments.

Payment to creditors

Payment from the City’s accounts for the period totalled \$3,239,017. Cheques were drawn and electronic fund transfers processed to the value of \$1,879,539 the municipal fund and \$389,242 from the trust fund for payment of creditors. Employee payments, made via electronic funds transfer totalled \$970,236 for the period. Payment details for the month are contained in the payments cash book and credit card payments summary attached.

Credit card payment summary

Payment for purchases made by the City using the City’s corporate credit cards totalled \$12,694. A reconciliation of the credit card transactions is included in the attachments.

Consultation

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

Strategic Implications

The City's financial reporting contributes to achievement of the Strategic Plan aim relating to responsible stewardship: "*To manage the community's resources in the best long-term interests of all.*"

Statutory and Policy Considerations

The *Local Government Act 1995* and the *Local Government (Financial Management) Regulations 1996* require a local government to prepare monthly financial reports. The reports are prepared based on the following statutory and policy considerations.

- (1) *Form of financial activity statement report — s. 6.4(2) and Reg 34*
- (2) *Payments from municipal fund or trust fund— s. 6.10(12) (13)*
- (3) *Trustees Act 1962 (Part III)*
- (4) *The City's investment asset policy.*

Risk and Asset Implications

A statement of financial activity and accompanying documents as set out in sub regulation (2) are to be presented at an ordinary meeting of the Council and recorded in the minutes of the meeting at which it is presented. If this report and its attachments are not endorsed then the City will be in breach of the Local Government Act and associated regulations.

Financial

The attachments show that the City's financial performance for 2020/2021 is essentially in line with budget expectations.

Social and Environmental Implications

There are no specific social or environmental implications of this report.

Attachments

1. Financial activity statement report (2 pages)
2. Balance Sheet (2 pages)
3. Cash Flow Statement (2 pages)
4. Cash backed reserves summary (1 page)
5. Aged trial balance (debtors) (2 page)
6. Rates reconciliation and summary (1 page)
7. Summary of cash and investments (2 pages)
8. Payments cash book and schedule of accounts December 2020 (45 pages)
9. Credit Card payment summary December 2020 (1 page)

C15 RECRUITMENT OF CHIEF EXECUTIVE OFFICER***REPORT FROM ACTING CHIEF EXECUTIVE OFFICER**

Author: Acting Chief Executive Officer, Cliff Frewing
Date: 19 February 2021
File Reference: A/5967
Voting Requirements: Absolute Majority – 7 elected members required to vote in favour

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Mansfield / Seconded Cr Nash

1. In accordance with clause 8 of Schedule 2 of the Local Government (Administration) Regulations 1996 the independent person to be appointed to the CEO recruitment panel (approved by Council at its meeting in November 2020) be nominated by the Public Sector Commission of WA.
2. In accordance with clause 5(1) of Schedule 2 of the Local Government (Administration) Regulations the CEO Selection Criteria as contained in the Candidate information Pack at Attachment 1 be adopted and approved.
3. In accordance with clause 5 (2) of Schedule 2 of the Local Government (Administration) Regulations the Job Description Form as contained in the Candidate information Pack at Attachment 1 be adopted and approved.
4. In accordance with best practice, the Candidate Information pack as contained at Attachment 1 be adopted and approved
5. In accordance with clause 5.39 of the Local Government Act, the draft CEO Employment Contract previously circulated be adopted and approved.
6. Advertising for the position of CEO now be commenced and be conducted In accordance with clause 18A of the Local Government (Administration) Regulations.

CARRIED BY AN ABSOLUTE MAJORITY 12/0

8.12pm

AMENDMENT

Moved Cr Stroud / Seconded Cr Hamersley

Amend Point 1 of the motion to read:

1. In accordance with clause 8 of Schedule 2 of the Local Government (Administration) Regulations 1996 the independent person to be appointed to the CEO recruitment panel (approved by Council at its meeting in November 2020) be a Freeman of the City of Subiaco.

LOST BY THE CASTING VOTE OF THE MAYOR 6/7

MAYOR TAYLOR AND CRS NASH, MANSFIELD, DAVIS, ROWE AND DE VRIES,
 VOTED AGAINST

8.11pm

Executive Summary

Further to Council resolutions in October and November 2020, on December 17 2020, an informal workshop was held with Elected Members and Geoff Blades of Lester Blades to determine the process to be used for the selection and appointment of the CEO and to discuss the employment contract, position description, and selection criteria.

On 21st January 2021 a further informal workshop was held with Kathy Reid from Minster Ellison to provide advice the employment contract for the CEO.

A draft Employment Contract and Candidate Information Pack containing the Position Description and selection criteria were provided and distributed to Elected Members.

As agreed at the January 2021 workshop, the Employment Contract and Candidate Information Pack have been revised and are now ready to be adopted.

On Wednesday 3 February 2021, the Local Government (Administration) Amendment Regulations 2021 came into effect which impacts on the recruitment process as legislation now requires Council to adopt resolutions in relation to certain aspects of the recruitment process.

Background

At the Ordinary Council Meeting held on 16 October 2020, Council resolved to initiate the recruitment process to appoint a Chief Executive Officer.

At the Ordinary Council Meeting held on 13 November 2020 the Council resolved as follows:

1. *That Request for Quotation A/5966 – Consultancy Services to Assist in the Recruitment of the Chief Executive Officer is awarded to Lester Blades, as per their submitted schedule of rates.*
2. *That Request for Quotation A/5972 – Legal Services to Assist in the Recruitment of the Chief Executive Officer is awarded to Minter Ellison, as per their submitted schedule of rates.*
3. *A recruitment panel comprising Mayor Taylor, Cr Mansfield, Cr Hamersley, Cr Powell, Cr Stroud and Cr Jennings be and is hereby formed in accordance with the power of the Council arising from the Local Government Act 1995 (including but not limited to s 2.6 and s 2.7(1)(b)) and in accordance with the provisions of Regulation 9(1) of the Local Government (Rules of Conduct) 2007 (the Panel).*
4. *Before any work is undertaken by the Panel with the lawyer, a workshop is to be held with the recruitment consultant, on a date/time that allows all Elected Members wishing to participate to attend, to allow discussion of issues relating to the content of the CEO position description, selection criteria, interview process, key performance indicators and contract of employment.*
5. *Following the workshop referred in resolution 4, the Panel is to work with the recruitment consultant and lawyer to draft the CEO position description, selection criteria, interview questions, key performance indicators, draft contract of employment and recommend the selection and appointment process for Council approval prior to advertising the position of CEO.*

On 17th December 2020, an informal workshop was held and Geoff Blades of Lester Blades outlined to elected members the process to be used for recruitment and selection and discussed the contract and other documentation. Elected members considered the needs of the community and business and identified the specific skills and experience that will be required of the CEO for the City.

As a result of discussions, Geoff Blades provided elected members with a draft Candidate Information Pack for the CEO position which outlined selection criteria, the CEO position description and performance criteria.

On the 21st January 2021, a further informal workshop was held with Geoff Blades together with Kathy Reid from Minter Ellison to consult with elected members on employment matters, provide advice on the employment contract for the CEO and performance criteria.

As agreed at the workshop, Kathy Reid has reviewed the CEO position description, selection criteria and provided guidance to Council about establishing performance

criteria. In addition a draft contract of employment has been reviewed by Kathy Reid which complies with the Local Government Act 1995 and Regulations.

As a result of feedback from elected members and advice from Kathy Reid a revised Candidate Information Pack has been developed.

On the 3rd February 2021 the Local Government (Administration) Regulations 1996 were amended to reinforce the importance of the CEO recruitment process by adding further requirements in the recruitment process for CEO's.

Within 3 months of 3rd February the City must adopt Model Standards for appointment of CEO (to be considered in March 2021) and must adopt a *Certificate of Compliance* when the CEO has been appointed and delivered to the Department of Local Government, Sport and Cultural Industries.

Comment

The Local Government (Administration) Regulations now contain standards for recruitment of CEO's which are stated below. The process adopted by the City follows the new standards but there are new requirements in terms of adoption of certain parts of the process by an absolute majority of Council.

The following outlines the CEO recruitment process that takes into account the Local Government Act, including recent amendments to the Administration Regulations.

RECRUITMENT AND SELECTION STANDARD

The minimum standard for recruitment and selection will be met if:

- S1.1** The Council has identified and agreed to the qualifications and selection criteria necessary to effectively undertake the role and duties of the CEO within that particular local government context.
- S1.2** The Council has approved, by absolute majority, the Job Description Form which clearly outlines the qualifications, selection criteria and responsibilities of the position, and which is made available to all applicants.
- S1.3** The local government has established a selection panel to conduct the recruitment and selection process. The panel must include at least one independent person who is not a current elected member or staff member of the local government.
- S1.4** The local government attracts applicants through a transparent, open and competitive process (this is not necessary for vacancies of less than one year).
- S1.5** The local government has assessed the knowledge, experience, qualifications and skills of all applicants against the selection criteria.
- S1.6** The local government has thoroughly verified the recommended applicant's work history, qualifications, referees and claims made in his or her job application.
- S1.7** The appointment is merit-based, with the successful applicant assessed as clearly demonstrating how his or her knowledge, skills and experience meet the selection criteria.
- S1.8** The appointment is made impartially and free from nepotism, bias or unlawful discrimination.
- S1.9** The Council has endorsed by absolute majority the final appointment.
- S1.10** The Council has approved the employment contract by absolute majority.
- S1.11** The local government must re-advertise the CEO position after each instance where a person has occupied the CEO position for ten (10) consecutive years.

General

The Local Government Act 1995 (Act) requires the Council to appoint a suitably qualified person with appropriate academic qualifications, experience, skills and knowledge to meet the requirements of the job description and selection criteria.

Furthermore, the principles of merit and equity are to be applied when assessment is made of the candidates' skills, knowledge and abilities against the requirements of the position and the process must be open, competitive and free from bias, unlawful discrimination, nepotism or patronage.

The process must also be in accordance with the Equal Opportunity legislation and cannot result in any discrimination on the basis of sex, marital status, pregnancy, race, religious conviction, political conviction, impairment, age, family responsibility or sexual preference.

The final outcome of the selection process must be a legally defensible decision leading to the placement of the most suitable applicant for the position.

Selection Criteria

The Council is required to determine the selection criteria for the position of CEO prior to a recruitment process being undertaken.

The local government must determine the selection criteria for the position of CEO based on the skills, knowledge, experience and qualifications necessary to effectively perform the role and responsibilities associated with the position. The selection criteria for the position of CEO are contained in the Candidate Information Pack at Attachment 1.

Job Description Form

The local government must approve by a resolution of an absolute majority of Council, a Job Description Form (JDF) which sets out the duties and responsibilities of the position and details the selection criteria. A local government must provide a copy of the JDF to a person upon request. The JDF is contained at Attachment 1.

Advertising the position

Local governments must give State-wide public notice of the position in accordance with the requirements of the Local Government Act.

The Administration Regulations prescribe the minimum requirements to be included in an advertisement for the position of CEO as follows:

- (a) the details of the remuneration and benefits offered;
- (b) details of the place where applications for the position are to be submitted;
- (c) the date and time for the closing of applications for the position;
- (d) the duration of the proposed contract; and
- (da) a website address where the job description form for the position can be accessed
- (e) contact details for a person who can provide further information about the position; and
- (f) any other information that the local government considers is relevant.

The Administration Regulations provide that the State-wide public notice must include a website address where the JDF for the position can be accessed. A JDF form must also be made available on the local government's official website.

The position will need to be advertised for a minimum of two weeks with a definite date and time for the submission of applications, after which time applications will not be considered.

Remuneration package

In accordance with the Act, a local government is to take into account the recommendations contained in the report of the Salaries and Allowances Tribunal as to the remuneration to be paid to a CEO.

The City is a band two Council and the remuneration package is to a maximum of \$319,752 and will be contained in the advertisement and draft contract.

The remuneration and other benefits paid to a CEO on the appointment of the CEO are not to differ from the remuneration and benefits advertised for the position.

Selection Panel

As part of the process of selection, a selection panel must be established to conduct the recruitment and selection process.

Elected members should declare any previous association with an applicant or any potential conflict of interest at the time of shortlisting if they are part of the selection panel. If the potential conflict of interest is significant or a member's relationship with an applicant may result in claims of nepotism, patronage or bias, the Council may need to consider whether to exclude the elected member from the process. The decision should be documented and recorded for future reference.

Under the amended regulations the selection panel must be made up of Council members and at least one independent person who is not a current councillor or employee of the local government or a human resources consultant engaged by the local government. The independent person should not be directly involved in the shortlisting of candidates for the position but may have prior experience in the recruitment and selection of CEOs. The person is not to be directly involved in determining which applicant should be recommended for the position. This requirement therefore excludes the appointment of a recruitment consultant appointed to assist Council with the recruitment process.

It is the role of the selection panel to recommend one or more suitable applicants to the position of CEO based on the selection criteria outlined in the JDF.

The recruitment consultant can still undertake the initial shortlisting of candidates, for example, conducting initial interviews and compiling a short-list of applicants for the selection panel to review.

Following shortlisting, the consultant can participate by sitting in on the interviews, providing advice on the recruitment and selection process and writing up the recommendation of the panel for Council to consider. However, the recruitment consultant is not a member of the selection panel.

Under the new Standard 9 of the Model Standards, it is the role of the selection panel to recommend a preferred applicant or applicants for appointment to the position of CEO. The selection panel must make an assessment of each applicant's ability to perform the role of CEO based on their knowledge, experience, qualifications and skills as measured against the selection criteria outlined in the JDF.

If the selection panel considers none of the applicants are suitable for appointment to the position, they must advise the Council of that fact.

If the selection panel considers none of the applicants are suitable for appointment to the position of CEO, they may recommend changes be made to the duties and responsibilities of the position or the selection criteria.

For a CEO to be appointed, Council must believe the person is suitably qualified for the position: section 5.36(2)(a) of the Act. Other relevant statutory principles which underpin the recruitment process is the requirement for the CEO to be selected and recruited in accordance with the principles of merit and equity, not on the basis of nepotism, bias or patronage: section 5.40(a),(b) of the Act.

The selection panel is responsible for ensuring that any applicant or applicants they recommend for appointment have demonstrated they meet the selection criteria and have had their qualifications verified. The selection panel must exercise due diligence in verifying referees, work history, skills and any other claims made by the applicant.

Council has appointed a selection panel however, because of recent changes to legislation, the panel is needed to be increased by the appointment of an Independent person.

Recruitment process

Through the recruitment process, information provided by the applicant in regard to experience and qualifications must be substantiated and given the importance of the position, a police clearance should be sought.

The consultant will arrange the written referee reports of applicants and develop the final report that summarises the outcomes of the selection process and panels' recommendation for consideration of Council.

Under the amended regulations the decision to make an offer of appointment to the position of CEO must be made by an absolute majority of Council. The resolution must also approve the proposed terms of the contract.

Appointment of the successful applicant to CEO must also be made by an absolute majority decision of Council after negotiation of the final contract terms between the successful applicant and the local government and following the applicant's acceptance of the offer.

Candidate Information Pack

The Candidate Information Pack presented to the most recent elected member workshop has been reviewed by the City and recruitment consultant in accordance with feedback received and is now presented for adoption at Attachment 1.

Contract

The draft contract presented to the most recent elected member workshop has been reviewed by the employment lawyer in accordance with feedback received and is now up for adoption.

A person is not to be employed in the position of CEO unless the Council believes the person is suitably qualified for the position, and Council is satisfied (by an absolute majority) with the provisions of the proposed employment contract: section 5.36(2) of the Act.

Administrative requirements

Under the new Regulations, clause 18FB requires local governments to certify that they have adopted the standards under section 5.39B of the Act.

A copy of the resolution to appoint the CEO in accordance with the adopted standards must be provided to the Department of Local Government, Sport and Cultural Industries within 14 days of the decision to appoint.

Administration Regulation 14 requires confidentiality to be observed by the local government as part of the process of recruitment and selection. Information obtained as part of this process must only be used for, or in connection with, recruitment and selection.

The details outlined above provide a proven framework for an effective, non biased, legally sound recruitment and selection process.

Consultation

No public consultation is required in relation to this 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

In undertaking the recruitment process for appointing a new CEO, Council needs to comply with the requirements of the Local Government Act and Local Government (Administration) regulations, Occupational Safety and Health Act, Equal Opportunity legislation and other relevant anti-discrimination legislation.

The following sections from the Local Government Act are relevant to appointing a new CEO:

- s5.36 Local government employees
- s5.39 Contracts for CEO's and senior employees
- s5.40 Principles affecting employment by local governments

Risk and Asset Implications

In selecting a new CEO Council must ensure correct processes are followed. Failure to follow correct processes will adversely affect the recruitment process and may cause delays in appointing a CEO, cause contractual issues, challenges by candidates to the fairness of the process, or result in the City needing to undertake the process again.

Financial implications

Costs associated with the appointment of CEO are included in the annual budget.

Social and Environmental Implications

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

Attachments

1. Candidate Information Pack

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

Nil

14. CLOSURE OF MEETING

The Presiding Member declared the Ordinary Council Meeting of 23 February 2021 closed at 8.12pm.