



MINUTES

ORDINARY COUNCIL MEETING

**COUNCIL CHAMBERS & ZOOM
241 ROKEBY ROAD, SUBIACO**

TUESDAY 13 DECEMBER 2022

**COMMENCEMENT: 5:33PM
CLOSURE: 9:06PM**

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1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member declared the Ordinary Council Meeting of 13 December 2022 held in Council Chambers and electronically via Zoom open at 5.33pm. The Presiding Member welcomed Councillors, Staff, the Media and Members of the Community.

On behalf of the City of Subiaco, 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 City pays respect to their Elders, past, present and emerging, and extends that respect to all Aboriginal and Torres Strait Islander people.

The Presiding Member informed the public that the meeting was being live-streamed and recorded.

2. ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Elected Members Present

Mayor David McMullen	Presiding Member
Cr Angela Hamersley	Central Ward
Cr Lynette Jennings (via Zoom)	Central Ward
Cr Rick Powell	South Ward
Cr Simon White (via Zoom)	South Ward
Cr Stephanie Stroud	North Ward
Cr Rosemarie de Vries	North Ward
Cr Garry Kosovich (via Zoom)	East Ward
Cr Mark Burns	East Ward

In accordance with Section 14C(2)(b) of the *Local Government (Administration) Regulations 1996*, **Cr Simon White, Cr Lynette Jennings and Cr Garry Kosovich** were authorised to attend the meeting by electronic means by the Mayor. In accordance with Section 14CA(5), **all Members** declared that they could maintain confidentiality during the meeting, including the closed part of the meeting.

Staff Members Present

Colin Cameron	Chief Executive Officer
Polly Banks (via Zoom)	A/Director Community & Development Services
James Hambly (via Zoom)	A/Director Technical Services
Bianca Jones (via Zoom)	A/Director Corporate Services
Anthony Denholm (via Zoom)	Manager Planning Services
Adam Cousins (via Zoom)	Manager Economic Development and Place
Brendan Philipps (via Zoom)	Coordinator Statutory Planning Services
Jeremy Graf (via Zoom)	A/Manager Commercial Services & Property
Lee Gyomorei (via Zoom)	Manager Governance Services
Anthea Astone	Governance Support Officer
Diane Scott	Public Liaison

Apologies

Nil

Leave of Absence

Nil

Observers

10 members of the public

1 media

COUNCIL DECISION

Moved Cr Burns / Seconded Cr Hamersley

That Cr Lynette Jennings be granted a leave of absence for the period 30 January 2023 to 14 February 2023 inclusive.

CARRIED 9/0

5.35pm

COUNCIL DECISION

Moved Cr Stroud / Seconded Cr de Vries

That Cr Angela Hamersley be granted a leave of absence for the period 9 February 2023 to 20 February 2023 inclusive.

CARRIED 9/0

5.37pm

3. DISCLOSURE OF INTEREST

Cr Simon White declared an **IMPARTIALITY** interest in item C3 pursuant to Clause 22(2) of the Code of Conduct for Council Members, Committee Members and Candidates. The nature of the interest is:

“My son-in-law, Mr Marc Re, is a Senior Associate at Planning Solutions which has been engaged by the St John of God Subiaco Hospital.”

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5. PUBLIC QUESTION TIME

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

Question 1

I've realised that my motion from the electors' meeting unintentionally implied that Mark Tonti had no part to play in Save Subi etc - which is of course untrue as for years he and Gen worked together tirelessly for the benefit of the community.

Is there now any chance of amending my motion to include equal thanks to Mark Tonti?

The Mayor provided the following response:**Question 1**

The motion raised at the Annual Electors' Meeting cannot be amended because electors who attended voted on the motion as originally raised. All council will be doing this evening is to note the resolution that was carried at the Annual Electors' Meeting.

We can't re-write history Ms Leeder, but a number of us were there on the evening and we know that you put the motion in good faith, and I think anyone living in Subiaco in the Save Subi years would have an awareness of that movement and the key people involved, and they were of course Genevieve Binnie and Mark Tonti.

6. PUBLIC STATEMENT TIME

Pamela Meehan, Cuthbert Street, Shenton Park read a statement in relation to item C8.

Ross Underwood, Planning Solutions read a statement in relation to item C3.

Helen Leeder read a statement on behalf of Bianca Panizza, Violet Grove, Shenton Park in relation to item C8.

Steven DePiazzi, Urbanista Planning read a statement in relation to item C2.

Timothy Goyder, Salisbury Street, Subiaco read a statement in relation to item C2.

7. PETITIONS AND APPROVED DEPUTATIONS

Nil

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS**8.1 Ordinary Council Meeting – 22 November 2022****COUNCIL DECISION**

Moved Cr Burns / Seconded Cr Stroud

That the Minutes of the City of Subiaco Ordinary Council Meeting held on Tuesday 22 November 2022 be confirmed as a true and correct record.

CARRIED 9/0
5.58pm

8.2 Annual Electors' Meeting – 1 December 2022**COUNCIL DECISION**

Moved Cr Powell / Seconded Cr Jennings

That the Minutes of the City of Subiaco Annual Electors' Meeting held on Thursday 1 December 2022 be confirmed as a true and correct record.

CARRIED 9/0
5.58pm

9. ANNOUNCEMENTS BY THE PRESIDING MEMBER

I just wanted to remark at how strongly the City of Subiaco is finishing the year. Sometimes people ask me whether things slow down heading into Christmas, but my answer this year is absolutely not. Just look at tonight's agenda; we are going to make a decision on whether to take first steps towards a new Council and Administration Building here on Rokeby Road, we're going to consider a late confidential item relating to public works in the Seddon Street Precinct, and we've got a number of developments which we're being asked to consider as well.

So keen are our Councillors to attend tonight's meeting that we've in fact got a number of people who are on approved leave but who are attending tonight's meeting just to debate some of these important issues. So thanks Councillors and Staff for all your hard work this year and Merry Christmas to each of you and your families.

Councillors, over Summer you've got my permission to take a bit longer to respond to your emails and phone calls because I think you've earned it. So please come back refreshed, and ready to power on full steam in 2023. Merry Christmas!

10. REPORTS OF COMMITTEES AND OFFICERS

COUNCIL DECISION

Moved Cr Stroud / Seconded Cr de Vries

That items D1, C6 and C8 contained in the Agenda of the Ordinary Council Meeting of 13 December 2022 be adopted en bloc.

CARRIED 9/0

6.03pm

10.1 COMMITTEE REPORTS

D1 PUBLIC CONSULTATION - DISABILITY ACCESS AND INCLUSION PLAN 2023-2028*

REPORT FROM A/DIRECTOR COMMUNITY AND DEVELOPMENT SERVICES

Author: Community Development Officer, Natalia Shah

Date: 30 November 2022

File Reference: A/6587

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

OFFICER / COMMITTEE RECOMMENDATION / COUNCIL DECISION

Moved Cr Stroud / Seconded Cr de Vries

In accordance with section 28 and 29 of the Disability Services Act 1993, the draft Disability Access and Inclusion Plan for the City of Subiaco 2023 – 2028 (Attachment 1) is endorsed for the purposes of public consultation.

CARRIED EN BLOC 9/0

6.03pm

Executive Summary

- The City of Subiaco's Disability Access and Inclusion Plan 2017-2022 lapses this year and is due for renewal as required by Disability Services Act 1993.
- Preliminary engagement was undertaken in June 2022 to identify access barriers affecting City of Subiaco residents and visitors.
- A draft DAIP 2023-2028 has been prepared and informed by the preliminary community feedback and relevant legislation and Council endorsement is sought for the purposes of wider-public advertising.
- Following advertising, submissions will be reviewed and the draft DAIP 2023-2028 amended (as required) and present to Council for final adoption.

Background

Around 1 in 5 Australians have a disability and many others are involved in providing care to those with disability. Over half of people (54.2%) with a need for assistance due to disability were aged 65 and over (ABS 2021), reflecting the over-representation of older Australians living with disability. This reflects both an aging population and an increasing life expectancy of Australians.

According to the latest Census (ABS 2021), in the City of Subiaco nearly 4% of the population reported needing help in their day-to-day lives due to disability. While the correlation between age and disability is still prevalent, there were observable differences in younger age groups reporting a need for assistance between 2016 and 2021 in the City of Subiaco, with the highest increase in the 20 to 59 age group.

The 2021 Census also looked for the first time at the level of incidence of selected long-term health conditions in the community. The most prevalent conditions in Subiaco were mental health conditions (8.7%), other long term health conditions (7.5%) and arthritis (7.1%) (profile id 2021). This is consistent with national trends and calls for multiple supports to manage an ageing population, a mental health crisis and chronic illnesses (RACGP 2022).

In response to the above national and local trends, the *Disability Services Act 1993* requires Western Australian State and Local Governments to develop and implement a Disability Access and Inclusion Plan (DAIP). Disability access and inclusion planning allows both State and Local Governments to be more responsive to the needs of people with disability. The City of Subiaco's current DAIP is lapsing this year and is due for renewal, as required by *the Act*.

Considerations when developing or renewing a DAIP include:

- Not more than 5 years is to elapse between the day on which a public authority first lodges its disability access and inclusion plan with the Commission; and the day it lodges a report of a review of the plan with the Commission.
- A public authority must undertake public consultation in accordance with the procedure specified in the regulations when preparing, reviewing or amending a disability access and inclusion plan.
- In regards to consultation, a public authority is required to call for submissions either generally or specifically by:
 - a notice in a newspaper circulating throughout the State or, in the case of a local government, the district of that local government under the Local Government Act 1995; and
 - on any website maintained by or on behalf of the public authority.
- A public authority that has a disability access and inclusion plan must take all practicable measures to ensure that the plan is implemented by the public authority and its officers, employees, agents or contractors. This is commonly carried out via the development of an implementation plan.

Comment

Local governments play a vital role in the lives of people with disability because of their broad mandate. Local governments are multi-functional with extensive responsibilities and activities and continuous involvement with their local communities. People living with disability make an important contribution to the community and the City understands the importance of appropriate access to the community to develop a sense of inclusion.

The draft DAIP will guide the City's actions, activities and planning with a City-wide approach until 2028. It seeks to consolidate achievements from the DAIP 2017 - 2022 and to further plan for and develop an accessible and inclusive Subiaco across the seven outcome areas.

In developing the plan, an engagement process was undertaken to gather feedback about the community's needs and aspirations relating to disability access and inclusion. It is recommended the draft DAIP be publicly advertised by a notice in the POST newspaper and on the City's online engagement hub 'Have your Say Subiaco' with hardcopies available on request at City facilities for community feedback over a four-week period. Documents will be made available in alternative formats upon request.

The feedback received will then be collated and any relevant changes to the plan will be made. It is anticipated that the final plan will be presented to Council for endorsement in March 2023.

Consultation

During June 2022, the City conducted a community engagement process to identify the community desires, challenges faced and opportunities related to access and inclusion in Subiaco. Consultation included:

- Community Survey (online and hard copies available), June 2022
- Staff Survey), June 2022.
- Community and staff workshop, 23 and 30 June respectively.
- Static Pop-Up display at Subiaco Library, 8 to 22 June.
- Pop Up display and listening post at Subi Farmers Market, 11 June.
- In depth interview – (one person, who was unable to attend the community workshop).

Additionally, feedback captured over time in relation to access and inclusion concerns in the community were also considered in the development of actions.

Options

Option one, as per the Office Recommendation, is that the draft Disability Access and Inclusion Plan (DAIP) for the City of Subiaco 2023 – 2028 (Attachment 1) is endorsed for the purposes of public consultation.

An alternative option is for the draft DAIP not to be released for public consultation at this point in time, however this may impact upon the City's ability to comply with the timeline for renewing the DAIP in accordance with the Disability Services Act.

Strategic Implications

This report is aligned with the following City strategies and plan:

- Strategic Community Plan 2017-2027
- Corporate Business Plan 2021-2025

Statutory and Policy Considerations

The *Disability Services Act 1993 (amended 2004)* requires all local government and selected State Government agencies to develop a Disability Access and Inclusion Plan (DAIP).

The DAIP is also aligned with the *Disability Discrimination Act 1992* and *WA Equal Opportunity Act (1984)*.

Risk and Asset Implications

Failure to review and update the DAIP could result in a breach of the Act. The City's DAIP, once approved by Council, will be submitted to the Department of Communities by March 2023. To delay consultation on the Draft plan could impact the City's ability to meet its legislative requirements.

Financial

There is no significant financial cost associated with the plan being released for public consultation other than staff time and existing resources. Most actions identified within the plan will be funded through ordinary operational budgets. However, the implementation of some new actions has been identified as having additional cost to

the City and will need to be considered through a budget process. These actions have been identified as requiring investigation in the draft DAIP.

Social and Environmental Implications

There are no significant social or environmental implications associated with the plan being released for public consultation.

Attachments

1. Draft Disability Access and Inclusion Plan 2023 - 2028.

10.2 OFFICER REPORTS

C1 8 NICHOLL STREET, DAGLISH – THREE, THREE STOREY GROUPED DWELLINGS*

REPORT FROM A/DIRECTOR COMMUNITY AND DEVELOPMENT SERVICES

Authors:

Manager Planning Services, Anthony Denholm
 Planning Officer, Aoise Noone

Date:

30 November 2022

File Reference:

A/6587

Voting Requirements:

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

Cr Burns left the meeting at 6.20pm and returned to the meeting at 6.21pm.



OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Hamersley / Seconded Cr Jennings

That in accordance with the provisions of Local Planning Scheme No. 5 and the Metropolitan Region Scheme, the application submitted by Welink Group Pty Ltd dated received 14 January 2022 three, three storey Grouped Dwellings at No. 8 (Lot: 409 D/P: 205056) Nicholl Street, Daglish as shown on plans dated received 8 November 2022 (Plans 1-11, of 11), be APPROVED subject to the following conditions:

- 1. The development is to be carried out in accordance with the plans, drawings and documentation dated 8 November 2022 (Plans 1-11, of 11) included with**

the application for development approval. The development shall be substantially commenced within two (2) years of the date of this decision. Should the development not be substantially commenced within this time, the approval shall lapse and be of no further effect.

2. All stormwater generated on site is to be retained on site. No stormwater will be permitted to enter the City of Subiaco's stormwater drainage system unless otherwise approved.
3. Prior to the issue of a building permit, a Construction Management Plan shall be prepared to the City of Subiaco's satisfaction. This plan is to address:
 - a) construction noise;
 - b) hours of construction;
 - c) traffic management;
 - d) parking management;
 - e) access management;
 - f) management of loading and unloading of vehicles;
 - g) heavy vehicle access;
 - h) dust;
 - i) protection of verge trees;
 - j) the need for a dilapidation report of adjoining properties; and
 - k) any other relevant matters.

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

4. Prior to occupation of the development, brickwork and finishes on or adjacent to boundaries, including exposed parapet walls, are to be finished externally to the same standard as the rest of the development in either;
 - a) Face brick;
 - b) Painted render;
 - c) Painted brickwork; or
 - d) Other clean material,

And are to be thereafter maintained to the satisfaction of the City of Subiaco.
5. All external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing vents and pipes, solar panels, air conditioners and hot water systems shall be integrated into the design of the building and not be visible from the primary street and/or secondary street or otherwise located to not be visually obtrusive to the satisfaction of the City of Subiaco.
6. The street fence is to be constructed in accordance with the hereby approved plans dated 8 November 2022 and shall be visually permeable from 0.6m above natural ground level (refer to advice note iii).
7. Prior to occupation of the development within Lot C, the Juliet balconies to G. Bed (first floor) and Master Bed (second floor) located on the south-east elevation shall be screened in accordance with the Residential Design Codes by either;
 - a) fixed obscured or translucent glass to a height of 1.60 metres above floor level, or
 - b) fixed with vertical screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the floor level, or
 - c) a minimum sill height of 1.60 metres as determined from the internal floor level, or
 - d) an alternative method of screening approved by the City of Subiaco.

The required screening shall be thereafter maintained to the satisfaction of the City of Subiaco.

8. Prior to occupation of the development, all major openings (except Bed 3 of Lot B) on the north-western elevation, with a finished floor level of 0.5m above natural ground level, shall be screened in accordance with the Residential Design Codes by either;
- a) fixed obscured or translucent glass to a height of 1.60 metres above floor level, or
 - b) fixed with vertical screening, with openings not wider than 5cm and with a maximum of 25% perforated surface area, to a minimum height of 1.60 metres above the floor level, or
 - c) a minimum sill height of 1.60 metres as determined from the internal floor level, or
 - d) an alternative method of screening approved by the City of Subiaco.

The required screening shall be thereafter maintained to the satisfaction of the City of Subiaco.

9. A Tree Preservation Zone (TPZ) is to be established and maintained around the existing street trees in the Nicholl Street verge adjacent to the subject site for the entirety of the construction works. The TPZ is to extend out from the base of the tree a minimum of two (2) metres. Where excavation to a depth greater than 100mm is proposed the clearance should be greater than three (3) metres from the base of an existing street tree. Where required protection may be to the drip line of the tree canopy whichever is greater.

10. Prior to the issue of a building permit, a detailed landscaping plan shall be submitted to and endorsed by the City of Subiaco that includes:
- a) 2m x 2m planting area for one (1) tree per dwelling;
 - b) No more than 50% of the primary street setback area to consist of impervious surfaces; and
 - c) Information relating to species selection, reticulation, details of existing vegetation to be retained, and treatment of landscaped surfaces.

The landscape plan may be subject to review and comment by the City's Design Review Panel. Prior to occupation, landscaping shall be completed in accordance with the endorsed landscaping plan and maintained thereafter to the satisfaction of the City of Subiaco.

11. Prior to the issue of a building permit, the applicant shall submit a schedule of materials, colours, finishes and textures for the development to the satisfaction of the City of Subiaco. The schedule may be subject to review and comment by the City's Design Review Panel.

Advice notes:

- i. *This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency.*
- ii. *In relation to condition five (5), the exterior fixture associated with any air-conditioning unit or hot water system is considered an appropriate location where it is positioned:*
 - *outside of balcony/verandah areas (if applicable); and below the height of a standard dividing fence within a side or rear setback area; or*
 - *within a screened rooftop plant area or nook.*

- iii. In relation to condition six (6), visually permeable means the vertical surface has:**
- **Continuous vertical gaps of 50mm or greater width occupying not less than one third of the total surface area;**
 - **Continuous vertical or horizontal gaps less than 50mm in width, occupying at least one half of the total surface area in aggregate; or**
 - **A surface offering equal or lesser obstruction to view;**
- As viewed directly from the street.**
- iv. In relation to condition nine (9), the City's street tree policy, protocols and Australian Standard relating to the protection of trees adjacent to the development site (AS 4970–2009) is to be adhered to at all times. The developer/contractor is to contact Operations and Environment Services to arrange a site meeting to discuss the City's requirements and site inspection prior to the commencement of works. Please contact the City's Operations and Environment Services on 9237 9222 for further information.**
- v. In relation to building matters:**
- **An application for a demolition and building permit is required.**
 - **The responsible builder must ensure the work does not adversely affect land beyond the boundaries of the works land unless notification and consent in the form of a BA20 is provided. If access is required to neighbouring land, the 'Work affecting other land' provisions of Part 6 of the Building Act 2011 will apply, and notification and consent in the form of a BA20a must be provided.**
 - **The applicant should provide supporting evidence from the engineer that the existing boundary & or proposed retaining/ fence will sustain any /all vehicle surcharge at/along drive way.**
- Please contact the City's Building Services on 9237 9222 for further information.**

CARRIED 7/2

CRS STROUD AND DE VRIES VOTED AGAINST

6.21pm

Executive Summary

The application seeks development approval for three, three storey Grouped Dwellings at 8 Nicholl Street, Darglish. The application received twenty-three (23) objections during the initial public consultation period. In accordance with the *Register of Delegations and Authorisations from the CEO to Officers 2022/2023* the application must be presented to Council for determination.

The proposed development is generally consistent with the deemed-to-comply requirements of the planning framework, including:

- *Local Planning Scheme No. 5 (LPS 5);*
- *State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes);* and
- *Local Planning Policy 1.1: Residential Development - Single Houses and Grouped Dwellings (LPP 1.1).*

Five design elements seek discretion:

- 5.1.2 Street setback
- 5.3.1 Outdoor living areas
- 5.3.6 Pedestrian access
- 5.3.7 Site works
- 5.4.1 Visual privacy

The development application has been presented to the City's Design Review Panel on four occasions. At the last meeting, held on 16 November 2022, the Panel acknowledged the application had been significantly improved and was now considered to be of high-quality design.

The variations satisfy the relevant discretionary criteria and it is recommended that conditional approval be granted to the application.

Background

The application seeks development approval for three, three storey Grouped Dwellings at 8 Nicholl Street, Daglish (Refer to **Attachment 1** for the development plans).

Each lot contains a three-storey dwelling. The ground floor comprises of a sitting area, study nook, laundry, toilet and a garage with two private parking bays. The first floor comprises of the primary living area, bedrooms and toilets. The second floor comprises bedrooms and toilets. Each dwelling contains a private lift and stairs.

Landowner:	Welink Group Pty Ltd
Applicant:	Welink Group Pty Ltd
Application Date:	14/01/2022
DA Reference:	DA 7.2021.162.1
Lot size:	708m ²
LPS Zoning:	Residential R60
LPS Precinct:	Daglish Precinct Sub-Precinct 4
Land Use:	Grouped Dwellings
Land Use Permissibility:	P
Existing Development:	Single House
Heritage Listing:	Not listed

The application was submitted on 14 January 2022 (see original plans at **Attachment 2**) and through the development assessment process, the applicant has amended the plans on five occasions to address the City's concerns, as well as concerns raised during public consultation and from the City's Design Review Panel. These amendments reduced the extent of discretion sought and removed several variations.

Site Context and Development History

- The subject site is located within the street block bound by Nicholl Street to the south-west, Charles Stoke Reserve to the north-west, Luth Avenue to the north-east and Cunningham Terrace to the south-east.
- The subject site is improved with a single storey Single House and two Outbuildings.
- There is no formal heritage associated with the subject site. Demolition of the existing house and outbuildings is exempt from the need to obtain development approval in accordance with Clause 61(1)(a), Table item 1 of the Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2005* (LPS Regulations).
- There are no previous development approvals within the City's records for the subject site.

Timeline of Proposal

The design for the proposed Grouped Dwellings has been modified on several occasions (refer **Attachment 2**), as follows:

- The original set of plans were lodged with the City on 14 January 2022.
- The applicant provided amended plans on 9 February 2022 without a formal request from the City.
- The City issued a formal Request for Further Information (RFI) based on the plans dated 9 February 2022.
- Formal amended plans were received on 7 June 2022.
- Following further public consultation, the City requested further amended plans, which were received 9 August 2022. These plans were not considered to fully satisfy the design principles, and further amended plans were received on 10 October 2022.
- Due to outstanding design concerns, further amended plans were received on 8 November 2022 (refer **Attachment 1**).

Table 1 below outlines the key changes to elements of discretion sought between the plans dated 9 February 2022, the plans dated 7 June 2022 and the latest amended plans dated 8 November 2022 (**Attachment 1**). An expanded version of the amendments is contained within **Attachment 3**

Table 1: Amendments made to plans for design elements seeking discretion									
Development Standard		1. Amended Plans dated 9 February 2022		2. Plans Responding to RFI (7 June 2022)		3. Amended Plans dated 8 November 2022		Difference between RFI plans (2) and amended plans dated 8 November 2022 (3)	Complies ?
Street Setback (As amended by LPP1.1 – P2.2, C2.4)		i. Bulky and boxy		i. Bulky and boxy		i. Curved stair case		i. now complies	Complies
		iii. Lot C viewed as blank		iii. Lot C viewed as blank		No discretion		No change	Complies
		v. Four lot boundaries did not comply for building height exceeding Category B		v. Four lot boundaries did not comply for building height exceeding Category B		v. One lot boundary does not comply for building height exceeding Category B		v. One lot boundary remains non-compliant	Discretion sought
Outdoor Living Areas	Lot A	Total Area	26.5m ²	26.5m ²	26.5m ²	No change		Complies	
		Minimum dimensions (4m)	4m x 6.9m	4m x 6.9m	4m x 6.9m	No change		Complies	
		minimum area without coverage (2/3 = 10.6m ²)	15.3m ²	15.3m ²	15.3m ²				

	Location	Located within front setback area			No change	Discretion sought
Pedestrian Access, C6.2 and C6.3	No detail on lighting and paving surfaces not specified	No detail on lighting and paving surfaces not specified	Details of lighting and paving.	Deemed-to-comply	Complies	
	Lot B has a major opening to Sitting area which is within 2m from communal street	Lot B has a major opening to Sitting area which is within 2m from communal street	Lot B has a major opening to Sitting area which is within 2m from communal street	No change	Discretion sought	
Site Works	0.7m retaining within 1m of SE lot boundary	0.7m retaining within 1m of SE lot boundary	0.7m retaining within 1m of SE lot boundary	No change	Discretion sought	
Visual Privacy	No visual privacy concerns	<p>Lot C:</p> <p>S/E</p> <p>1st Fl: G.Bed (Juliette balcony), 6m cone of vision encroaches into the lot boundaries of 6 Nicholl.</p> <p>2nd Fl: Master.Bed (Juliette balcony), 6m cone of vision encroaches into the lot boundaries of 6 Nicholl.</p>	<p>Lot C:</p> <p>S/E</p> <p>1st Fl: G.Bed (Juliette balcony), 6m cone of vision encroaches into the lot boundaries of 6 Nicholl.</p> <p>2nd Fl: Master.Bed (Juliette balcony), 6m cone of vision encroaches into the lot boundaries of 6 Nicholl.</p>	No change	Discretion sought	

Consultation and Referrals

Public Submissions

Notice of the application was sent to surrounding landowners and occupiers in accordance with Clause 64 of the LPS Regulations and Local Planning Policy 7.3 – *Public Consultation for Planning Proposals* (LPP 7.3). A summary of the submissions are contained within **Attachment 4**. It is noted that a number of concerns raised by submitters are in relation to design elements that are deemed-to-comply.

Original Public Advertising Period

Public consultation occurred between 8 February 2022 and 22 February 2022 and 23 submissions were received. All submissions objected to the proposal, raising the following concerns:

- Lack of green space provision is not in keeping with the surrounding area;
- Parking impact on Nicholl Street;
- Building height;
- Street setback;
- Access to sunlight and natural ventilation;

- Overlooking; and
- Bulk and scale concerns.

A summary of the issues raised was supplied to the applicant through a Request for Further Information (RFI). In response to both the City's concerns with the proposal and the concerns raised during public consultation, the applicant submitted amended plans (dated 7 June 2022 – **Attachment 2**).

Formal Public Readvertising Period

In accordance with LPP 7.3, the City readvertised the amended plans dated 7 June 2022 between 14 June 2022 to 28 June 2022 for a 14 day period. Similar concerns to those in the original public consultation period were again raised and six updated objections were received raising valid planning concerns.

Informal Advertising to Previous Submitters

Following the receipt of further amended plans (dated 10 October 2022 – **Attachment 2**), the plans were informally advertised in accordance with LPP 7.3 for three business days to previous submitters, between 11 October 2022 and 14 October 2022. Two amended objections and one comment was received. No new variations were introduced to this iteration of amended plans.

The City received further amended plans on 8 November 2022, which implemented further design improvements to ensure the proposal is sympathetic to the streetscape and adjoining residential properties. The extent of amendments implemented into the plans dated 8 November 2022 did not warrant further advertising in accordance with LPP 7.3.

Internal Referrals

The proposal was referred to relevant internal departments. The original plans raised concerns in relation to vehicle manoeuvrability and the widening of the crossover. The plans were amended to allow sufficient manoeuvrability for vehicles entering/egressing Lot C and the widening of the crossover was removed. The amended plans appropriately address concerns raised which are summarised in **Attachment 5**.

Design Review Panel (DRP)

The application was presented to the City's DRP on four occasions (refer **Attachment 6**) at the discretion of the Manager of Planning Services and due to the level of interest received during the original public consultation period.

Despite the development application being assessed against the Residential Design Codes Volume 1, the DRP considered the application against State Planning Policy 7.0 – Design of the Built Environment, which contains ten design principles. This was considered appropriate since the application is the first of its kind within this area since its rezoning following the adoption of LPS 5. **Table 2** contains a summary of the last three DRP meetings, where formal scores against the ten design principles were conducted.

Table 2: Summary of Previous DRP Scores			
	Supported		
	Pending Further Attention		
	Not supported		
	Insufficient information to evaluate		
	DRP Meeting 1: 15 June 2022	DRP Meeting 2: 19 October 2022	DRP Meeting 3: 16 November 2022
Context and character			
Landscape quality			
Built form and scale			
Functionality and build quality			
Sustainability			
Amenity			
Legibility			
Safety			
Community			
Aesthetics			

Plans dated 9 February 2022 were presented at the April DRP meeting. A number of design elements were identified which required further consideration, including impact on the streetscape, building bulk and inadequate access to sunlight and ventilation. No formal scoring was conducted at this DRP meeting.

Plans dated 7 June 2022 were presented to the June DRP meeting. The Panel maintained that the building bulk was significant and compromised other design elements such as adequately sized outdoor living areas. Whilst the amendments improved some elements of the design, the proposal was still considered to represent overdevelopment of the site and achieving sub-optimal outcomes.

Plans dated 10 October 2022 were presented to the October DRP meeting. The Panel noted that building mass, articulation and bulk had all improved. In addition, access to natural light and ventilation had also improved. The façade and presentation to the streetscape was considered to have strong engagement, however it was noted that the staircase could be softened to reduce its impact of building bulk onto the street. Furthermore, the north-west and north-east elevations were considered to lack interest and sufficient articulation.

Notwithstanding general compliance with the planning framework, it was recommended that the applicant amend the plans to further implement design changes which would improve the development as viewed from the streetscape and adjoining properties.

Plans dated 8 November 2022 were presented to the November DRP meeting. The Panel acknowledged the applicant's persistence in making design changes and resulting progress made on the proposal. The curved staircase was considered to be more sympathetic to the existing streetscape, and soften the impact of building bulk. Further consideration was suggested in regard to landscaping. The City has recommended a condition which requires the applicant to submit a detailed landscaping plan to be reviewed by the Panel, prior to the issue of a building permit. Overall, the Panel considers the proposal to be of high quality and capable of support.

Comment

An assessment of the proposal has been conducted with the provisions of Local Planning Scheme No. 5 (LPS5), the Residential Design Codes (R-Codes) and Local

Planning Policy 1.1: *Residential Development – Single Houses and Grouped Dwellings (LPP1.1)*.

The proposal complies with all the requirements of the LPS5, relevant deemed-to-comply requirements of the R-Codes and provisions of the LPP1.1 except for the matters outlined below. Where the deemed-to-comply criteria has not been met, assessment has been undertaken with the relevant design principles. **Table 3** considers the development application against the Residential zone objectives as identified under clause 16 of LPS 5.

Table 3: Residential Zone Objectives	
Objective	Comment
a) <i>To provide for a range of housing and a choice of residential densities housing types to meet the needs of the community.</i>	The application proposes three Grouped Dwellings in an R60 coded area, which is considered to adequately provide housing choice that will meet the needs of the community. The application for Grouped Dwellings provides an alternative housing type, in a predominantly Single House area.
b) <i>To facilitate and encourage high quality design, built form and streetscapes throughout residential areas.</i>	The application was presented to the City's Design Review Panel on four occasions. At the last meeting, held on 16 November 2022, the Panel acknowledged the plans dated 8 November 2022 had been significantly improved, and were now considered to be of high quality design in terms of built form and noted the application has strong engagement with the streetscape.
c) <i>To provide for a range of non-residential uses, which are compatible with and complementary to residential development.</i>	N/A – the proposal is residential only.
d) <i>To maintain the compatibility with the general streetscape for all new buildings in terms of human scale, height, style, materials, street alignment and design of facades</i>	<p>The Design Review Panel noted the applications strong engagement with the streetscape. It was noted that the application provides opportunities for passive surveillance through the balconies of Lot A; proposes a variety of materials which provide interest; and proposes a curved staircase which was noted to soften the building bulk which improves its compatibility with the existing streetscape.</p> <p>In regard to general building controls, the application is compliant with street setback, building height and lot boundary setbacks for an R60 coded lot, and therefore is considered to be of an appropriate scale.</p>
e) <i>To ensure that the amenity of residential areas is protected from incompatible uses and disproportionate or excessive development.</i>	The application is considered to be appropriate for an R60 coded lot. The application was presented to DRP on four occasions to ensure the proposal was not disproportionate or excessive. The variations sought for plans dated 8 November 2022 are not considered to adversely impact the amenity of the residential area.
f) <i>To enhance established neighbourhood character by ensuring that new development is respectful of, and responds to, the key features of the surrounding area.</i>	<p>The application has evolved since its lodgement with the City in January 2022 and has been reviewed by DRP on four occasions. The application is the first of its kind relating to medium density within the Darglish precinct, since the rezoning which occurred as a result of the gazettal of LPS 5.</p> <p>The plans dated 8 November 2022 are considered to enhance the established neighbourhood character, whilst being respectful of adjoining properties and the streetscape. Where discretion is sought, the variations are considered to meet the design principles.</p>

g) <i>To recognise and enhance places of cultural heritage significance which are affected by development.</i>	N/A – there is no formal heritage associated with the subject site, nor does it abut any formally heritage protected properties.
h) <i>To enhance and promote walkability and cycle connectivity.</i>	N/A – the proposal is for three Grouped Dwellings within close proximity to high frequency public transport (Daglish Train Station).
i) <i>To improve the public realm and urban tree canopy through upgrading Rights-of-way, connecting small parks and maintaining street trees.</i>	The application proposes to utilise the existing crossover, thus not impacting the existing street tree. The City recommends a condition to ensure a landscaping plan is submitted with the City prior to a building permit. The landscaping as viewed from the street will improve the public realm and urban tree canopy.
j) <i>To ensure that the built form of new development is designed to provide an effective transition between higher and lower density land in a manner that considers and preserves amenity, and is at a similar scale to existing development in the surrounding area.</i>	<p>The subject site is coded R60, and is surrounded by R60 coded lots. Nonetheless, the application is the first medium density proposal within the area since the gazettal of LPS 5.</p> <p>The application complies with building height, street setback, lot boundary setbacks and overshadowing, and therefore is considered to not adversely impact the surrounding low density development.</p> <p>The development proposes multiple articulations and various materials on each façade to reduce the impact of bulk on the surrounding area. The DRP considered the development to be of high quality design in the context of the existing streetscape.</p>

Discretionary Assessment

A detailed assessment against the design elements seeking discretion is contained within **Attachment 7**. A summary of the variations is provided below.

5.1.2 Street Setback – C2.4(v)

Table 4: Streetscape assessment (C2.4(v))		
Lot C	Proposed	Variation
South-East (2 nd floor): Ensuite-Master bed Permitted: 2.9m	1.5m	Discretion sought

The intent of this clause is to reduce the overall impact of building bulk onto the street and adjoining properties, as viewed from the primary street.

The portion of building which the application seeks discretion is 6.9m in length (14.9% of the total lot boundary length) and has a deemed-to-comply lot boundary setback and building height. Therefore, the impact of building bulk is considered to be minimal on 6 Nicholl Street.

As noted at a site visit, the building bulk will be adjacent a chicken coup and vegetable garden, meaning the variation does not impact any active habitable spaces or major openings. The common property (driveway) abuts the south-eastern lot boundary, and is considered to provide an adequate buffer and separation distances to alleviate impacts of building bulk onto 6 Nicholl Street.

The variation identified within **Table 4** above, relates to a building which is setback 37.5m from the primary street, and is not considered to have an adverse impact on the streetscape. This variation is capable of support.

5.3.1 Outdoor Living Areas (OLA)

Requirement	Proposed	Variation
<i>i. In accordance with Table 1 – 16m²</i>	26.5m ²	Complies
<i>ii. Located behind the street setback area</i>	OLA encroaches into front setback area	Discretion sought
<i>iii. Directly accessible from primary living space</i>	Accessible from Sitting	Complies
<i>iv. With minimum length and width dimension of 4m</i>	4m x 6.9m	Complies
<i>v. At least 2/3rds (10.6m²) without permanent roof cover</i>	15.3m ²	Complies

The proposal for Lot A complies with all R-Codes OLA criteria except C1.1(ii), which states that OLA's are to be located behind the front setback area (refer **Table 5**). The OLA for Lot A encroaches 2m into the front setback area. The OLA is 26.5m², which exceeds the minimum requirement as per Table 1 of the R-Codes for R60 coded lots (16m²) and is capable of use in conjunction with the sitting area. Furthermore, the OLA within the front setback is considered to facilitate street surveillance, in particular due to the low primary street fencing height. The OLA is considered to meet the design principles and is capable of support.

5.3.6 Pedestrian Access

Requirement	Proposed	Variation
<i>C6.1 Where a grouped dwelling of 10 or more dwellings is served by a communal street between a public street or a communal car parking area and individual dwellings; a minimum of 1.2m wide pedestrian path, separate from the vehicular access, is provided and designed according to AS1428.1 (as amended)</i>	N/A – the application is for 3 grouped dwellings (<10). Nonetheless, the application proposes a pedestrian path to separate pedestrians from vehicles.	N/A
<i>C6.2 Where a communal street serves more than two dwellings and is shared by pedestrians and vehicles, the configuration of the pedestrian and vehicular routes is to provide clear sight lines, adequate lighting and paving surfaces to slow traffic to ensure pedestrian safety.</i>	The application is for 3 grouped dwellings (>2), where the communal street is shared by pedestrians and vehicles. The application proposes clear sight lines, adequate lighting and differentiates the pedestrian path from vehicle access.	Complies
<i>C6.3 A communal street or pedestrian path is to be no closer than 2.5m to any wall with a major opening unless privacy screening is provided to the communal street or pedestrian path.</i>	The application proposes a major opening to a living room 1.6m (0.9m variation) from a communal street	Discretion sought
<i>C6.4 For multiple dwellings with only stair access, staircases are designed to access no more than two dwellings per floor and the stairs, landings and porches are to be protected from the weather.</i>	N/A – the application is for grouped dwellings only.	N/A
<i>C6.5 Pedestrian paths provided as required by clause 5.3.2 C2(ii) – 'pedestrian access providing wheelchair accessibility connecting entries to all ground floor buildings with the public footpath and car parking areas'</i>	The proposed pedestrian path is connected to all ground floor entries and the public path.	Complies

The proposal for Lot B complies with all R-Codes pedestrian access criteria except C6.3, which states that major openings shall be setback 2.5m from a communal street, unless screened (refer **Table 6**). Lot B proposes a major opening to a sitting area 1.6m (0.9m variation) from the communal street. The application proposes three grouped dwellings, meaning it is unlikely there will be significant foot or car traffic along the proposed communal street. The proposed communal street is considered to provide legible, safe and direct access for pedestrians through the inclusion of a demarcated pedestrian path and light bollards. It is not considered necessary to require the opening to be screened, due to the minimal foot traffic projected to be generated by the development. Therefore, the subject plans are considered to be capable of support.

5.3.7 Site Works

Table 7: Site Works assessment			
Requirement	Proposed	Variation	
C7.1 Retaining walls, fill and excavation between the street boundary and the street setback, not more than 0.5m above or below the natural ground level, except where necessary to provide for pedestrian, universal and/or vehicle access, drainage works or the natural light to a dwelling.	N/A – The front setback is the portion of the lot within 2m of the street boundary line. The proposed retaining is setback 5m from the street boundary.	N/A	
C7.2 Retaining walls, fill and excavation within the site and behind the required street setback to comply with Table 4 :	0.7m high retaining proposed along the SE boundary (0.2m variation).	Discretion sought	
Table 4 – Setback of Site Works and Retaining			
Height of site works/retaining			Required minimum setback
0.5m or less			0m
1m	1m		
C7.3 Subject to subclause C7.2, all excavation or filling behind a street setback line and within 1m of a lot boundary, not more than 0.5m above the natural ground level at the lot boundary except where otherwise stated in the scheme, local planning policy, structure plan or local development plan.	N/A – no fill/excavation up to 0.5m proposed within 1m of the lot boundaries.	N/A	

The proposal does not satisfy C7.2, Table 4 of the R-Codes which requires site works (including retaining) to be no higher than 0.5m where it is located within 1m of a lot boundary (refer **Table 7**). The application proposes 0.7m (0.2m variation) high retaining, for a length of 41.2m along the south-eastern lot boundary. There is an existing 0.4m difference in natural ground level between 8 Nicholl Street and 6 Nicholl Street. The proposed retaining is considered to respond to the existing site context. Furthermore, the finished floor levels do not dramatically impact the presentation of the site in relation to its site levels when viewed from the street. Therefore, the subject plans are considered to be capable of support.

5.4.1 Visual Privacy

Table 8: Lot C – Visual Privacy assessment						
Requirement	Proposed	Variation				
<p><i>C1.1 Major openings and unenclosed outdoor active habitable spaces, which have a floor level of more than 0.5m above natural ground level and overlook any part of any other residential property behind its street setback like are:</i></p> <p>i. <i>Setback, in direct line of sight within the cone of vision, from the lot boundary, a minimum distance as prescribed in the table below:</i></p> <table border="1"> <thead> <tr> <th>Type of space</th> <th>Setback for areas coded >R50</th> </tr> </thead> <tbody> <tr> <td>Unenclosed outdoor active habitable space</td> <td>6m</td> </tr> </tbody> </table> <p>or;</p> <p>ii. <i>Are provided with permanent screening to restrict views within the cone of vision from any major opening or an unenclosed outdoor active habitable space.</i></p>	Type of space	Setback for areas coded >R50	Unenclosed outdoor active habitable space	6m	<p>i. The 6m cone of vision from the Juliete balconies of Lot C to the G. Bed (first floor) and Master Bed (second floor) encroach 1.3m (0.7m²) into the lot boundary of 6 Nicholl Street.</p> <p>ii. N/A – permanent screening is proposed, however it does not wholly contain the cone of vision within the subject site.</p>	Discretion sought
Type of space	Setback for areas coded >R50					
Unenclosed outdoor active habitable space	6m					
<p><i>C1.2 Screening devices such as obscure glazing, timber screens, external blinds, window hoods and shutters are to be at least 1.6m in height, at least 75 per cent obscure, permanently fixed, made of durable material and restrict view in the direction of overlooking into any adjoining property.</i></p>	<p>The application proposes obscure glazing and permanent screening to all other major openings with an FFL of 0.5m above NGL. A condition is recommended to ensure compliance.</p>	Complies				

The proposal for the Juliet balconies within Lot C do not satisfy C1.1 of the R-Codes, which requires major openings for unenclosed outdoor active habitable spaces to contain a 6m cone vision within the subject site's lot boundaries, or otherwise provide screening (refer **Table 8**). The proposal has provided screening which minimises the direct overlooking from the balconies onto a bedroom window at 6 Nicholl Street. Furthermore, due to the minimal size and constrained dimensions which prevents a person from spending prolonged periods of time in the space, the balcony is not considered to be reasonably capable of being actively used as an outdoor area. In light of this, the variation is capable of support.

In light of above, the proposal for three, three storey Grouped Dwellings at 8 Nicholl Street, Daglish, is recommended for conditional approval as the application largely complies with the planning framework and is considered by the City's Design Review Panel to be a high quality design. The application was presented to the DRP on four occasions and the design and built form outcome has significantly improved to enable the City to recommend approval of the proposal. Where variations are sought, these are considered to be supportable for the reasons mentioned in the above report.

Options

The following options are available to Council:

1. Approve the development application:
 - a. as per the officer recommendation; or
 - b. with different or no conditions; or
2. Defer the matter to a future Council meeting. In doing so, Council should give clear guidance on areas that are seeking variation(s) to further address; or
3. Refuse the development application.

Under LPS 5, it is open for the Applicant to seek a review of the application (as a deemed refusal) at the State Administrative Tribunal (SAT) and should the applicant not agree with the decision made, they may exercise their rights to have the matter reviewed.

Strategic Implications

The City of Subiaco Strategic Community Plan 2017-2027 aims to promote an appropriate and vibrant built environment and the application has been considered with the applicable planning framework.

The proposal is considered to be consistent with the objectives of the Local Planning Strategy 2020 insofar as improving housing diversity and choice.

Statutory and Policy Considerations

The application for development approval is considered in accordance with the *Planning and Development Act 2005*, the City of Subiaco Local Planning Scheme No. 5 and relevant planning policies as detailed in the report.

Risk and Asset Implications

There are no Risk and Asset Implications for this report.

Financial

There are no financial implications for this report.

Social and Environmental Implications

The assessment of development applications is undertaken under the planning framework, which includes controls based on social and environmental implications.

Attachments

1. Development application plans dated 8 November 2022
2. Original plans dated 14 January 2022, and amended plans dated 9 February 2022, 7 June 2022, 9 August 2022 and 10 October 2022.
3. Schedule of Key Development Amendments
4. Summarised schedule of submissions
5. Schedule of referral comments
6. Design Review Panel advice
7. Discretionary Assessment
8. Site photos

C2 49 SALISBURY STREET, SUBIACO – TWO STOREY SINGLE HOUSE INCLUDING BASEMENT*

REPORT FROM A/DIRECTOR COMMUNITY AND DEVELOPMENT SERVICES

Authors: Manager Planning Services, Anthony Denholm
 Planning Officer, Callum Radecki

Date: 9 December 2022

File Reference: A/6587

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



OFFICER RECOMMENDATION

Moved Cr Hamersley / Seconded Cr Powell

That in accordance with the provisions of Local Planning Scheme No. 5 and the Metropolitan Region Scheme, the application submitted by Dorian Morelli Designs dated received 11 May 2022 for two storey Single House including basement at No. 49 (Lot: 78 D/P: 366) Salisbury Street, Subiaco as shown on plans dated received 18 November 2022 (Plans 1, 3, 4, 5, 8, 9, 10, 12, 13, 14, 15, and 16) be APPROVED subject to the following conditions:

1. The development is to be carried out in accordance with the plans, drawings and documentation dated 18 November 2022 (Plans 1, 3, 4, 5, 8, 9, 10, 12, 13, 14, 15, and 16) included with the application for development approval. The development shall be substantially commenced within two (2) years of the date of this decision. Should the development not be substantially commenced within this time, the approval shall lapse and be of no further effect.
2. All stormwater generated on site is to be retained on site. No stormwater will be permitted to enter the City of Subiaco's stormwater drainage system unless otherwise approved.
3. All external fixtures including, but not limited to TV and radio antennae, satellite dishes, plumbing vents and pipes, solar panels, air conditioners and hot water systems shall be integrated into the design of the building and not be visible from

the primary street and/or secondary street or otherwise located to not be visually obtrusive to the satisfaction of the City of Subiaco.

4. Prior to occupation, landscaping shall be completed in accordance with the Residential Design Codes or any approved modifications thereto to the satisfaction of the City of Subiaco, including:
 - a) 2m x 2m planting area for one (1) tree; and
 - b) No more than 50% of the primary street setback area to consist of impervious surfaces.

All landscaped areas are to be maintained on an ongoing basis for the life of the development on the site to the satisfaction of the City of Subiaco.

5. The street fence is not to exceed 1.2m in height, with the supporting piers not to exceed 1.5m in height above footpath level.
6. Prior to the issue of a demolition and/or building permit, two copies of archival records are to be submitted to the City of Subiaco for approval. The archival records shall be prepared in accordance with the City of Subiaco's 'Guidelines for preparing an archival record' document.
7. Prior to the issue of a building permit, a Construction Management Plan shall be prepared to the City of Subiaco's satisfaction. This plan is to address:
 - a) construction noise;
 - b) hours of construction;
 - c) traffic management;
 - d) parking management;
 - e) access management;
 - f) management of loading and unloading of vehicles;
 - g) heavy vehicle access;
 - h) dust;
 - i) protection of verge trees;
 - j) the need for a dilapidation report of adjoining properties; and
 - k) any other relevant matters.

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

8. Prior to the issue of a demolition permit (and/or) building permit, a dilapidation report prepared by a suitably qualified professional shall be submitted to the City of Subiaco for approval, and the owners of the adjoining properties listed below detailing the current condition and status of all buildings (both internal and external together with surrounding paved areas and rights of ways), including ancillary structures located on these properties:
 - 45 Salisbury Street, Subiaco
 - 51 Salisbury Street, Subiaco

In the event that access for undertaking the dilapidation survey is denied by an adjoining owner, the applicant must demonstrate in writing to the satisfaction of the City of Subiaco, that all reasonable steps have been taken to obtain access and advise the affected property owner of the reason for the survey and that these steps have failed. Dilapidation reports shall be prepared to the satisfaction of the City of Subiaco.

9. Prior to the occupation of the development approved as part of plans dated 18 November 2022 any redundant crossovers and kerbs shall be removed and the verge reinstated to the satisfaction of the City of Subiaco and at the expense of the applicant.

Advice Notes:

- i. *This is a Planning Approval only and does not remove the responsibility of the applicant/owner to comply with all relevant building, health and engineering requirements of the City, or the requirements of any other external agency.*
- ii. *In relation to condition three (3), the exterior fixture associated with any air-conditioning unit or hot water system is considered an appropriate location where it is positioned:

 - *outside of balcony/verandah areas (if applicable); and below the height of a standard dividing fence within a side or rear setback area; or*
 - *within a screened rooftop plant area or nook.**
- iii. *In relation to building matters:

 - *An application for a building permit is required.*
 - *The excavation associated with the construction of the basement must be carried out safely and to avoid potential damage to the subject building, adjoining structures and property through the soil collapsing or subsiding. Full particulars to be provided in regard to the method of retaining the embankment during excavation.*
 - *The responsible builder must ensure the work does not adversely affect land beyond the boundaries of the works land unless notification and consent in the form of a BA20 is provided.*
 - *If access is required to neighbouring land, the 'Work affecting other land' provisions of Part 6 of the Building Act 2011 will apply, and notification and consent in the form of a BA20a must be provided.**
- iv. *The applicant is encouraged to consider screening or obscuring the major openings to the Master Bedroom as contained within the upper floor on the western elevation to reduce any concerns regarding perceived overlooking. As the windows are compliant, the City is unable to compel the obscuring of the window, and this remains a suggestion only.*
- v. *This development approval is subject to clause 32 Table 5 sub-clause 1(4) of Local Planning Scheme No. 5 which states:

'Where development is proposed adjacent to a right-of-way that is less than 6m in width, the Local Government may require as a condition of development approval, up to 3m of land to be ceded to the Crown free of cost for the purpose of widening the right-of-way to 6m'.

*Whilst the ceding of land for right of way widening is not presently required at the time of this approval, no development is permitted to occur within the 1.5m portion of land adjacent the right of way without consultation with the City. The City may require this land to be ceded to the Crown at a future date.**

Following the Officer's recommendation being moved by Cr Hamersley and seconded by Cr Powell, Cr Stroud then moved a procedural motion that the meeting proceed to the next item of business.

PROCEDURAL MOTION

Moved Cr Stroud / Seconded Cr de Vries

That, pursuant to clause 7.1(a) of the City of Subiaco Meeting Procedures Local Law 2013, that the meeting proceed to the next business.

CARRIED 6/3

MAYOR MCMULLEN AND CRS JENNINGS AND POWELL VOTED AGAINST

6.59pm

Additional Information

A condition has been inserted into the Officer Recommendation which states the following:

9. *Prior to the occupation of the development approved as part of plans dated 18 November 2022 any redundant crossovers and kerbs shall be removed and the verge reinstated to the satisfaction of the City of Subiaco and at the expense of the applicant.*

As the applicant is proposing vehicular access from the right of way, the existing crossover located on the primary street is considered redundant. This is a standard condition imposed on developments where a redundant crossover may exist should the development be approved, and will ensure the streetscape is improved.

The assessment relating to Design Element 5.4.1 (Visual Privacy) of the R-Codes has been removed from the report. While there is a large differential in ground levels between the subject site and the southern adjoining site, it has been confirmed the finished floor level of the kitchen is less than 500mm above natural ground level. Therefore the major opening to the kitchen is not required to be assessed against the visual privacy requirements of the R-Codes. In response, the report and attachments have been amended accordingly.

Additional information has been included in Table 7 (formerly Table 8) under '5.4.2 Solar access for adjoining sites'. The additional information provides further clarification on the type of development cited as other examples in the locality where overshadowing exceeded the deemed-to-comply requirements and the date when those developments were approved.

Executive Summary

The subject application seeks development approval for the demolition of a single house and the development of a two storey Single House with basement. As the application is proposing the demolition of a house located in a Heritage Area (Chesters Subdivision Heritage Area), the application must be presented to Council for determination in accordance with the *Register of Delegations and Authorisations from the CEO to Officers 2022/2023*.

The proposed development is generally consistent with the deemed-to-comply requirements of the planning framework, including:

- Local Planning Scheme No. 5 (LPS 5);
- State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes);
- Local Planning Policy 1.1: Residential Development - Single Houses and Grouped Dwellings (LPP 1.1);
- Local Planning Policy 3.4: Development Guidelines for Residential Heritage Areas (LPP 3.4)

Six elements of the application seek discretion:

- 5.1.3 Lot Boundary Setback
- 5.1.4 Open Space
- 5.1.6 Building Height
- 5.3.7 Site works
- 5.4.2 Solar access

The variations associated with the development application satisfy the relevant discretionary criteria and it is recommended that conditional approval be granted to the application.

Background

The subject application seeks development approval for the demolition of a single house and the development of a two storey Single House with basement comprising:

- Four (4) bedrooms
- Basement
- Kitchen and Scullery
- Garage and storeroom
- Utility room
- Theatre.

Refer to **Attachment 1** for the Development Plans dated 18 November 2022.

Landowner:	William & Brigitte Warren
Applicant:	Dorian Morelli Designs
Application Date:	11/05/2022
DA Reference:	DA 7.2022.40.1
Lot size:	321 m ²
LPS Zoning:	Residential R20
LPS Precinct:	Triangle Precinct Sub-Precinct 1
Land Use:	Single House
Land Use Permissibility:	P
Existing Development:	Single House
Heritage Listing:	Not listed – Located in Chester’s Subdivision Heritage Area

The application was submitted on 11 May 2022 and following a request for information, the applicant has amended the plans to address the City’s concerns as well as concerns raised during public consultation (see amended plans at **Attachment 2**). These amendments reduced the extent of discretion sought and as a result, the application is now considered to be supportable. The amendments are outlined in the comparison table below (**Table 1**).

Site Context and Development History

- The subject site is located within a block bounded by Salisbury Street to the east, Hamersley Road to the north, Rupert Street to the west, and Heytesbury Road to the south. The block is intersected by a 3m wide right of way on the western boundary.
- The subject site is located in the Chesters Subdivision Heritage Area. The existing dwelling was constructed in 1945 and replaced one of the first houses built in the street. As the existing dwelling postdates the original period of development in the heritage area (1900 – 1927) and is not consistent with the traditional character of the heritage streetscape, it makes no contribution to the heritage values of the area. Non-contributory places are places that do not make a positive contribution to the cultural heritage significance and heritage character of a Heritage Area.
- As the application is proposing the demolition of a house located in a Heritage Area (Chesters Subdivision Heritage Area), the application must be presented to Council for determination in accordance with the *Register of Delegations and Authorisations from the CEO to Officers 2022/2023*.

- There are no previous development approvals within the City's records for the subject site.

Timeline of Proposals

The design of the proposed Single House has been modified following a formal request for information. The original set of plans were lodged on 11 May 2022 (refer to **Attachment 2**). The City issued a formal request for information on 25 July 2022 based on the original plans dated 11 May 2022. Formal amended plans, including justification for variations, were received 3 October 2022, however, further changes to the plans were requested by the City. On 25 October 2022, the applicant provided further justification to respond to the request.

On 10 November 2022, the applicant submitted further plans in relation to the overshadowing variation and an additional set of cross section diagrams on 18 November 2022, which constitutes the latest set of plans (refer to **Attachment 1**).

Table 1 below outlines the key changes of elements of discretion sought between the plans dated 11 May 2022 and 18 November 2022.

Table 1: Amendments made to plans for key development standards				
Development standard	1. Original plans 11 May 2022	2. Plans responding to RFI 18 November 2022	Difference between Original plans (1) and RFI amended Plans (2)	Complies ?
Street Setback (As amended by LPP1.1 – P2.1, C2.1(i))	3.63m – compliant	4.01m – compliant	+0.385m	Complies
Street Setback (As amended by LPP1.1 – P2.1, C2.1(ii))	The second storey has been setback below the line of sight, to maintain the appearance of a single storey house when viewed from the street.	No change	N/A	Complies
Street Setback (As amended by LPP1.1 – P2.2, C2.4)	The roof pitch and materials complement the surrounding area. Façade has been articulated to provide interest to the street. Design elements visible from the street reflect traditional design elements.	No change	NA	Complies

Lot Boundary Setback	<p>North Upper (guest to master suite) - 0.4m variation</p> <p>South Ground (kitchen to bedroom 2) - 0.5m variation</p> <p>South Upper (hallway to Ensuite) - 0.5m variation</p> <p>West Upper (master suite) - 1.1m variation</p>	<p>North Upper (master suite) – compliant</p> <p>South Ground (kitchen to bedroom 2) - 0.5m variation – justification provided</p> <p>South Upper (hallway to Ensuite) – compliant</p> <p>West Upper (master suite) – 0.3m variation</p>	<p>South +0.4m setback change - compliant</p> <p>South Ground Floor - No change</p> <p>South Upper (+0.5m setback change) - compliant</p> <p>West +0.8m setback change - variation</p>	Discretion Sought
Wall Height	Top of external wall height: 6.54m	Top of external wall height: 6.54m Justification was provided	No change	Discretion sought
Building Height	Top of pitch roof height: 8.64m	Top of pitch roof height: 8.64m Justification was provided	No change	Discretion sought
Outdoor Living Area	42% (15.8m ² /37.2m ²) of the outdoor living area located under permanent roof	33% (12.5m ² /38.3m ²) of the outdoor living area located under permanent roof	-7% (3.3m ²) No discretion sought Deemed to comply	Complies
Landscaping	78% (40.6m ²) of the front setback area hardstand surface	The street setback area is 59% (33.4m ²) landscaping and 41% (23.1m ²) hardstand	37% (17.5m ²) No discretion sought Deemed to comply	Complies
Site works	<p>Northern Elevation 2.8m excavation, 1m from the boundary</p> <p>Southern Elevation 2.7m excavation, 1.5m from boundary</p>	<p>Northern Elevation 2.8m excavation, 1m from the boundary</p> <p>Southern Elevation 2.7m excavation, 1.5m from boundary</p> <p>Justification provided</p>	<p>North No change</p> <p>South No change</p>	Discretion sought
Visual Privacy	West 4.5m cone of vision Encroaches 0.5m into the western adjoining property	West Cone of vision contained over the right of way	West Compliant	Complies

Solar Access (Overshadowing)	Proposed: 50% (160m ²) (25% or 80.25m ² variation)	47% (149.7m ²) and justification (22% or 69.7m ² variation)	-3% (-10.3m ²)	Discretion sought
Street walls and fences (as amended by Local Planning Policy 3.4)	Fence panels: 1.68m (0.48m variation) Fence posts: 1.74m (0.24m variation)	Fence panels: 1.2m Fence posts: 1.5m	Fence panels: -0.48m Fence posts: -0.24m No discretion sought Deemed to comply	Complies

Consultation and Referrals

Public Submissions

Notice of the application was sent to surrounding landowners and occupiers in accordance with Clause 64 of the Deemed Provisions of the Planning and Development (Local Planning Schemes) Regulations 2005 (LPS Regulations) and Local Planning Policy 7.3 – Public Consultation for Planning Proposals (LPP 7.3).

Consultation occurred between 31 May 2022 and 14 June 2022. The proposal received three submissions. All of the submissions received raised objections to the proposal with the following concerns:

- Lack of open space provision is not in keeping with the surrounding area
- Overall building height at the rear of the property
- Proposal is not sympathetic to the amenity of the heritage area
- Overshadowing impacts on the southern adjoining neighbour during winter and inability to achieve future passive solar design
- Overlooking outside the deemed-to-comply cone of vision
- Bulk and scale concerns
- Site work concerns

A summary of the issues raised during public consultation was supplied to the applicant through a Request for Further Information (RFI). In response to both the City's concerns with the proposal and the concerns raised during public consultation, the applicant provided formal amended plans (dated 25 October 2022).

For the amended plans received on 25 October 2022, the City carried out informal advertising in accordance with LPP 7.3 from 4 November 2022 to 11 November 2022, with additional time granted upon request to allow for a submission to be prepared. The City received one further submission during the informal advertising period which reiterated concerns relating to the overshadowing impact.

The amended plans received on 18 November 2022 did not amend the proposal and included further diagrams relating to overshadowing. As no changes occurred no further advertising was carried out in relation to this set of plans.

A summary of the submissions during the public consultation with responses from the City is included in **Attachment 3**.

Internal Referrals

The proposal was referred to relevant internal departments and no major comments were raised. The comments received have been summarised in **Attachment 4**.

The application was referred to the City's Heritage Coordinator for comments relating to the demolition of the existing dwelling, and the proposed developments compatibility within the surrounding heritage area. The comments provided stated the demolition of the existing dwelling will not have an adverse impact on the heritage area and is supported. The City's Heritage Coordinator advised the proposed developments scale, bulk and height is considered sympathetic and will not adversely impact the heritage values of the area. It is noted that the applicant utilised the City's pre-lodgement heritage advice service.

Comment

An assessment of the proposal has been conducted with the provisions of Local Planning Scheme No. 5 (LPS5), the Residential Design Codes (R-Codes), Local Planning Policy 1.1: Residential Development – Single Houses and Grouped Dwellings (LPP1.1), and Local Planning Policy 3.4 – Development Guidelines for Residential Heritage Areas.

The proposal complies with all the requirements of the LPS5, relevant deemed-to-comply requirements of the R-Codes and provisions of the aforementioned policy with the exception of the matters outlined below. Where the deemed-to-comply criteria has not been met, assessment has been undertaken with the relevant design principles.

Local Planning Scheme No. 5

Demolition

The development application proposes the complete demolition of the existing dwelling which is not exempt from the need to obtain planning approval as the subject site is located within a Heritage Area.

Clause 32 of LPS5 requires that development approval for the demolition of a building or structure is only granted when:

- a) the building or structure is of no or limited cultural heritage significance; and
- b) it does not make a significant contribution to the broader cultural heritage significance of the locality.

In relation to a) above, as a non-contributory dwelling, the building has been assessed as being of no cultural heritage significance.

In relation to b) above, the dwelling does not make a significant contribution to the cultural heritage significance and character of the Heritage Area.

As such, the demolition of the existing dwelling will not have an adverse impact on the heritage area and is supported. In addition, Clauses 3 a) & b) of LPP 3.4 permit the demolition of non-contributory buildings as they do not contribute to the heritage significance or traditional streetscape character of a heritage area.

Residential Design Codes

A detailed assessment against the design elements seeking discretion is contained within **Attachment 5**. A summary of the variations is provided below.

5.1.3 Lot boundary setback

Design Element	Deemed to comply	Proposed	Variation
South: Ground floor – Kitchen, scullery, bathroom, bedroom 2 25.2m length x 3.41m height	1.5m required setback for wall with major opening	1m	Discretion sought
West: Upper floor – Master Bedroom 6.77m length x 6.94m height	1.8m required setback for wall with major opening	1.5m	Discretion sought

The application has appropriately mitigated undue bulking bulk impacts in relation to the two lot boundary setback variations (refer to **Table 2**) by developing walls with articulation and interest by including major and minor openings, and proposing appropriate building heights for specific locations. In relation to overshadowing impacts on the southern adjoining property, this is explained later in this report. Furthermore, there are no visual privacy impacts associated with the either of the proposed lot boundary setback variations.

Overall, the two proposed lot boundary setback variations are not considered to result in an adverse amenity impact on adjoining properties for the abovementioned reasons.

5.1.4 Open space

Permitted	Proposed	Variation
R20 = 50% or 161.2m ² Site area: 321m ²	47.3% or 151.8m ² Site cover: 169.2m ²	Discretion sought

Many properties in the immediate locality are constrained in terms of open space due to smaller than average inner-city lot sizes. The subject lot is smaller than the typical R20 lot (average lot size requirement is 450m²) by 129m² (subject site area 321m²). This means it is more difficult for new development to comply than would otherwise be the case if the lot area met the minimum average lot size of 450m². Properties in the surrounding area that have varied the open space provision include 41 Salisbury Street (5% variation), 44 Salisbury Street (10% variation), and 76 Rupert Street (4% variation).

The 2.7% variation (refer to **Table 3**) is considered to meet the design principles. Therefore, the subject plans are considered to incorporate suitable open space within its context.

5.1.6 Building Height (augmented by LPS5)

Permitted	Proposed	Variation
Wall height: 3.6m	Up to 6.54m	Discretion sought
Ridge height: 6.5m	Up to 8.64m (North elevation)	Discretion sought

Whilst sub-precinct 1 allows Category A (single storey) buildings as-of-right, this does not preclude the City from considering Category B (double storey) buildings. The wall height variation is common for properties within sub-precinct 1 that propose a second storey addition. Given impacts associated with building bulk have been successfully mitigated and overshadowing satisfies the design principles (see below), the wall height variation (refer to **Table 4**) is considered to be consistent with the surrounding area and therefore supportable.

5.3.7 Site works

Table 5: Site works assessment																
Permitted	Proposed	Variation														
<i>C7.1 Retaining walls, fill and excavation between the street boundary and the street setback, not more than 0.5m above or below the natural ground level, except where necessary to provide for pedestrian, universal and/or vehicle access, drainage works or the natural light to a dwelling.</i>	N/A – the front setback is the portion of the lot within 6m of the street boundary line. The proposed excavation is setback 11m from the street boundary.	N/A														
<i>C7.2 Retaining walls, fill and excavation within the site and behind the required street setback to comply with the table below:</i>	North Elevation: Up to 2.8m of excavation, setback 1m from the boundary South Elevation: Up to 2.7m of excavation, setback 1.5m from boundary	Discretion sought Discretion sought														
<table border="1"> <thead> <tr> <th>Height of site works and/or retaining walls</th> <th>Required min. setback</th> </tr> </thead> <tbody> <tr> <td>0.5m or less</td> <td>0m</td> </tr> <tr> <td>1m</td> <td>1m</td> </tr> <tr> <td>1.5m</td> <td>1.5m</td> </tr> <tr> <td>2m</td> <td>2m</td> </tr> <tr> <td>2.5m</td> <td>2.5m</td> </tr> <tr> <td>3m</td> <td>3m</td> </tr> </tbody> </table>	Height of site works and/or retaining walls	Required min. setback	0.5m or less	0m	1m	1m	1.5m	1.5m	2m	2m	2.5m	2.5m	3m	3m		
Height of site works and/or retaining walls	Required min. setback															
0.5m or less	0m															
1m	1m															
1.5m	1.5m															
2m	2m															
2.5m	2.5m															
3m	3m															
<i>C7.3 Subject to subclause C7.2, all excavation or filling behind a street setback line and within 1m of a lot boundary, not more than 0.5m above the natural ground level at the lot boundary except where otherwise stated in the scheme, local planning policy, structure plan or local development plan.</i>	N/A – no excavation up to 0.5m proposed within 1m of the lot boundaries. All excavation has been setback 1m from the lot boundary.	N/A														

All excavation proposed maintains a minimum 1m setback from the boundaries (refer to **Table 5**) and is located at the rear of the subject site. Therefore, the proposed excavation for the purpose of developing the basement is considered to have no adverse impact on the amenity of the adjoining lots or the streetscape.

5.4.2 Solar access for adjoining sites

Table 6: Solar access assessment		
Permitted	Proposed	Variation
On adjoining properties coded R25 and lower – 25 percent of the site area (80.25m ²)	47% (149.7m ²) of the southern adjoining property overshadowed	Discretion sought

The proposal seeks a variation to the deemed-to-comply solar access requirements of the R-Codes (refer to **Table 6**). East-west oriented lots are generally constrained in their ability to propose a two-storey house whilst complying with the solar access requirements as outlined within the R-Codes. By way of comparison, other east-west oriented lots within the locality which have been approved with shadowing in excess of the deemed-to-comply 25% are shown in **Table 7** below.

Table 7: examples of overshadowing variations for east-west orientated lots within the locality

Address	Overshadowing Variation	Description of Development	Date Approved
60 Rupert Street	8.6%	Single Storey	4 March 2022
46 Salisbury Street	9%	Single Storey	20 July 2018
54 Salisbury Street	13%	Two Storey	25 March 2003
56 Salisbury Street	9%	Two Storey	7 July 2003

The proposal ensures the active outdoor area has sufficient access to direct sunlight, which would allow for an improvement of sunlight into the patio compared with the existing development. Furthermore, while the shadow on the passive outdoor living space has increased, this area is primarily ornamental, and is not considered to be utilised for active outdoor living. By appropriately locating the upper level and reducing the scale of the second storey, the application has increased the amount of sunlight available for the patio area while only proposing a minor increase in overshadowing onto the rear component of the outdoor living area.

In relation to the major opening, given its exceptional circumstance as being classified as a boundary wall, any proposed development which it abuts will result in overshadowing. By proposing compliant wall heights, the proposal has ensured the major opening will be able to receive sufficient sunlight during the winter solstice (refer to **Attachment 5**).

Solar access to the proposed dwelling, and the overshadowing impact on the southern adjoining property, are considered to be acceptable. The subject lot is oriented east-west and it is consequently difficult to minimise overshadowing impacts of development. The R-Codes Explanatory Guidelines notes that a shadow cast may exceed the allowable limits in theory, but in practice it may simply be casting a shadow onto a boundary wall or roof, or both, with minimal adverse impact. It is important to carefully evaluate whether the overshadowing proposed adequately addresses the design principles contained in the R-Codes, rather than be fixated on the extent of variation proposed.

In conclusion, the proposal successfully achieves a reduction in overshadowing to the southern adjoining property's patio compared with the existing dwelling. Moreover, the additional shadow that falls over other locations of the outdoor living area is not considered to impact sensitive areas, by being primarily contained to less frequently used portions of the outdoor living area.

Options

The following options are available, including to:

1. Approve the development application:
 - a. as per the officer recommendation; or
 - b. with different or no conditions; or
2. Defer the matter to a future Council meeting; or
3. Refuse the development application.

Under LPS 5, it is open for the Applicant to seek a review of the application (as a deemed refusal) at the State Administrative Tribunal and should the applicant not agree with the decision made, they may exercise their rights to have the matter reviewed.

Strategic Implications

The City of Subiaco Strategic Community Plan 2017-2027 aims to ensure new developments are appropriately integrated into heritage areas. This application has been considered with the applicable planning framework.

The proposal is considered to be consistent with the objectives of the Local Planning Strategy 2020 insofar as protecting and enhancing local heritage and character.

Statutory and Policy Considerations

The application for development approval is considered in accordance with the *Planning and Development Act 2005*, the City of Subiaco Local Planning Scheme No. 5 and relevant planning policies as detailed in the report.

Risk and Asset Implications

There are no Risk and Asset Implications for this report.

Financial

There are no financial implications for this report.

Social and Environmental Implications

The assessment of development applications is undertaken under the planning framework, which includes controls based on social and environmental implications.

Attachments

1. Development application plans dated 18 November 2022
2. Original plans dated 11 May 2022, amended plans dated 25 October 2022, and amended plans dated 10 November 2022.
3. Schedule of submissions
4. Schedule of referral comments
5. Design Principle Assessments for Variations.
6. Site Photos.

C3 STATE DEVELOPMENT ASSESSMENT UNIT REFERRAL – NO. 12 (LOT 800) SALVADO ROAD, SUBIACO AND NO. 177 (LOTS 147, 148 AND 149) CAMBRIDGE STREET, WEMBLEY – ST JOHN OF GOD HOSPITAL REDEVELOPMENT (WITHIN THE TOWN OF CAMBRIDGE LOCAL GOVERNMENT AREA)*

REPORT FROM A/DIRECTOR COMMUNITY AND DEVELOPMENT SERVICES

Authors: Senior Planning Officer, Haydn Ruse
 Manager Planning Services, Anthony Denholm

Date: 9 December 2022

File Reference: A/6587

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

Cr White declared an impartiality interest in this item.

Cr Burns left the meeting at 7.01pm and returned to the meeting at 7.04pm.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Stroud / Seconded Cr Hamersley

That the Department of Planning, Lands and Heritage's (DPLH) State Development Assessment Unit (SDAU) be advised in accordance with Section 276 of the *Planning and Development Act 2005*, that the City of Subiaco generally supports the application referred to the City on 3 November 2022, for redevelopment of the St John of God Hospital at No. 12 (Lot 800 on Deposited Plan 4118840) Salvado Road, Subiaco and No. 177 (Lots 147, 148 and 149 and Deposited Plan 3232) Cambridge Street, Wembley (within the Town of Cambridge Local Government Area) subject to the following matters being considered:

- 1. Prior to the application being determined, consideration should be given and additional information requested to address the following traffic matters:**
 - (a) The site currently has a number of vehicle access points along Cambridge Street and an additional new crossover is proposed as part of this application. Existing and proposed vehicle access points should be reviewed and consolidated as much as possible to reduce number of vehicle access points to reduce traffic conflicts and improve safety. It is recommended that a Road Safety Audit be undertaken as part of the development to identify any potential safety issues at the existing vehicle access points and surrounding the road networks that could be addressed prior to the opening of the new development.**
 - (b) The traffic/turning count data relied on in the Transport Impact Assessment (TIA), particularly for intersections, is 4 years old and considered to be outdated. The report says, additional manual count/video survey was captured in 2022; however, it is unclear how the observed queue lengths captured in 2018 were compared with the calculated queues from the traffic modelling using the 2022 SCATS data. Furthermore, there are a number of significant developments that have been developed in the last 5 years and more expected to be developed in the near future on the surrounding road network. No traffic growth has been considered or applied to the traffic modelling. There are no future traffic model scenarios developed for the next 5 and 10-year projection to evaluate traffic performance at nearby intersections. This should be incorporated into the TIA to ensure it accurately accounts for the current**

and future traffic environment and any upgrades that may be required as a result of the development can be implemented ahead of time.

- (c) There is no assessment or review of the Salvado Road/Station Street intersection as part of this development. The Transport Assessment done in 2018 by Cardno indicates that this intersection is operating at or close to its capacity during AM peak, particularly at the Station Street north approach. Further consideration of the impact of the development on this intersection should be provided as part of this application.
 - (d) The speed limits used for Salvado Road and Haydn Bunton Drive in the traffic simulation are incorrect, the speed limits on these two roads are 50k/h rather than 60km/h.
 - (e) The TIA acknowledges that high frequency public transport (Subiaco train station/bus services on Cambridge Street) is available within close proximity (300m) to the proposed development; however, no recommendation has been provided in regards to other alternative transport modes such as active transport (walking & cycling) and improvement to public transport to encourage staff to reduce car dependency. The Integrated Transport Strategy (ITS) prepared by Urbis indicates that the car park currently operates at its full capacity and is largely (over 60%) used by staff. Whilst the hospital expands in stages over the years, it is important for the hospital to consider alternative transport option/initiatives to reduce car dependency to alleviate congestion and delays on surrounding road networks where possible.
 - (f) Further consideration should be given to the need for pedestrian/cyclist crossing points and footpath improvements along Station Street, particularly at the northern corner of the Salvado Road and Station Street intersection to improve accessibility.
2. Should the application be approved, the following conditions and advice notes are recommended:

Conditions:

- 1) Prior to issue of a building permit, a Road Safety Audit is to be prepared and submitted to the Western Australian Planning Commission for approval, in consultation with the Town of Cambridge and City of Subiaco, with any recommendations being implemented and adopted thereafter.
- 2) Prior to issue of a building permit, a Travel Plan is to be prepared and submitted to the Western Australian Planning Commission for approval, in consultation with the Town of Cambridge and City of Subiaco, with any recommendations being implemented and adopted thereafter.
- 3) All recommendations of the of the Acoustic Report prepared by Stantec and dated 18 October 2022, shall be implemented in full to the satisfaction of the Western Australian Planning Commission, in consultation with the Town of Cambridge and City of Subiaco.
- 4) Prior to the issue of a building permit, a Construction Management Plan shall be submitted to the Western Australian Planning Commission for approval, in consultation with the Town of Cambridge and City of Subiaco. This plan is to address the following matters:
 - a) noise – construction work and deliveries;
 - b) hours of construction;
 - c) traffic management;
 - d) parking management;
 - e) access management;

- f) management of loading and unloading of vehicles;
- g) heavy vehicle access;
- h) dust management;
- i) waste management
- j) protection of infrastructure and street trees within the road reserve;
- k) the need for a dilapidation report of adjoining properties; and
- l) any other relevant matters.

The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the Western Australian Planning Commission, in consultation with the Town of Cambridge and City of Subiaco.

Advice Notes:

- (a) Any construction works to be undertaken outside of the hours of 7:00am to 7:00pm or at any time on Sunday or a Public Holiday will be subject to a Construction Noise Management Plan, to be submitted to and approved by the City of Subiaco. For further information, please contact the City's Environmental Health Services on 9237 9254.**
- (b) All development roads, storage areas, external stockpiles and vacant land must be covered and/or maintained so as to avoid dust nuisance to any residential area or other areas as specified in the development located within the City of Subiaco, to the satisfaction of the Western Australian Planning Commission.**
- (c) Any illumination associated with the construction of the development shall comply with the requirements of AS428-1997.**

CARRIED 9/0
7.10pm

Additional Information

Officers have added the below condition to the recommendation, in the event the application is approved by the Western Australian Planning Commission, which relates to the submission of a construction management plan:

- 4) Prior to the issue of a building permit, a Construction Management Plan shall be submitted to the Western Australian Planning Commission for approval, in consultation with the Town of Cambridge and City of Subiaco. This plan is to address the following matters:
 - a) noise – construction work and deliveries;
 - b) hours of construction;
 - c) traffic management;
 - d) parking management;
 - e) access management;
 - f) management of loading and unloading of vehicles;
 - g) heavy vehicle access;
 - h) dust management;
 - i) waste management
 - j) protection of infrastructure and street trees within the road reserve;
 - k) the need for a dilapidation report of adjoining properties; and
 - l) any other relevant matters.

The approved Construction Management Plan shall be observed at all times throughout the construction process to the satisfaction of the Western

Australian Planning Commission, in consultation with the Town of Cambridge and City of Subiaco.

Additional commentary has been included in the Comment section of this report relating to this condition and construction management for the development.

Executive Summary

The City received a formal referral on 3 November 2022 from the State Development Assessment Unit (SDAU) for an application for the redevelopment of the St John of God Hospital, located within the Town of Cambridge local government area at the border with the City of Subiaco boundary. The City of Subiaco is required to provide its response to the SDAU within 42 days from the date of referral, being 15 December 2022.

Given the land is not located within the City of Subiaco local government area, assessment of the application has been undertaken at a high level and limited to those aspects of the proposal that may impact on land within the City's boundaries. The Town of Cambridge has also been invited to make a submission on the application and will be provided the opportunity to undertake a more detailed assessment of the proposal under the applicable planning framework in addition to the assessment by the SDAU.

The application presents redevelopment of the site that primarily addresses Cambridge Street and would have minimal impacts on land within the City of Subiaco. As such, the City supports the proposal and has recommended conditions of approval to ensure potential amenity and traffic impacts are appropriately managed.

Introduction

The proposal seeks development approval for a \$311 million redevelopment of the St John of God Hospital at 12 Salvado Road, Subiaco and 177 Cambridge Street, Wembley. The development proposal particulars are summarised in **Table 1**.

Table 1: Summary of development proposal	
Proposed Development	Description
New clinical block	A new eight-level (excluding roof-top plant), 260-bed clinical block located at the northern portion of the site along Cambridge Street.
Site energy plant (SEP) building	A new hospital engineering infrastructure building located in the south-western corner of the site, along Station Street. The building would be connected to the hospital via a new overhead services link between the SEP and the North Block.
Additions to multi-storey car park	Additional two levels of visitor car parking on the existing four-level multi-storey car park.
New medical suites, education and research (MSER) building	A new 11-level building for St John of God Hospitals education and research centre, private medical suites and café and retail facilities, located at the north-western corner of the site along Cambridge Street.
Upgrades to site movement and circulation	Various changes to car parking, vehicle circulation, and pedestrian infrastructure to improve access to and within the hospital, including the creation of a new central pedestrianised forecourt.
Landscaping	Improved landscaping, particularly along the pedestrianised forecourt linking Cambridge Street to the Hospital's main entry.
Other refurbishments and developments	Various demolition and internal refurbishments which are minor in nature or otherwise exempt from requiring development approval.

The majority of the proposed development is located centrally within the site or along the Cambridge Street frontage and would have a lesser impact on land within the City of Subiaco. The proposed SEP building and additions to the existing multi-storey car

parking area are notable exceptions, which directly present to the interface between the Town of Cambridge and the City of Subiaco.

The full details of the application comprises almost 800 pages of documents. A condensed version of the application details can be viewed in **Attachment 1**, which includes relevant sections of the proposed development plans only. The full details of the application are available on the [SDAU website](#), until the close of the public advertising period on 12 December 2022:

Background

SDAU Referral Background

In response to the COVID-19 pandemic, the *PD Act* was amended by the *Planning and Development Amendment Act 2020* which came into effect on 7 July 2020. The amendments introduced Part 17 which grants the WAPC temporary decision-making powers to determine proposals with an estimated value of \$20 million or more in metropolitan Perth and subject to meeting certain criteria. The WAPC is supported in its decision-making process by a new team, being the SDAU within the Department of Planning, Lands and Heritage (DPLH).

The temporary powers provided introduced under Part 17 where only intended to last for 18 months; however, in June 2022, the WA Parliament passed legislation to re-open the Part 17 pathway until 29 December 2023. The legislation also allows the WAPC to consider applications to extend the substantial commencement period for approved proposals. The laws were introduced to determine a further pipeline of major projects and assist in addressing challenges in the residential and commercial construction markets.

The WAPC must have due regard for the local planning framework in determining the application, however it has the ability to vary provisions within the local planning framework. The WAPC will also undertake a strategic assessment to consider non-planning related matters in the public interest and the broader economic, social and environmental benefits that can be delivered for the State.

The *PD Act* and the *Local Government Act 1995* do not provide Council the authority to delegate to the CEO its power to make submission to the WAPC in relation to a development application for a significant application under section 276(4) of the *PD Act*. This report has been prepared to form Council's referral response to the SDAU.

Site Details

Landowner:	King Edward Memorial & Princess Margaret Hospitals Board of Management
Applicant:	Planning Solutions
Application Date:	19/10/2022 (SDAU received date)
Referral Reference:	8.2022.52.1
Lot size:	Lot 800: 49,827m ² Lot 147: 1,000m ² Lot 148: 1,025m ² Lot 149: 1,034m ²
MRS Zoning:	Urban
Land Use:	Hospital
Land Use Permissibility:	N/A
Existing Development:	Hospital
Heritage Listing:	N/A

Site Context and Development History

The subject site is located within the Town of Cambridge, at the boundary between the Town of Cambridge and City of Subiaco, bound by Cambridge Street to the north, McCourt Street to the east, Salvado Road to the south and Station Street to the west, see Figure 1 and Figure 2.

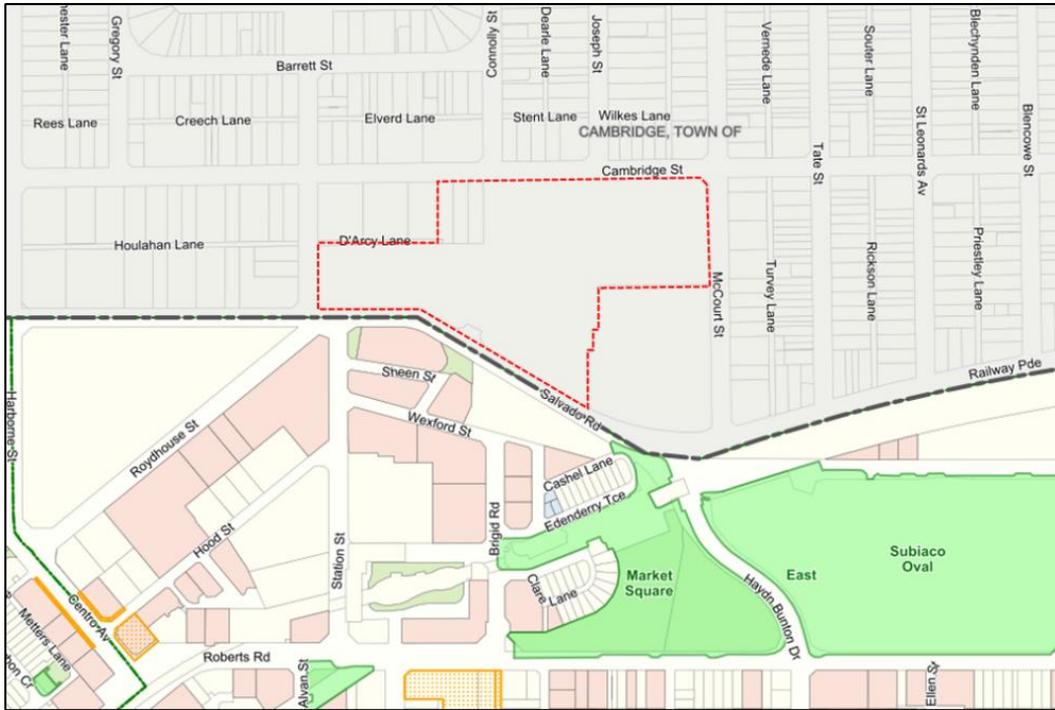


Figure 1: Subject site location



Figure 2: Aerial view of subject site

The site has a primary frontage to Cambridge Street and secondary frontages to McCourt Street and Salvado Road. The primary access to the site is via a roundabout intersection on Salvado Road, secondary access is also available from McCourt Street.

Consultation and Referrals

SDAU Community Consultation

The SDAU is the responsible authority for the subject application and has commenced consultation for the application, which includes notifying potentially affected landowners within the City of Subiaco's boundaries. The consultation period commenced on 11 November 2022 and closed on 12 December 2022.

Internal Referrals

The proposal was referred to the City's internal departments for comment. The comments received are summarised in **Table 2** and provided in detail in **Attachment 2**.

Table 2: Summary of internal referral comments	
Department	Comments
Transport and Infrastructure Development (TID)	Recommended conditions and advice notes incorporated into the recommendation. Discussed further in the comments section of this report.
Heritage	The proposed development will not negatively impact the identified heritage values or landmark qualities of St Joseph's Church. As such there are no heritage concerns
Environmental Health	Recommended conditions and advice notes incorporated into the recommendation. Discussed further in the comments section of this report.
Compliance Services	No comment
Waste Services	The waste management plan is supported
Strategic Planning	Proposal supported
Economic Development	No comment

Comment

The application seeks development approval for the redevelopment of the St John of God Hospital.

Assessment of the application under Part 17 of PD Act

A detailed planning assessment for the development will be undertaken by the SDAU. Section 275(6) of the PD Act lists the matters required to be considered by the Western Australian Planning Commission (WAPC) in determining the application:

'275 Application of legal instruments and matters to which Commission must have due regard

- (6) *In considering and determining the development application, the Commission must have due regard to —*
- (a) *the purpose and intent of any planning scheme that has effect in the locality to which the development application relates; and*
 - (b) *the need to ensure the orderly and proper planning, and the preservation of amenity, of that locality; and*
 - (c) *the need to facilitate development in response to the economic effects of the COVID-19 pandemic; and*
 - (d) *any relevant State planning policies and any other relevant policies of the Commission.'*

The Town of Cambridge has also been invited to provide comment on the application. The City has undertaken a high level assessment of the proposal, with a focus on section 275(6)(b) as it most relates to the City's interests in this application.

Assessment against section 275(6)(b) of the PD Act

Although the proposed development is located outside of the City of Subiaco's planning jurisdiction, there is still the potential for the development to have an impact on land within the City's boundaries. Consideration of the development with the principles of orderly and proper planning and the potential of the development to impact the amenity of land within the Subiaco locality are relevant matter for the City to provide a submission on for development outside of its jurisdiction in this respect.

Orderly and proper planning

The site is subject to the St John of God Subiaco Hospital Local Development Plan (LDP), which was endorsed by the Town of Cambridge Council on 23 February 2021. The City of Subiaco was invited to review and provide comment on the LDP as a stakeholder and provided a submission to the LDP on 16 October 2020. The City of Subiaco provided a supportive submission and recommended further consideration be given to traffic related matters. On review of the development proposal, comments received from the City's Transport and Infrastructure Development (TID) branch identify several outstanding deficiencies with the development in relation to traffic considerations. The deficiencies highlighted relate to the following matters:

- Further consideration be given to the number of vehicle access points to the site.
- The traffic/turning counts relied on in the Transport Impact Assessment (TIA) are outdated.
- The TIA should account for major development planned in the surrounding area and traffic growth should be considered in the modelling, including a 5 year and 10 year scenario.
- Assessment/review of the Salvado Road / Station Street intersection should be included in the TIA.
- Speed limits for Salvado Road and Haydn Bunton Drive in the TIA are incorrect, being 50km/h rather than 60km/h.
- Further consideration should be given to reducing reliance on private vehicles and encouraging active transport.
- Further consideration should be given to pedestrian/cyclist crossings and upgrades at the Station Street and Salvado Road intersection to create a safer link between the site and Subiaco Train Station for pedestrians.

The City's recommendation includes advice regarding the matters listed above, to be considered prior to the determination of the development through further information from the applicant. Conditions have also been recommended requiring a Road Safety Audit and Travel Plan should the SDAU be of the opinion that the development can be determined without first considering further information to address the points listed above.

A Road Safety Audit would ensure traffic safety concerns are considered and addressed. In conjunction with this, a Travel Plan would require consideration and implementation of measures to improve the use of alternative modes of transport to the car. The utilisation of alternative modes of transport has the benefit of reducing vehicle traffic while increasing foot traffic through commercial areas. Public transport is becoming a more viable alternative with the recent opening of the airport train line, frequency of train services at Subiaco Station have increased to every 6 minutes during peak, every 7-8 minutes during the day and every 15 minutes at night between these stations.

Amenity

The proposed development presents the potential for impacts to the amenity of land within the City of Subiaco, primarily in relation to noise as well as noise, dust and illumination as a result of construction works. The application details include an Acoustic Report which provides noise modelling for the SEP building and Site Water Plant (SWP) as the two primary noise generators that present risk to surrounding receptors. Two of the three identified noise sensitive receptors are located within the City of Subiaco, comprising of 9 Salvado Road and 2 Cashel Lane. The modelling demonstrates both the SEP building and SWP, with acoustic treatments applied, will comply with the *Environmental Protection (Noise) Regulations 1997*. A condition has been recommended requiring the recommendations of the Acoustic Report be implemented to ensure amenity impacts arising from noise are appropriately mitigated.

Construction Management

During construction, the development presents a risk of noise, dust and illumination impacts onto surrounding land. A standard condition has been recommended regarding dust, to ensure any construction areas, vacant areas or stockpiles are appropriately covered to prevent the spread of fugitive dust. Similarly, a standard condition has been recommended regarding illumination, requiring any illumination to be installed in accordance with the relevant Australian Standard (AS4282-1997).

Where construction is proposed to occur outside of designated hours i.e. 7:00am to 7:00pm, or any time on Sunday or a Public Holiday, further information would be required to assess the noise impacts from that construction. A Construction Management Plan (CMP) has been recommended as a condition of approval in order to ensure that the impacts from noise during the building phase are appropriately managed and adhere to legislative requirements. The requirement for a CMP will also capture a number of other building considerations and the condition has been worded to require the WAPC to consult with both the Town of Cambridge and the City of Subiaco in reviewing the CMP at the building permit stage, and during construction.

Other matters

The proposed redevelopment of the St John of God Hospital presents a significant development on the boundary of the City of Subiaco. The redevelopment includes a significant investment in educational research facilities as well as more traditional hospital facilities and has the potential to generate economic benefits to the area more broadly. The facility presents opportunities for local businesses within the City of Subiaco to develop and grow off the benefit of being within close proximity to the new state of the art educational and research facilities proposed through the redevelopment of the site.

Conclusion

The proposal is an SDAU application for the redevelopment of the St John of God Hospital within the Town of Cambridge's planning jurisdiction. The City has undertaken a high level assessment of the proposal with a focus on the potential for the development to affect land within the City of Subiaco. The proposal presents the potential for traffic and noise impacts; however, both can be addressed through the planning assessment process. The City is generally supportive of the proposal and has provided recommended comments and conditions of approval to be provided to the SDAU as part of a submission to the proposal.

Strategic Implications

Local Planning Strategy 2020

The City's Local Planning Strategy (LPS) identified the St John of God Hospital site as a major employment generator, with supporting businesses and institutions located partly within the City of Subiaco. The LPS recognises the importance and opportunity presented by sites such as this in achieving objectives relating to the economy and tourism. The redevelopment of this site presents an important strategic opportunity for the City's local economy.

The LPS also recognises the need for improvements to public transport services and to encourage increased focus on walking and cycling infrastructure. The LPS contains strategic transport objectives that seek to ensure new development provides and prioritises pedestrian and cycling access over private vehicle use. The proposal presents a risk of these objectives not being met, particularly for Salvado Road which is under the care and control of the City.

Statutory and Policy Considerations

Part 17 of the PD Act

Part 17 of the PD Act grants the WAPC temporary decision making powers to determine proposals with an estimated value of \$20 million or more in metropolitan Perth.

Part 17, Section 276(4) of the PD Act states:

(4) *The Commission must —*

- (a) *give any local government to whose district the development application relates an opportunity to make submissions to the Commission within a period specified by the Commission; and*
- (b) *have due regard to any submissions made by the local government within that period.*

This report is prepared in response to the formal referral from the SDAU for the subject application, and will form Council's response to the WAPC.

Risk and Asset Implications

The majority of asset implications pertain to road assets within the Town of Cambridge. There are however two aspects of the development which may impact on the City of Subiaco that are covered by recommendations 1(c) and 1(f) of this report. The performance of the Salvado Road and Station Street intersection (1(c)) which may necessitate the existing signal controls being extended to the northern leg of Station Street based upon an assessment previously done on the intersection by Cardno on behalf of the hospital. Additionally, the footpath on the northeast corner of the Salvado Road and Station Street has a number of constraints and conflicts which could be addressed by widening the footpath (within Cambridge) that could require complementary modifications to the southern side of the intersection that the City manages.

These two aspects should be appropriately considered as outlined within the recommendation to ensure the intersection performs at an acceptable level of service and access to the development site and surrounding area is improved for pedestrians and cyclists.

Financial

There are no financial implications for this report.

Social and Environmental Implications

The assessment of development applications is undertaken under the planning framework, which includes controls based on social and environmental implications.

Attachments

1. SDAU referral – St John of God Hospital Redevelopment (Condensed)
2. Internal referral comments

C4 WESTERN AUSTRALIAN LOCAL GOVERNMENT ASSOCIATION (WALGA) BEST PRACTICE GOVERNANCE REVIEW*

REPORT FROM A/DIRECTOR CORPORATE SERVICES

Author: Manager Governance Services, Lee Gyomorei
Date: 9 December 2022
File Reference: A/6587
Voting Requirements: Simple - more than half elected members present required to vote in favour

COUNCIL DECISION

Moved Cr Hamersley / Seconded Cr Stroud

- 1. Council does not provide a view in relation to the request from Western Australia Local Government Association for feedback on the identified governance models by 23 December 2022.**
- 2. WALGA be thanked for its invitation and provided with a copy of this resolution and its reasons and informed that in future it may be better if more time was provided to enable council to consider such questions and formulate a properly considered collective response.**

CARRIED 9/0
7.16pm

OFFICER RECOMMENDATION

1. Council endorse the results of the City's electronic survey of Elected Members in relation to the Western Australian Local Government Association Best Practice Governance Review.
2. The Chief Executive Officer provide a copy of this report to the Western Australian Local Government Association as Council's endorsed response to the Best Practice Governance Review by the required date of 23 December 2022.

LAPSED FOR WANT OF A MOVER

ALTERNATIVE

Moved Cr Hamersley / Seconded Cr Stroud

1. Council does not provide a view in relation to the request from Western Australia Local Government Association for feedback on the identified governance models by 23 December 2022.
2. WALGA be thanked for its invitation and provided with a copy of this resolution and its reasons and informed that in future it may be better if more time was provided to enable council to consider such questions and formulate a properly considered collective response.

CARRIED 9/0
7.16pm

Cr Hamersley provided the following reasons:

- *WALGA first contacted the Mayor on 9 November 2022 and elected members, individually, on 11 November 2022 notifying it would be seeking a response from councils by 23 December 2022.*
- *Councils last meeting before 23 December 2022 is 13 December 2022 which meant there was in effect about 4 weeks between the request and when a collective decision needed to be formulated.*

- *On 25 November 2022 the Administration notified elected members that it was seeking to collate views of individual elected members through an online survey process. This approach is understandable in the circumstances where limited time was available but did not allow for discussion or debate amongst elected members about the issues.*
- *Ideally there would have been an opportunity for a workshop to be held (if desired by elected members) perhaps with council's current and past WALGA delegates speaking about their experiences under the current model.*
- *In any event, that only 1 elected member responded suggests that there may have been insufficient time available to address the matter.*
- *December is a particularly busy time of year and council has other very important issues under consideration which have been requiring a great deal of attention by elected members.*
- *Individual councilors can submit directly to WALGA.*

Executive Summary

WALGA have requested its Member Local Governments to consider its Best Practice Governance Review Consultation Paper and Governance Model Options, and provide a Council endorsed position to WALGA by 23 December 2022. This report seeks Council's endorsed response to WALGA.

Background

WALGA's 2020-2025 Corporate Strategy identified the need to undertake a best practice governance review, with WALGA establishing a Steering Committee for this purpose in March 2022.

Following its first meeting in May 2022, the Steering Committee determined the need to engage broadly with its Members, identify opportunities for change and to use five identified comparative organisations as a governance model comparative analysis.

Focus was also placed on development of governance model principles, with the attached Background Paper detailing the key insights supporting the endorsed governance principles.

Comment

WALGA's governance review considered three key areas:

- | | | |
|----|-----------------------------|---|
| 1. | Jurisdictional Analysis | Compares WALGA to equivalent jurisdictional associations. This comparison provides key insights into the size and election processes of WALGA compared to equivalent associations. |
| 2. | Comparator Organisations | Compares WALGA's governance arrangements to five comparator organisations. This provides key insights into the size, election processes, and recent governance changes of the five comparator organisations. |
| 3. | Governance Model Principles | The governance model principles were developed through the Steering Committee process and provides a structure for understanding how the current governance model, and any future governance model, aligns with these principles. |

WALGA is undertaking consultation and engagement with its Members from October 2022 until 23 December 2022. The Steering Committee will consider the outcomes of

the consultation process during January 2023. A final report with a recommended direction will be the subject of a State Council Agenda Item at the March 2023 State Council Meeting.

It is understood that WALGA has communicated directly with all local government Elected Members and CEOs in relation to the governance review. This communication detailed a link to an independent survey whereby individual responses may be submitted to WALGA.

Member local governments have been requested to consider the Consultation Paper and Governance Model Options put forward and to provide a Council endorsed position to WALGA by 23 December 2022. WALGA has suggested that Councils endorse a preferred model (which could be the Current Model) and provide a ranking in terms of order of preference. To meet WALGA's deadline the December Ordinary Council Meeting will be the last opportunity for Council to determine their position on the WALGA options presented.

A copy of WALGA's Best Practice Governance Review Consultation Paper and Best Practice Governance Review Background Paper were provided to Elected Members by email, and these were also included in the Elected Member Information Bulletin of Friday, 25 November 2022.

An electronic survey was provided via the City's website for Elected Members to submit their preferences in relation to WALGA's Governance Model Options. The survey closed at 12:00 noon on Wednesday, 7 December 2022, with one response received providing the following response:

WALGA Option	City of Subiaco Survey Result Order of Preference
Option 1 – Two Tier Model, Existing Zones	4
Option 2 – Board, Regional Bodies	3
Option 3 – Board, Amalgamated Zones	1
Option 4 – Member Elected Board, Regional Groups	2
Option 5 – Current Model	5

Options

- Option 1 Council may resolve to provide WALGA with a copy of this report which details the result of the City's survey as its endorsed response to the WALGA Best Practice Governance Review Consultation Paper and Governance Model Options (recommended).
- Option 2 Council may resolve to provide an alternate order of preferred Governance Model Options as its endorsed response to WALGA.
- Option 3 Council may resolve not to provide a Council endorsed response to WALGA in relation to its Best Practice Governance Review Consultation Paper and Governance Model Options.

Consultation

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

Consultation was undertaken with Elected Members via email, Elected Member Information Bulletin, and electronic survey.

WALGA has consulted with all local government Elected Members and CEOs via an independent survey.

Strategic Implications

Strategic Community Plan

Focus Area 6 Council Leadership. A leading Council that is supported by an excellent organisation.

Statutory and Policy Considerations

There are no specific statutory or policy considerations in relation to this report.

Results of the Best Practice Governance Review may impact representation to WALGA and service provision by the Association.

Risk and Asset Implications

There are no specific risks or asset implications in relation to the recommendation contained within this report.

Financial

There are no specific financial implications in relation to the recommendation contained within this report.

Social and Environmental Implications

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

Attachments

1. Best Practice Governance Review Background Paper
2. Best Practice Governance Review Consultation Paper

C5 NOVEMBER BUDGET REVIEW 2022/23***REPORT FROM A/DIRECTOR CORPORATE SERVICES**

Author: Manager Financial Services, Bianca Jones
Date: 30 November 2022
File Reference: A/6587
Voting Requirements: Absolute majority - 5 elected members required to vote in favour

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Hamersley / Seconded Cr de Vries

That Council adopts the amendments to the 2022/2023 annual budget, as detailed in the attached schedule.

CARRIED BY AN ABSOLUTE MAJORITY 9/0

7.16pm

Executive Summary

The purpose of this report is to recommend to Council a number of re-allocations to its adopted Budget for the 2022/2023 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 2021/22 financial year.

Background

Officers have reviewed the expenditure and revenue 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 expenditure 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 audited annual financial statements for 30 June 2022. The majority 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 2022/23 financial year. Where works won't be completed in the 2022/23 financial year or the projects are

on hold the funds have been transferred to reserve for future allocation approval. The adjustment to the 2021/22 accumulated surplus is an offsetting adjustment that represents works not completed by 30 June 2022.

- 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.
- A grant of \$51,000 has been approved in relation to the implementation of FOGO. This has been transferred to the Waste Reserve.
- Budgets for parking revenue generated by ticket machines has been increased in line with current parking trends being observed. This has been used to offset a budget reduction of \$250,000 applied to parking fines revenue which is expected to be less than budgeted.
- Budget of \$60,000 has been applied for engagement of a consultant to conduct recruitment of executive positions.
- Budgets have been applied for employee costs in relation to organisational structure changes to support the business transformation project. This has been offset by reductions in information technology projects that will not be completed in order to progress this project.
- Budget has been increased by \$370,000 for agency relief to engage environmental health contractors to develop and update health programs and processes in line with statutory requirements.
- Budgets have been applied to operational budgets within the Information Services branch for increased costs contained within current information technology contracts in place.
- Budget of \$1,771,025 has been applied to undertake drainage network upgrades (Item C6: OCM 28 June 2022).
- Additional budgets have been applied to capital works at Seddon Street and Rokeby Road South due to increased costs of construction. These budgets are funded from the Infrastructure Replacement Reserve.
- Through the Local Roads and Community Infrastructure Program (LRCI), Phase 3, the City has received \$165,000 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 by 30 June 2023 the City has nominated various drainage improvement projects. The grant is to cover the entire cost of the projects and the City is not required to provide additional funding. Revenue, expenditure and reserve budgets have been adjusted accordingly.

Options

Council's options include:

- To adopt the amendments to the 2022/2023 annual budget or;
- To adopt the amendments to the 2022/2023 subject to amendments or;
- Not adopt the amendments to the 2022/2023 annual budget.

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 2022/2023 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 2022 Budget Review Summary (2 pages)

C6 FINANCIAL STATEMENTS AND REPORTS FOR THE MONTH ENDING 31 OCTOBER 2022*

REPORT FROM A/DIRECTOR CORPORATE SERVICES

Author: Manager Financial Services, Bianca Jones
Date: 30 November 2022
File Reference: A/6587
Voting Requirements: Simple - more than half elected members present required to vote in favour

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Stroud / Seconded Cr de Vries

That the financial reports for the period ending 31 October 2022, incorporating the following items, be endorsed:

- **Financial activity statement report (by Nature & Type / by Program).**
- **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 9/0

6.03pm

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 October 2022.

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 \$98,776,646. The major components of which are; cash and investments of \$83,295,420, rates debtors of \$13,210,525 and sundry debtors of \$1,977,974 (including Modified Penalties). There are current liabilities totalling

\$10,831,440 and cash backed reserves of \$59,874,146. The City's net current assets equal \$87,945,206 less restricted assets (Reserves) of \$59,874,146 resulting in a net current position of \$28,071,060 at 31 October 2022.

Cash flow statement

Net cash provided by operating activities is \$14,615,642 for the period to date. The net cash used in financing activities is (\$175,636). 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 \$59,874,146. 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 31 October is \$1,977,974.

All debts that have been paid or adjusted after the end of month have been highlighted on the attached report. Payments and adjustments of \$621,133 were received after 31 October 2022, reducing the balance of debts outstanding to \$1,356,841 at the time of preparing the debtors report.

Rates reconciliation summary

Total rates, Fire & Emergency Services levy, and waste service charges levied for the year are \$36,213,622. The payments and rebates received to date total \$22,915,925. 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 \$13,297,797 (including Deferred Pensioner Rates).

Summary of cash and investments

The City currently holds financial investments of \$73,874,146.

The City is currently holding a portion of its investment funds in an at call account linked to the municipal account as officers have been able to negotiate better interest rates than could be generated in the fixed term deposit accounts. Should interest rates improve in the fixed term accounts the funds will be reinvested accordingly.

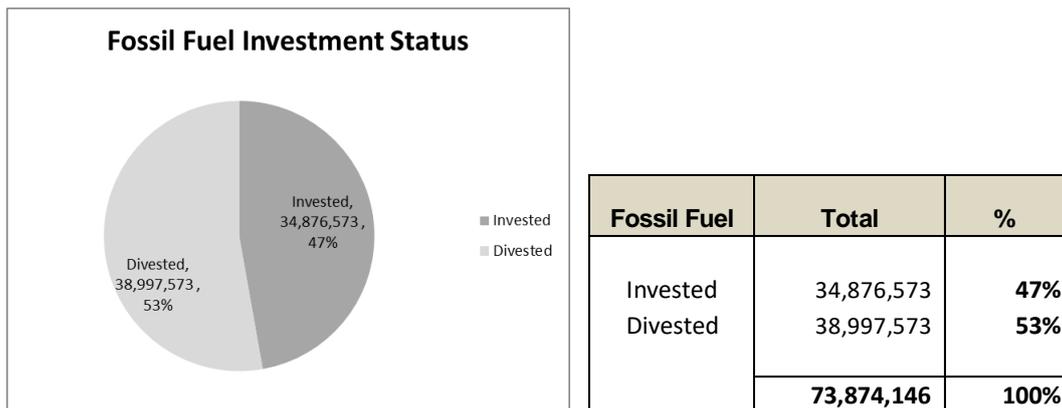
The City's investment policy operates with a view to maximising income and capital growth in relation to liquid assets. For short term liquid investment assets, the policy requires that no more than 30% is to be invested with any one institution at the time of investment. The table below shows the percentage 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	7%	Invested
Bendigo	2,000,000	18,161,296	20,161,296	27%	Divested
CBA	-	14,662,642	14,662,642	20%	Invested
NAB	4,000,000	11,213,931	15,213,931	21%	Invested
Suncorp	8,000,000	10,836,277	18,836,277	25%	Divested
	14,000,000	59,874,146	73,874,146	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	18,836,277	A-1+	34,876,573	A-1-	-	53,712,850	73%
A-2	20,161,296	A-2+	-	A-2-	-	20,161,296	27%
						73,874,146	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 \$4,170,141. Electronic fund transfers were processed to the value of \$3,169,625 from the municipal fund for payment of creditors. Employee payments, made via electronic funds transfer totalled \$1,000,517 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 \$13,155. A reconciliation of the credit card transactions is included in the attachments.

Emergency Expenditure

On Tuesday 6 September 2022 a fire occurred at the City of Subiaco Administration building located at 241 Rokeby Road Subiaco, resulting in the closure of the facility to all staff and the public. The facility was assessed by essential services to make safe the building and ongoing assessment and rectification works required to determine cause and make the necessary repairs. The fire has resulted in the City’s server room, which houses the network infrastructure, primary servers, and storage, being damaged.

In order for the City to respond quickly to the emergency, restoring services to the administration building and re-establish the required network infrastructure and systems, authorisation was given by the Mayor under section 6.8(1)(c) of the Local Government Act 1995 to procure goods and services from the City's Municipal Account and enable procurement to occur without the calling of public tenders or quotes in response to the emergency situation. The expenditure to be incurred pertains to emergency building rectification works and IT network infrastructure at the City's Administration building at 241 Rokeby Road, Subiaco. The authorised expenditure shall be limited to emergency expenditure necessary for business continuity and expedited reinstatement of use of and access to the Administration Building. Any further expenditure shall require authorisation in the usual way.

Details of the types of goods and services to be procured

- goods and services required to mitigate, make safe, clean, remediate and repair the damage caused as a result of or in connection with the fire;
- goods and services required to replace or repair assets damaged as a result of or in connection with the fire;
- goods and services required to ensure business continuity whilst the aforementioned works take place.

The City has lodged a claim with its insurers in relation to this incident and have received confirmation that the claim has been accepted.

Costs of \$194,932.73 have been incurred at the date of preparing this report, including payments made and purchases committed. Regulation 6.8(1)(c) require reporting of "incurred expenditure" to the next Council meeting, in contrast to the "payments" listed within the Payment Cashbook attached to the monthly reports. A breakdown has been provided below of incurred expenditure undertaken in accordance with Regulation 6.8(1)(c):

Supplier	Description	Amount
Estrat Pty Ltd	Systems support to reinstate IT services	40,489.07
Steamatic	Cleaning, Remediation and packing/storing items	99,454.52
Vocus Communications	Internet and IT services	14,138.54
Data #3 Limited	IT systems consultancy services	32,135.65
Surun Services	Electrical services	8,714.95
	TOTAL	194,082.13

Options

1. Council endorses the Financial Statements and Reports for the month ending 30 October 2022.
2. Council does not endorse the Financial Statements and Reports for the month ending 30 October 2022.

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 2022/2023 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 (4 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 pages)
6. Rates reconciliation and summary (1 page)
7. Summary of cash and investments (2 pages)
8. Payments cash book and schedule of accounts October 2022 (46 pages)
9. Credit Card payment summary October 2022 (1 page)

C7 241 ROKEBY ROAD SUBIACO (COUNCIL CHAMBERS AND ADMINISTRATION BUILDING)

REPORT FROM A/DIRECTOR CORPORATE SERVICES

Authors: A/Manager Commercial Services & Property, Jeremy Graf
Date: 9 December 2022
File Reference: A/6587
Voting Requirements: Simple - more than half members present required to vote in favour

The Presiding Member adjourned the meeting at 7.17pm and reconvened the meeting at 7.25pm.

COUNCIL DECISION

1. **The City will progress Option 3 - demolish and rebuild 241 Rokeby Road Subiaco, with a final Council decision to proceed or not with the project to be subsequently made.**
2. **The existing building will be retained until a Council decision is made for its demolition and all contracts are signed and related documentation agreed, approved and settled for the construction of a new building at the site.**
3. **Option 3 other than as per this point 3 and point 4 below, will not be commenced or implemented prior to Council approval (if any) of the project's design brief and a Project Management Plan. For clarity, the Chief Executive Officer may undertake any work or action (other than engaging an architect to prepare a design) related to those draft documents and their preparation as informed by the Elected Members' workshops referred to in point 4 and negotiate and settle the insurance claim.**
4. **To inform Council decision making regarding a Project Design Brief and a Project Management Plan, Elected Member workshops will be held, to explore and consider fundamental aspects of the project including design/scope, project scheduling, budget and cost estimates, a design brief and the extent and timing of Elected Member and Council involvement in the project.**

CARRIED 8/1
 CR POWELL VOTED AGAINST
 8.04pm

OFFICER RECOMMENDATION

Moved Cr Stroud / Seconded Cr Hamersley

The Chief Executive Officer is authorised to progress Option 3, demolish and rebuild 241 Rokeby Road Subiaco, by commissioning designs for Council consideration and to inform community consultation.

AMENDMENT

Moved Cr Jennings / Seconded Cr Burns

That the recommendation be amended to read as follows:

1. **The City will progress Option 3 - demolish and rebuild 241 Rokeby Road Subiaco, with a final Council decision to proceed or not with the project to be subsequently made.**

2. The existing building will be retained until a Council decision is made for its demolition and all contracts are signed and related documentation agreed, approved and settled for the construction of a new building at the site.
3. Option 3 other than as per this point 3 and point 4 below, will not be commenced or implemented prior to Council approval (if any) of the project's design brief and a Project Management Plan. For clarity, the Chief Executive Officer may undertake any work or action (other than engaging an architect to prepare a design) related to those draft documents and their preparation as informed by the Elected Members' workshops referred to in point 4 and negotiate and settle the insurance claim.
4. To inform Council decision making regarding a Project Design Brief and a Project Management Plan, Elected Member workshops will be held, to explore and consider fundamental aspects of the project including design/scope, project scheduling, budget and cost estimates, a design brief and the extent and timing of Elected Member and Council involvement in the project.

CARRIED 9/0

7.50pm

Cr Jennings provided the following reasons:

1. *Elected Members have not had the chance to consider fundamental aspects of the project and the extent of Council and Elected Member involvement in the project and when and how.*
2. *Fundamental issues which require Elected Member consideration and decision making before proceeding to further progress the project, include the size/footprint of the building, whether technical services staff and community facilities (and which ones) should be accommodated in any new building, future traffic movement in the precinct and how the design particularly of the exterior and any new building as a whole integrates with the precinct with particular emphasis on the Library and Museum buildings.*
3. *It is premature and unnecessary to resolve to progress Option 3 beyond the steps outlined in the motion above, without Council first clearly understanding the steps in the process and without Council determining all preliminary matters including those mentioned in the motion.*
4. *The motion seeks to ensure that Council has the appropriate information, input and understanding to make informed decisions about whether or not and how the project is to progress (if at all) beyond the preliminary stages mentioned in the motion.*
5. *It is also appropriate for these matters to be placed on the public record so that the community is duly informed.*
6. *This is a large and important project for the City and the City should take the necessary time to properly plan at the start of the project, to achieve the best outcome possible.*

SUBSTANTIVE MOTION

1. The City will progress Option 3 - demolish and rebuild 241 Rokeby Road Subiaco, with a final Council decision to proceed or not with the project to be subsequently made.

2. The existing building will be retained until a Council decision is made for its demolition and all contracts are signed and related documentation agreed, approved and settled for the construction of a new building at the site.
3. Option 3 other than as per this point 3 and point 4 below, will not be commenced or implemented prior to Council approval (if any) of the project's design brief and a Project Management Plan. For clarity, the Chief Executive Officer may undertake any work or action (other than engaging an architect to prepare a design) related to those draft documents and their preparation as informed by the Elected Members' workshops referred to in point 4 and negotiate and settle the insurance claim.
4. To inform Council decision making regarding a Project Design Brief and a Project Management Plan, Elected Member workshops will be held, to explore and consider fundamental aspects of the project including design/scope, project scheduling, budget and cost estimates, a design brief and the extent and timing of Elected Member and Council involvement in the project.

CARRIED 8/1
CR POWELL VOTED AGAINST
8.04pm

Additional Information

More information has been included within the Comments section in relation to the proposed next steps if Council resolved in line with Option 3. The proposed next steps have been expanded in more detail.

Executive Summary

- Following a fire at 241 Rokeby Rd Subiaco, the City's appointed builder and engineer have completed a high-level scope of work and cost estimate.
- Due to the age, condition and design of the building, professional contractors and staff consider restoration (Option 1 – repair; Option 2 – refurbish) works would be suboptimal and not a good use of City funds.
- Option 3 Replace (demolish and rebuild) is considered to be the most suitable option, in terms of intergenerational and sustainability considerations.
- The construction of a new building at 241 Rokeby Rd, Subiaco enables contemporary Community, Council and Administrative facilities whilst retiring aging facilities that will facilitate improved services for a growing community.

Background

241 Rokeby Rd, Subiaco (Council Chambers and Administration Centre) was constructed in the 1960's. It was partially extended in 1979 and 1996. During this time the City undertook the appropriate preventative and routine maintenance to maintain the building, although this has become increasingly difficult as a result of the extensions, particularly relating to the design of the original (flat) roof. As a result, 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.

Systemic water penetration across different parts of the building, over a sustained period has resulted in flooding, damage to fixtures, damage to furniture, mould and now most recently caused the fire that took place on 6 September 2022, on the section of roof that was in the best condition.

Investigations into the extent of the fire damage are complete. The City's appointed Builder and Engineer have completed a scope of work and high-level cost estimate based on the remediation of the fire damaged portion of the building and a number of options in relation to minor and major refurbishments including a demolition and rebuild option.

In considering 3 options (repair, refurbish, replace) there are numerous factors that should be considered and explored. In this regard, an overarching theme is conveyed eloquently within the Local Government Act 1995:

s1.3 (3) - In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

Intergenerational considerations through the lens of sustainability (environment, social, and economic) create multifactor considerations, within the context of attempting to predict the circumstances of the future, particularly when the decision-making horizon is beyond 50 years.

241 Rokeby Rd is an example of that challenge, built in the 1960s, extended in 1979 and 1996 and by the mid-2000s was considered not fit for purpose due to an increase in services and updated building requirements. The pandemic (COVID-19) fundamentally changed the way people work, facilitating more flexible work options, but also emphasising the human need for in person interaction, being an essential element of informed decision making and a productive work environment.

The City (Council and Administration) have been working diligently through a range of options for some time. The City has a very good understanding of the asset condition of our community buildings, presenting options for consolidation of services in fit for purpose buildings, together with retirement of buildings that are towards their end of useful life and no longer fit for purpose.

An important consideration, which is perhaps less of a consideration for most WA Local Governments, is the province of 241 Rokeby Rd, located almost in the centre of arguably one of the most recognisable high streets in WA. The location is surrounded by wonderful heritage structure/buildings of the Fallen Soldier Memorial (1923), Museum (1923) and Library (1971), adjoining Rankin Gardens.

The EH Parker Library is a classic design of its time and has significant heritage value and will receive a much-needed external facelift in the coming year, following excellent internal refurbishments 3 years ago. 241 Rokeby Rd does not interface with its surrounds, particularly Rankin Gardens and has limited community access/functions, predominately Council meetings and citizenship ceremonies.

241 Rokeby Road was included on the Local Heritage Survey (formerly known as the Municipal Inventory) adopted on 4 February 2003 as part of the wider civic precinct (museum, fallen soldiers memorial, library, Subiaco theatre centre).

In relation to 241 Rokeby Rd, the statement of significance describes:

"The place has historic significance representing a stage in the continuing development of local government in the area."

The heritage value of the site relates to its historic significance as the location of the local government administration, not the existing built form. Continued use of the site as local government for Council chambers and administration is consistent with the statement of significance particularly if improvements are made that improve the level of service to the community.

All other buildings in the civic precinct have had their heritage values protected by being placed on the Local Planning Scheme heritage list, except for 241 Rokeby Rd.

There are three main options, with Option 2 (refurbish) broken down further into two parts A and B. It should be noted that Option 3 (replace) would also comprise numerous possibilities, some of which have been explored within the Comments section. It is important to note that if Council were to progress Option 3, consultation with stakeholders including the community would need to be undertaken to determine the exact scope before progressing to replace 241 Rokeby Rd, Subiaco.

Comment

There are 3 main options, noting that there are also many variables that may be included in both Option 2 and 3, in summary these options are:

1. **Repair** (not recommended)
2. **Refurbish** (not recommended)
3. **Replace** (recommended)

Option 1 – Repair of the damaged caused by the fire

Scope of work:

- Replace roof
- Replace ceiling and insulation
- Clean and repair roof structural steel
- Painting
- Replace carpet
- Electrical cabling throughout
- Clean and replace HVAC services

The estimates contained within this report should be considered preliminary and do not contain price escalations or analysis of material availability. This scope of work is covered by the City's insurance and is initially estimated to be \$1.2m.

These works are estimated to take 9 to 12 months to complete. Repairing the damage will return the building to its previous state but its functionality and usability will not be improved to contemporary office working standards and it will continue to be compromised for community use given its size and orientation.

Proceeding with Option 1 is not recommended as it will delay the inevitable in terms of the necessity to refurbish or replace the building in the future. It will be an ongoing maintenance concern and the City will still have a deteriorating asset with higher maintenance costs over its remaining life. In that regard, it is important to note that the repair of the roof only relates to the part that was previously in the best condition. Therefore, the remaining building envelope will continue to be affected by water ingress. As described below under the heading Social and Environmental Implications, option 1 derives no new social and limited environmental benefits.

Option 2 - Refurbish

Option 2A – Repair the damaged caused by the fire plus minor refurbishment

Scope of work:

- Replace roof throughout
- Replace ceiling and insulation throughout
- Painting throughout
- Replace carpet throughout
- New glazing throughout
- Refresh toilet and shower facilities
- Remove and reinstall HVAC services
- New office configuration
- New fit out (workstations and furniture)

This scope of work is estimated to be \$2.8m, of which \$1.2m may be covered by the City's insurance as the remaining work is beyond repairing the damage caused by the fire. These works are estimated to take 12 to 18 months to complete.

More extensive refurbishment comes with greater risk in terms of unknowns, for example the condition of the existing roof structure is unknown until the roof sheets and ceiling is removed. Therefore, this option may well be closer to \$4.0m, allowing for price escalation and unknown factors.

A new fit out will improve the furniture and use of the building, however, it will continue to be compromised for community use given its size and orientation. The building will continue to fail modern accessibility standards. Additionally, the useful life of the building will not be greatly increased.

Option 2B – Repair the damaged caused by the fire plus major refurbishment to bring the building up to Building Code Australia (BCA) standard

Scope of work:

- Replace roof throughout
- Replace ceiling and insulation throughout
- Painting throughout
- Replace carpet throughout
- New glazing throughout
- Upgrade toilet and shower facilities
- Remove and reinstall HVAC services
- New office configuration
- New fit out (workstations and furniture)
- Lift and associated works
- Fire suppression system
- Widening of doorways
- Upgrades to stairs and exit routes

This scope of work is estimated at \$3.2m of which \$1.2m may be covered by the City's insurance as the remaining work is beyond repairing the damage caused by the fire. As described above in 2A, option 2B cost may escalate beyond \$4.0m, once price escalation and the unknown risk factors are included.

The new fit out and upgrades will improve the furnishings and use of the building. The building will comply with modern accessibility standards and increase the useful life of the asset. However, it will continue to be compromised for community use given its size and orientation. These works are estimated to take between 18 and 24 months to complete. As described below under the heading Social and Environmental Implications, options 2A and 2B derive limited new social or environmental benefits.

Option 3 – Replace (demolish and rebuild)

Option 3 will enable Council, employee and community requirements to be incorporated into the design and construction of a new building. A new building will ensure the best accessibility standards for community, customers, elected members, contractors and employees. Options for Elected Member support areas as well as community facilities are all possibilities for Council to consider.

In this scenario the City would seek a payout from the insurer, which would be negotiable but likely equal to the cost to remediate the building (option 1 figure).

Based on preliminary information, an estimated cost range of \$15m to \$20m is appropriate for the following scope:

- Approximately 3,000m²
 - 1,000m² – Community use
 - 2,000m² – Office accommodation
- Under-croft/basement carpark – 28 bays

It is important to note that significant work (Council, Administration, contractors) would need to be undertaken, as well as community and other stakeholder consultation, before a scope can be finalised and price estimates determined. These works are estimated to take between 24 and 36 months to complete once commissioned.

The construction of a new building provides for contemporary accommodation and community facilities which are aligned with current standards and will put the City in good stead to continue to deliver a high quality service and to meet the needs of a growing community.

The City has engaged MJA Studios Architects to assist in reviewing the above-mentioned options and to prepare floor plans and block massing diagrams of a potential new build.

Option 3 is supported by the City’s appointed architect who outlines the following:

“The existing built form has been subject to a range of ad-hoc alterations since its construction, which has resulted in a building that is now poorly planned, inefficient and with limited access to natural light and ventilation...”

“From our experience, projects proposing to re-use existing building fabric are viable when there is heritage value in the original building fabric, the orientation and floor plan are well considered, site constraints can be addressed and the required building brief can be accommodated appropriately.

The existing Council Chambers and Administration building is of no heritage value, and whilst it appears to be structurally sound the poor orientation and inherent limitations of

the construction methodologies are such that to retain it would in our opinion severely limit the success of any outcome.

As such, from our experience of similar projects, Options 1 and 2 provide limited value for the City as the inherent limitations of the original building will for the most part remain once the works are complete and the works undertaken will not greatly extend the useful life of the building. From our experience the option presenting the best value for money for the City Council and Community at large is Option 3: “Demolition and Rebuild” for the following key reasons:

- *The new build will have a much longer design life than a renovation of the existing structure*
- *The new build will have a lower operational cost per annum than a renovation of the existing structure*
- *The new build is likely to require a smaller footprint, limiting impact on surrounding Parkland*
- *The new build allows for consolidation of multiple Community services ensuring greater vibrancy onsite and freeing up those sites for potential leasing or re-development*

This option offers the opportunity to develop a building that is fit for purpose, reflecting a clear prioritization of community needs and a long-term commitment to providing a high-quality sustainable asset.....”

Option 3 creates an opportunity to integrate new community amenities by potentially replacing ageing community buildings and the potential to repurpose the City’s Operation Centre at 19 Bishop Street Jolimont as an income producing (commercial) property.

This option improves the City’s Capital Replacement Program, adding one modern building to last 50+ years, with improved community facilities, integration with Rankin Gardens and fit for purpose Council Chambers and Administration Centre.

Further work is required into the opportunities to integrate community facilities, low cost and sustainable design options, and feedback from Council. The proposed next steps if Council resolved in line with Option 3, would be as follows:

1. Negotiate a settlement with the City’s insurer.
2. Undertake procurement process to appoint an architect to develop a draft design.
3. Development of the design brief (series of EM workshops, threshold questions considered).
4. Architect to prepare a draft design based on the design brief (EM workshops to ensure alignment with point 3).
5. Engage a Quantity Surveyor (QS) to complete a budget estimate of the draft design.
6. Architect refine the draft design (based on feedback at EM workshops, following point 5).
7. Report for Council adoption of the design brief, progress to public consultation (Council decision).
8. Review public consultation (EM workshops).
9. Report to Council to proceed (or not) and/or refine draft design (Council decision).

10. Once approved by Council to proceed, prepare a Request for Tender (RFT) to appoint an Architect to complete construction architectural drawings.
11. Report to Council to appoint Architect from the RFT (Council decision).
12. Prepare a RFT to appoint a builder to demolish and rebuild 241 Rokeby Road.
13. Report to Council to appoint the builder from the RFT to demolish and rebuild 241 Rokeby Rd (Council decision).
14. Appoint builder, commence the project.
15. Regular progress reports to Council for project oversight (time, quality, budget).

It is important to note that, in response to the fire, staff and contractors have worked to bring together the information for Council in relation to the options (repair, refurbish, replace) and have not been in a position to workshop with Elected Members detailed information in relation to the multitude of opportunities with a scope or built form. This work would commence in earnest if Council were to adopt Option 3.

Recommendation

The Chief Executive Officer is authorised to progress Option 3, demolish and rebuild 241 Rokeby Road Subiaco, by commissioning designs for Council consideration and to inform community consultation.

Consultation

Option 1 and 2 does not require community consultation. If option 3 is the preferred option, particularly if Council wish to explore the decommissioning of community buildings, it would be important to commence consultation with the broader community in order to develop the scope. No community buildings would be decommissioned without undertaking such consultation and a subsequent Council decision.

If Council is of the view that there may be a profit element within Option 3, the City may be required to initiate community consultation in connection with this report in accordance with s3.59 of the *Local Government Act 1995 (WA)*, as described below under the heading Statutory and Policy Considerations.

Strategic Implications

The following strategies may be relevant to Council's decision:

- Strategic Community Plan – Strategy 6.1.1
The Mayor and councillors provide strong, consistent and decisive leadership.
- Strategic Community Plan – Strategy 6.1.4
Ensure best practice asset management principles are adopted.
- Strategic Community Plan – Strategy 6.1.5
Create organisational and community culture that is underpinned by financially sustainable practice.

Statutory and Policy Considerations

Although not recommended, should Council prefer Option 1 (Repair) it is open to progress this work in accordance with the authorisation given by the Mayor, under s6.8(1)(c) of the *Local Government Act 1995 (WA)*, to procure goods and services without the calling of public tenders or quotes in response to the emergency situation.

Alternatively, for Option 1 (Repair), Option 2A and 2B (Refurbish), the City may undertake a Request for Tender (RFT) process in accordance with s3.57 of the *Local Government Act 1995 (WA)*, Part 4 of the *Local Government (Functions and General Regulations 1996 (WA))* and the City's purchasing policy.

An RFT is required to progress Option 3 (Replace).

Option 2A, 2B and Option 3 are likely to exceed the amount prescribed for major land transactions under s3.59 of the *Local Government Act 1995 (WA)*:

major land transaction means a land transaction other than an exempt land transaction if the total value of —

- (a) the consideration under the transaction; and
- (b) anything done by the local government for achieving the purpose of the transaction,

is more, or is worth more, than the amount prescribed for the purposes of this definition;

The *Local Government (Functions and General) Regulations 1996 (WA)*:

8A. Amount prescribed for major land transactions; exempt land transactions prescribed (Act s. 3.59)

- (1) The amount prescribed for the purposes of the definition of **major land transaction** in section 3.59(1) of the Act is —
 - (a) if the land transaction is entered into by a local government the district of which is in the metropolitan area or a major regional centre, the amount that is the lesser of —
 - (i) \$10 000 000; or
 - (ii) 10% of the operating expenditure incurred by the local government from its municipal fund in the last completed financial year;

The prescribed amount for the City of Subiaco is \$3,500,000.

However, under regulation 8 of the *Local Government (Functions and General) Regulations 1996 (WA)* the transaction is exempt if:

8. Exempt land transactions prescribed (Act s. 3.59)

- (1) A land transaction is an exempt land transaction for the purposes of section 3.59 of the Act if the local government enters into it —
 - (a) without intending to produce profit to itself; and
 - (b) without intending that another person will be sold, or given joint or exclusive use of, all or any of the land involved in the transaction.
- (2) For the purposes of sub-regulation (1)(b) a person is given joint use of land if the land is to be jointly used for a common purpose by the local government and that person (whether or not other persons are also given joint use of the land).

Staff consider the City is not intending to produce profit for itself and is not intending that another person is given joint use of any of the land involved in the transaction and therefore does not require public consultation in relation to a s3.59 Business Plan.

Risk and Asset Implications

The first risk relating to this project is the time required to make a decision on the best way forward. Staff consider there is sufficient information to present a staff recommendation for Council consideration, noting that Council may wish to explore more information relating to these options. A timing risk is something quite often (unfairly) judged in hindsight.

There are risks associated with any redevelopment, the economy and current state of the construction industry adds greater uncertainty. To reduce the risk, it is recommended that the City take out Construction Insurance coverage to mitigate the risk of unforeseen circumstances such as an appointed builder going out of business during the project.

Buildings are complex assets that have a useful life that is a function of their many constituent and inter-related components. In order to manage the asset in the most effective and financially prudent manner, decisions should be considered on a whole of life basis. Expenditure on an asset needs to be considered on its impact on the asset condition, life and functionality amongst other criteria. Expenditure on only certain components of a building via refurbishments can result in overall greater costs when compared to the replacement of the entire asset if it is approaching end of life, particularly when asset replacement has a design life of at least 50 years.

The asset implications for each option outlined in this report are:

- Option 1 (Repair) – This would have the least impact on remaining useful life of the building and deemed suboptimal from a whole of life standpoint. It will continue to incur relatively high and increasing maintenance costs. The building will remain not fit for purpose.
- Option 2A and 2B (Refurbish) – These options increase remaining useful life more than Option 1 but are still deemed suboptimal from a whole of life standpoint as they don't address all key building components. The building will not be fit for purpose.
- Option 3 (Replace) – This represents the best whole of life cost. It creates a fit for purpose building and provides the opportunity to avoid the capital replacement for other ageing community buildings.

Financial

The City has managed its finances well in the past, resulting in all building options contained within this report able to be accommodated, each with different short-term and long-term financial implications. Uniquely, the City has a broad range of revenue streams, the main revenue source is rates, some 55% of total Operating Revenue, the third lowest in the metropolitan area.

Options 1 and 2 (A & B) financial implications only relate to one building, however there are broader financial implications as these options do not address the issue of replacing ageing civic and community buildings.

Option 3 requires higher initial funding that, if Council resolves to proceed with the officer's recommendation, may be funded by the sale of the former depot site at 2 Upham Street Jolimont. Option 3 may incorporate community facilities into the design which will enable the City to divest freehold assets to further offset the cost.

If Council resolves to proceed with Option 3, a whole life costing method will be used to calculate the lowest cost options for the entire commercial life of the building. With focus on the use of best value building designs to reduce the costs associated with unplanned repairs and routine maintenance.

Social and Environmental Implications

Option 1 and 2 (A & B) have limited social outcomes. Option 3 explores a significantly greater social service offering expected from the built form and possible interface with Rankin Gardens.

In terms of environmental aspects of the built form, Option 1 (Repair) and 2 (Refurbish) could not accommodate the vast majority contemporary standards, whereas Option 3 (Replace) will.

The Administration Centre currently consumes approximately 680.5 MWh of electricity per annum, which equates to approximately 462.7 tonnes CO₂-e. This represents 22% of the City's total operational electricity emissions or 13% of all emissions. Further, the building has an energy intensity (electricity and natural gas) of 410 MJ/m², and a NABERS rating of 5.5 stars.

Options 2A and 2B provides an opportunity to update some elements that contribute to energy efficiency whilst conserving some embodied carbon; that is, the carbon involved in raw material extraction, manufacture, transport, construction, maintenance, decommissioning, demolition, and waste disposal. However, there are limits in achieving optimal building performance through renovation alone where factors such as building orientation, ceiling height, eave depth, and thermal mass of materials are inefficient.

NatHERS provide high-level guidance on achieving 7-Star energy rating for dwellings that is also applicable to office buildings. Option 3 is deemed more suitable for the 241 Rokeby Road building given the substantial improvements needed to make it fit for purpose. A rebuild also presents opportunities to embed optimal performance in the buildings from the design stage onwards, and to minimise operational emissions. Rebuilding will allow for design decisions to maximise passive thermal performance for the climate zone. It also allows for embodied carbon to be calculated and minimised through the design process, and it will be the responsibility and goal for Council to minimise the environmental and social impact of the building through all stages of its life cycle. To optimise sustainability over the entire life cycle of the building whether renovating or replacing, a suitable assessment will be completed in the design phase with a goal of reducing both energy and water consumption by up to 50 per cent when compared to the current building.

Whether renovating or replacing, embodied carbon can be minimised by ensuring:

- All materials fit for re-use are reclaimed and incorporated into the new design, or otherwise diverted from landfill.
- The new building prioritises materials that are reclaimed or recycled, before those manufactured from virgin materials.

- Materials manufactured locally are prioritised.

Replacing the building to minimise embodied and operational greenhouse gas emissions also presents a strong opportunity to communicate and share learnings with the broader community.

Attachments

There are no attachments to this report.

C8 2022 ANNUAL ELECTORS' MEETING – THURSDAY, 1 DECEMBER 2022***REPORT FROM A/DIRECTOR CORPORATE SERVICES**

Author: Manager Governance Services, Lee Gyomorei
Date: 9 December 2022
File Reference: A/6587
Voting Requirements: Simple - more than half elected members present required to vote in favour

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Stroud / Seconded Cr de Vries

1. **That the Minutes of the 2022 Annual Electors' Meeting, held on Thursday, 1 December 2022, be received.**
2. **MOTION: Genevieve Binnie be thanked for her advocacy and lobbying, and work with the Subiaco community, is noted by Council.**

CARRIED EN BLOC 9/0

6.03pm

Executive Summary

The Annual Electors' Meeting was held at 5:30pm on Thursday, 1 December 2022 in the Council Chambers at 241 Rokeby Road, Subiaco.

The Electors' Meeting was attended by four members of the public, with one motion carried at the meeting.

Any motions passed at an Annual Electors' Meeting are not binding on the Council, however Council is required to consider them.

The purpose of this report is to provide Council with the opportunity to consider the motion carried at the 2022 Annual Electors' Meeting held on Thursday, 1 December 2022.

Background

Section 5.27 of the *Local Government Act 1995* (the Act) determines that a general meeting of electors of a district is to be held once every financial year. The general meeting is to be held on a day selected by the local government, but not more than 56 days after the local government accepts the annual report for the previous financial year. The matters to be discussed at the general meeting are to be those prescribed, namely the content of the annual report and any general business [Regulation 15, *Local Government (Administration) Regulations 1996*].

Section 5.33(1) of the Act determines that any decisions made at the general meeting are to be considered at the next ordinary Council meeting, or if that is not practicable, at the first ordinary meeting after that meeting, or at a special Council meeting called for that purpose, whichever happens first.

If a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the Council meeting [section 5.33(2)].

Comment

To hold the Annual Electors' Meeting, a local government must wait for its annual financial statements to be signed off by the Office of the Auditor General (OAG) and included within an annual report.

The financial statements were signed off by the OAG on 18 November 2022. Council accepted the Annual Report at the Ordinary Meeting of 22 November 2022 (Report AR1 – Annual Report and Audited Annual Financial Statements 2021-2022).

The Annual Electors' Meeting was held at 5:30pm on Thursday, 1 December 2022 in the Council Chambers at 241 Rokeby Road, Subiaco. The minutes of the meeting are attached to this report (Attachment 1).

The Electors' Meeting was attended by four members of the public, with one motion carried at the meeting. Decisions made by electors at an Annual Electors' Meeting are the recommendations of those electors present on the matters discussed and considered at the meeting. Any motions passed at an Annual Electors' meeting are not binding on the Council, however Council is required to consider them.

The motion passed at the Annual Electors' Meeting is set out below.

MOTION

Ms Leeder advised that she wished to move a motion of thanks to Genevieve Binnie for her advocacy and lobbying, and work with the Subiaco community, in particular in relation to zoning matters, amenity of Rokeby South, and the Save Subi group.

Moved Helen Leeder / Seconded Hugh Richardson

Genevieve Binnie be thanked for her advocacy and lobbying, and work with the Subiaco community.

CARRIED

Officer Comment

The City acknowledges Ms Leeder's motion, and the associated statement of Ms Genevieve Binnie's community involvement.

Options

Council may resolve to endorse or amend the recommendation, or move an alternative motion.

Consultation

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

Strategic Implications

Strategic Community Plan

Focus Area 6 Council Leadership. A leading council that is supported by an excellent organisation.

Statutory and Policy Considerations

Section 5.27 of the Act states that an annual meeting of electors is to be held once every financial year to consider the contents of the Annual Report for the previous year, and consider other general business.

Section 5.33(1) of the Act determines that all decisions made at an electors' meeting, are to be considered at the next ordinary council meeting, or if that is not practicable, at the first ordinary meeting after that meeting, or at a special council meeting called for that purpose, whichever happens first.

Risk and Asset Implications

There are no risk or asset implications in relation to the recommendation contained within this report.

Financial

There are no financial implications in relation to the recommendation contained within this report.

Social and Environmental Implications

There are no social or environmental implications in relation to this report.

Attachments

1. Minutes of the 2022 Annual Electors' Meeting held on Thursday, 1 December 2022.

C9 RESPONSIBLE AUTHORITY REPORT – 263-277 HAY STREET AND 17-19 OLIVE STREET, SUBIACO – FORM 2 – EXTENSION TO TERM OF PLANNING APPROVAL*

REPORT FROM A/DIRECTOR COMMUNITY AND DEVELOPMENT SERVICES

Authors: Manager Planning Services, Anthony Denholm
Senior Statutory Planning Officer, Haydn Ruse

Date: 9 December 2022

File Reference: A/6587

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

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr Hamersley / Seconded Cr de Vries

The officer recommendation to the Metro Inner-North Joint Development Assessment Panel (DAP) for REFUSAL of the Form 2 Application (request for extension of time) at No. 263 - 277 (Lots 23 - 26) Hay Street and 17 - 19 (Lots 31, 304 and 305) Olive Street, Subiaco (DAP/15/00921) as set out in Responsible Authority Report (Attachment 1), is adopted and included as the Council Recommendation in the relevant section of the Responsible Authority Report. The Responsible Authority Report is submitted to the presiding member of the DAP by midday 4 January 2023.

CARRIED 9/0
8.13pm

Executive Summary

On 26 October 2022, the City received a Form 2 Development Assessment Panel (DAP) application for No. 263 - 277 (Lots 23 - 26) Hay Street and 17 – 19 (Lots 31, 304 and 305) Olive Street, Subiaco. The application seeks a six-month extension to the substantial commencement timeframe for an approval for the demolition of existing buildings and construction of six storey mixed use development. Orderly and proper planning should require developments meet the current standards and by extension, community expectations in terms of development outcomes. Given the substantial changes to the planning framework that has occurred since 2016 when approval was first granted, supporting a further extension for a development which doesn't necessarily reflect the current planning framework may undermine and/or erode the community's trust in the planning system. The development approval lapsed on 27 October 2022. Despite the approval lapsing, the planning framework permits applicants to seek extensions to the term of their approval even after it has lapsed. City Officers have considered the application against the local planning framework. It is recommended that the application is refused as it is not considered to be supportable against the current planning framework, in particular having regard to *Local Planning Policy 7.6 – Amendment and Extension to Term of Development Approval*.

Introduction

This report considers the Responsible Authority Report (RAR) prepared for the development application at No. 263 - 277 (Lots 23 - 26) Hay Street and 17 – 19 (Lots 31, 304 and 305) Olive Street, Subiaco (DAP/15/00921) (**Attachment 1** – Responsible Authority Report).

Background

Whilst the site context and development history are detailed in the RAR, some key elements relevant to the background of this proposal are set out below:

- The applicant has had six years and six months to achieve substantial commencement, where four years is the industry standard for such applications to achieve that milestone. The impacts of COVID-19 aside, it is highly unusual for developments approved to not achieve substantial commencement before their approvals expire, particularly when four year approvals are granted;
- The City, in considering a previous request for an extension to the term of the development approval in February 2022 did not support the proposal for a number of reasons under the planning framework. These reasons are effectively the same reasons why the City is not supportive of the current extension sought;
- In seeking a request to extend the term in February 2022 from DAP of an additional six months, the applicant sought that period of time and by extension, gave a commitment to DAP that the necessary works to substantially commence could be achieved in that period. This was not achieved and there is no guarantee that a further extension of six months will permit this being achieved.
- Since this latest approval was granted in February 2022, the applicant has made little attempt to progress the approval with the City, with progress largely limited to seeking and obtaining the clearance of four conditions of approval. There are six conditions that would need to be satisfied in order to allow for substantial commencement of the development, of which four have been cleared already. After clearance of those relevant conditions are satisfied, physical works need to be substantially commenced beyond that, of which, has not started.

Comment

The Form 2 application seeks approval for an additional six months in which to substantially commence the development application, which was a six-storey mixed use development. It is noted that the development approval lapsed on 27 October 2022, as it was substantially commenced. However, the request for an extension to the term of the development approval can still be lodged notwithstanding the approval has lapsed.

A full assessment of the proposal is detailed in the RAR and supporting attachments. The proposal is not considered to be consistent with the discretionary criteria of LPS5, the Deemed Provisions and Local Planning Policies. The development is recommended for refusal.

It is recommended that Council adopt the Officer recommendation to the JDAP that the application be refused for the reasons provided in the RAR. Council's recommendation will be included in the Council Recommendation section of the RAR.

Options

Council may resolve to support the Officer's recommendation or alternatively may resolve to support an alternative recommendation to the Metro Inner North JDAP to approve the application. The alternative option to recommend approval is not supported by Officers for the reasons mentioned in the RAR.

Strategic Implications

There is a risk that if the request for an extension of time is approved by the DAP, then the proposal will represent a form of development which is largely inconsistent with the strategic and statutory planning framework currently in place, which is significantly different from the framework over six years and six months ago.

Statutory and Policy Considerations

There are no statutory or policy considerations for this report.

Risk and Asset Implications

There are no risk and asset Implications for this report.

Financial

There are no financial implications for this report.

Social and Environmental Implications

There are no social and environmental implications to this report.

Attachments

1. Responsible Authority Report for No. 263 - 277 Hay Street and 17 – 19 Olive Street, Subiaco
2. Development Report dated received 26 October 2022

For Information

1. Combined attachments to the Responsible Authority Report

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**PROCEDURAL MOTION (7.1(h) of the Meeting Procedures Local Law)**

Moved Cr Stroud / Seconded Cr Burns

That the meeting be closed to the public, pursuant to section 5.23(2)(c) of the Local Government Act 1995 while item 13.1 is considered.

CARRIED 9/0

8.14pm

Reason:

- Section 5.23(2)(c) provides that a meeting may be closed to deal with a contract entered into, or which may be entered into, by the local government and which relates to a matter to be discussed at the meeting.

13.1 SEDDON STREET PUBLIC REALM - CONFIDENTIAL*Cr de Vries left the meeting at 8.39pm and returned to the meeting at 8.42pm.**Cr Burns left the meeting at 9.04pm and returned to the meeting at 9.06pm.***COUNCIL DECISION**

1. The Chief Executive Officer is authorised to enter into an agreement with 10 Rokeby Rd Subiaco Pty Ltd (ACN 609 573 015) of 1050 Hay Street, West Perth, Western Australia (Blackburne Property Group), to complete the Seddon Street Public Realm upgrade works as per the Council resolution at the Ordinary Council Meeting held on 22 November 2022 [report 13.2] with the addition of an External Costs clause as outlined in this report.
2. In accordance with section 9.49A(4) of the Local Government Act 1995, the Chief Executive Officer is authorised to execute documents and agreements necessary to give effect to point 1.

CARRIED

9.05pm

COUNCIL DECISION**That the meeting come out from behind closed doors.**

CARRIED

14. CLOSURE OF MEETING

The Presiding Member declared the City of Subiaco Ordinary Council Meeting of 13 December 2022 closed at 9.06pm.