



MINUTES

ORDINARY COUNCIL MEETING

**COUNCIL CHAMBERS
LEVEL 2, 388 HAY STREET, SUBIACO**

TUESDAY 27 AUGUST 2024

**COMMENCEMENT: 5:31PM
CLOSURE: 7:30PM**

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1. DECLARATION OF OPENING / ANNOUNCEMENT OF VISITORS

The Presiding Member declared the Ordinary Council Meeting of 27 August 2024 held in Council Chambers at Level 2, 388 Hay Street Subiaco, open at 5:31pm.

The Presiding Member welcomed those present at the meeting and gave an Acknowledgement of Country on behalf of the City of Subiaco.

2. ATTENDANCE / APOLOGIES / LEAVE OF ABSENCE

Cr Burns left the meeting at 5:32pm and returned to the meeting at 5:34pm.

Elected Members Present

Mayor David McMullen	Presiding Member
Cr Rosemarie de Vries	North Ward
Cr Russell Jones	North Ward
Cr Nicola Johnston (via Zoom)	Central Ward
Cr Penny O'Connor	Central Ward
Cr Garry Kosovich	East Ward
Cr Mark Burns (via Zoom)	East Ward
Cr Rick Powell (via Zoom)	South Ward
Cr Simon White	South Ward

*In accordance with section 14C(2)(b) of the Local Government (Administration) Regulations 1996, **Crs Nicola Johnston, Mark Burns and Rick Powell** were authorised to attend the meeting by electronic means by the Mayor, having declared that they could maintain confidentiality during the meeting.*

Staff Members Present

Colin Cameron	Chief Executive Officer
James Hambly	Director Technical Services
Emma Woolaston	Director Corporate Services
Linnet Solomons	Director Business Improvement
Alex Petrovski	Director Development Services
Anthony Denholm	Manager Planning Services
Joel Guest	Manager Commercial Services and Property
Elizabeth Connolly	Manager Cultural Services
Sarah Herbert	Coordinator Community Development
Anthea Astone	A/Coordinator Governance
Lorraine Edwards	Governance Officer

Apologies

Nil

Leave of Absence

Nil

Observers

1 media

6 members of the public

2.1 Leave of Absence Requests

COUNCIL DECISION

Moved Cr de Vries / Seconded Cr Kosovich

Cr Russell Jones is granted a leave of absence for the period 1 September 2024 to 17 September 2024.

CARRIED 8/0

5:33pm

3. DISCLOSURE OF INTEREST

Cr Penny O'Connor declared an **IMPARTIALITY** interest in item C4 pursuant to Clause 22(2) of the Code of Conduct for Council Members, Committee Members and Candidates. The nature of the interest is:

“That I am a close friend of the owner of 7 MaCallum Avenue, Daglish within the subject area.”

Cr Rosemarie de Vries declared an **IMPARTIALITY** interest in item C4 pursuant to Clause 22(2) of the Code of Conduct for Council Members, Committee Members and Candidates. The nature of the interest is:

“I am a neighbour of the residents in 7 McCallum Avenue Daglish, who have self nominated to be included on the Local Heritage Survey.”

4. RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Nil

5. PUBLIC QUESTION TIME

Nil

6. PUBLIC STATEMENT TIME

Philip Anderson on behalf of Westbridge Urban, Station Street, Subiaco read a statement in relation to item C1.

Warren Kerr on behalf of Regal Theatre Foundation, Hay Street, Subiaco read a statement in relation to item C1.

7. PETITIONS AND APPROVED DEPUTATIONS

Nil

8. CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

8.1 Ordinary Council Meeting – 30 July 2024

COUNCIL DECISION

Moved Cr Jones / Seconded Cr de Vries

The Minutes of the City of Subiaco Ordinary Council Meeting held on Tuesday 30 July 2024 are confirmed as a true and correct record.

CARRIED 9/0

5:40pm

9. ANNOUNCEMENTS BY THE PRESIDING MEMBER

I'll make a couple of announcements tonight. The first relates to the City's Photographic Awards, an annual event in their 23rd year. We had a very successful awards evening last night for the City's Photographic Awards and I understand we had over a thousand entries this year – the highest we've ever had. The awards just get bigger and bigger, continuing to adapt and evolve as the artform of photography evolves. This year was the first year that we had an AI category. What that means is that you could enter a photograph that had been altered using AI or type prompts into AI software to create a photo using no camera at all. Very cutting edge, a little bit edgy for a photographic award, but a credit to all involved for embracing the way the artform is headed. There were 8 awards presented, but the voting for the People's Choice Award remains open until the end of the awards season. We're encouraging people to get to the E.H. Parker Library to view the exhibition and vote for what you would consider to be the people's choice. There is also a changing of the guards on the judging panel with Mr Dale Neil, our competition judge of the past 21 years, retiring after these awards. We took the opportunity last night to thank him and wish him well.

The second announcement relates to local government rates. Whilst they're a distant memory for this council it has been reported that our rate rise, of a low 1.9%, was this year's lowest local government rate rise. The media coverage was hard to spot but it did happen, there were at least two articles that I saw it in. The first was about the City of Perth's annual budget, in fact, but our tiny rate rise got a mention in that. And we got another passing mention in an article about a so-called move to end nasty rate-rise surprises. Basically, just an article about the State Government's on-going local government reforms, but again the City of Subiaco's low rate rise was mentioned in passing in that as well. While it's not a race to the bottom with rates, in a year such as this one where we did have the lowest rate rise, I think it's really worth emphasizing the point that we got there just by having a series of workshops and then bringing it to council where the budget was supported. Just like that. Everything working as it should. To the City of Subiaco ratepayer this is newsworthy. All the other household bills continue to go up at CPI or higher but not their Subiaco rates bill. It's the result of prudent financial management and diversified investments, no State Government reform needed. I think a special mention goes to the mathematical wizards and multiple recovering accountants on our Executive Leadership Team, thank you to you, and to all our Directors and Managers. You've sharpened your pencils and will continue to deliver for our ratepayers for another year. Well done to you all.

10. REPORTS OF COMMITTEES AND OFFICERS

COUNCIL DECISION

Moved Cr de Vries / Seconded Cr O'Connor

Items C3, C5, C6, C7 and C8 in the Agenda of the Ordinary Council Meeting of 27 August 2024 are adopted en bloc.

CARRIED 9/0

5:46pm

10.1 OFFICER REPORTS

C1 RESPONSIBLE AUTHORITY REPORT – 474-484 (LOT 13, 14, 15 & 57) HAY STREET & 61 (LOT 124, 125 & 126) ROKEBY ROAD, SUBIACO*

REPORT FROM DIRECTOR DEVELOPMENT SERVICES

Author: Anthony Denholm, Manager Planning Services
Aoise Noone, Senior Statutory Planning Officer

Date: 16 August 2024

File Reference: A/7658

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

Cr Powell left the meeting at 6:00pm and returned at 6:01pm.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr de Vries / Seconded Cr O'Connor

The officer recommendation to the Metro Inner Development Assessment Panel for APPROVAL is adopted and included as the Council Recommendation in the Responsible Authority Report for the development application at No. 474-484 (Lots 13, 14, 15 & 57) Hay Street and 61 (Lots 124, 125 & 126) Rokeby Road, Subiaco (DAP/24/02704).

CARRIED 8/0

6:00pm

Executive Summary

- On 16 May 2024, the City received a Development Assessment Panel (DAP) application for 474-484 Hay Street and 61 Rokeby Road, Subiaco.
- The application proposes the partial demolition of the Regal Theatre and construction of a nine-storey mixed use development (contained in Lot 57) comprising 71 multiple dwellings and five commercial tenancies.
- The application meets the criteria for a DAP application under Regulation 6 of the *Planning and Development (Development Assessment Panels) Regulations 2011* (DAP Regs). The applicant elected for the application to be determined by the Metro Inner Development Assessment Panel.
- This report provides a brief overview of the Responsible Authority Report (RAR) for Council to make a recommendation to the DAP.
- Whilst the proposal does not strictly satisfy the development standards of the Subiaco Activity Centre Plan (SACP) and Local Planning Scheme No. 5 (LPS 5), the proposal provides an appropriate design response for its context, provides for community benefits (including upgrades to the Regal Theatre), and is an exemplar design as determined by the City's Design Review Panel (DRP).

- The RAR is due to be provided to DAP by 29 August 2024. It is recommended Council adopt the officer recommendation to approve the proposal subject to conditions.

Background

This report considers the RAR prepared for the development application at 474-484 Hay Street and 61 Rokeby Road, Subiaco (DAP/24/02704) (**Attachment 1 – RAR**). The site context and development history are detailed in the RAR.

Comment

The proposal seeks development approval for the partial demolition of the Regal Theatre and construction of a new nine-storey mixed use development contained within Lot 57. The development comprises 71 multiple dwellings and five commercial (two restaurant/café, two shops and one small bar) tenancies (**Attachment 2 – Amended Development Plans** dated 9 August 2024).

An assessment of the proposal has been conducted against the provisions of LPS 5, the SACP, the Residential Design Codes Volume 2 – Apartments (R-Codes Vol 2) and relevant Local Planning Policies summarised in **Table 1** below.

Table 1: Key Planning Issues				
Planning Element	Acceptable outcome/permited	Proposed	Assessment	
LPS 5 R-Codes SACP	Demolition (LPS 5 – cl. 32(1)(2))	Demolition can be considered when buildings have no or limited cultural heritage significance	Partial demolition of western façade of Regal Theatre removes fabric of limited significance	Discretion sought
	Building Height (LPS 5)	Maximum 8 storeys	9 storeys	Discretion sought: 1 storey
	Building Height – Element 2.2 (SACP)	4 storey street interface (15.5m)	5 storey street interface 19.3m	Discretion sought: 1 storey and 3.8m
		<i>Southern Street Boundary:</i> Additional 2 storeys setback minimum 3m or to enable sunlight access to opposite footpath	9 storeys (28.1m) <i>Hay Street:</i> 2.4m setback	Discretion sought: 3 storeys and 0.6m
		<i>Other Street Boundaries:</i> Additional 2 storeys setback 6m	9 storeys (28.1m) <i>Alvan Street:</i> minimum 3m setback	Discretion sought: 3 storeys and 3m
	Side and Rear Setbacks – Element 2.4 (SACP)	<i>Side:</i> Nil up to four storeys and then setback 3m	<i>Eastern:</i> 4 storeys with nil setback and 9 storeys 4m setback	Satisfies SACP setbacks
		<i>Rear:</i> Nil up to two storeys and then setback 3m (where abutting a ROW)	<i>Northern:</i> 3 storeys with nil setback and 9 storeys 2.5m setback	Discretion sought: 1 storey and 0.5m
	Bicycle Parking – Element 3.9 (LPS 5)	Class A: 2 Class B: 4 Class C: 6	Class A: Nil Class B: 15 Class C: 10	Discretion sought – shortfall in Class A
Tree Canopy and Deep Soil Areas – Element 3.3	<i>Deep Soil Areas (DSA):</i> 10% = 182.71m ² OR On-structure = 2 x DSA shortfall (320.62m ²)	<i>DSA:</i> 22.4m ² <i>On-structure:</i> 241.1m ²	Discretion sought	

Table 1: Key Planning Issues				
Planning Element		Acceptable outcome/permited	Proposed	Assessment
	Dwelling Mix – Element 4.8	Minimum 20% for each dwelling type	<i>One bed: 43.66%</i> <i>Two bed: 49.3%</i> <i>Three bed: 7.04%</i>	Discretion sought
<i>R-Codes Vol. 2</i>	All relevant Element Objectives are generally considered to be achieved (refer to RAR Attachment 23).			

A full assessment of the proposal is detailed in the RAR and supporting attachments. The proposal is consistent with the discretionary criteria of LPS 5, the Deemed Provisions, and meets the relevant objectives of the SACP and the R-Codes Vol 2. The development is recommended for approval subject to conditions.

Consultation

The application was advertised for a period of 28 days between 24 May and 21 June 2024. 56 submissions were received, comprising 43 in support (76.8%), 10 objecting (17.8%) and three providing comment only (5.4%). The Heritage Council of Western Australia (HCWA) support the original plans. At the time of writing this report, the City is waiting on receipt of updated comments from the HWCA relating to the amended plans. If these comments aren't received before the Ordinary Council Meeting of 27 August 2024, City offices will update the RAR following the meeting.

Sustainability Considerations

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

Strategic Considerations

The application for development approval is considered in the context of the City of Subiaco Local Planning Strategy 2020 and broader strategic planning framework as detailed in the RAR.

Statutory and Policy Considerations

The application for development approval is considered in accordance with the *Planning and Development Act 2005*, the City of Subiaco LPS 5, the SACP and relevant planning policies as detailed in the RAR. Local government (as a responsible authority) has a role to provide a planning assessment for consideration by DAP in accordance with the DAP Regs.

Resource Considerations

The need for a universal access toilet (UAT) at the Regal Theatre has been known for some time. Several years ago the City received a request from the Regal Theatre Foundation to assist in the development of a public UAT along with additional female toilets. At the Council Meeting on 23 March 2021 (Item C11) the Council resolved to establish a self-supporting loan of up to \$200,000 to assist the Regal Theatre Foundation for this purpose.

As the UAT is now proposed to be provided as a community benefit in the proposed development application, the use of the loan for this purpose is no longer required.

Risk Considerations

Officers have prepared a recommendation based on a technical planning assessment which if adopted by Council will become the responsible authority's recommendation. The assessment includes a range of technical matters (such as engineering, waste, health etc.) which are important considerations for the DAP who relies on local government for this expertise.

A responsible authority recommendation which is generally consistent with technical planning advice is recommended. Council could choose to make another recommendation, and should this occur, the DAP report template requires the officer technical advice also be provided in a separate section of the RAR.

Should no report be provided from the City, DAP can make a decision without the submission of an RAR. A decision without all relevant information may have a negative impact on the future development of the area and the City's ongoing operations.

Options

It is up to Council to consider this development application in one of four different ways:

1. Recommend approval of the application as per Officer Recommendation.
2. Recommend approval of the application as amended by Council.
3. Recommend refusal with reasons.
4. Not provide a recommendation to the DAP.

It is recommended Council adopt the officer recommendation (Option 1). Council's recommendation will be included in the Council Recommendation section of the RAR, which is due on 29 August 2024.

With respect to Option 2, officers have a prepared a list of conditions which relate to the planning framework. If Council considers including additional conditions or modifying any conditions recommended by officers, these will need to be based on planning grounds. Option 3 is not recommended. There is risk associated with Option 4 (refer to Risk Considerations above).

Attachments

1. Responsible Authority Report (DAP/24/02704)
2. Amended Plans dated 9 August 2024

For Information

1. Combined RAR Attachments

C2 REVOCATION OF LOCAL PLANNING POLICY 7.4 – APPLICATIONS FOR REVIEW OF TOWN PLANNING DECISIONS AND WRITTEN DIRECTIONS*

REPORT FROM DIRECTOR DEVELOPMENT SERVICES

Author: Manager Planning Services, Anthony Denholm
Statutory Planning Officer, Callum Radecki

Date: 13 August 2024

File Reference: A/7658

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

Cr Powell left the meeting at 6:14pm and returned to the meeting at 6:15pm.

Cr Powell left the meeting at 6:17pm and returned to the meeting at 6:18pm.

Cr Powell left the meeting at 6:19pm and returned to the meeting at 6:20pm.

Cr Powell left the meeting at 6:30pm and returned to the meeting at 6:31pm.

OFFICER RECOMMENDATION

Moved Cr Kosovich / Seconded Cr de Vries

Local Planning Policy 7.4 – Applications for Review of Town Planning Decisions and Written Directions is revoked with a notice published in a local newspaper in accordance with Schedule 2, Part 2, Clause 6 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

LOST 0/9

6:13pm

Pursuant to clause 2.5(3) of the City of Subiaco Meeting Procedures Local Law 2013, the Presiding Member submitted and accepted a motion to be dealt with relevant to the recommendation contained within item C2.

The Presiding Member vacated the chair at 6:13pm and Deputy Mayor, Cr Kosovich assumed the chair.

COUNCIL DECISION

Moved Mayor McMullen / Seconded Cr O'Connor

That, in light of the Council resolution on Item C2 of this meeting agenda relating to *Local Planning Policy 7.4*, the CEO is to cause a new policy to be prepared and submitted for Council approval regarding the use of independent planning consultants at State Administrative Tribunal mediations.

The policy should reflect the following principles:

- 1. City planning officers will generally engage independent planning consultants to assist the City at SAT mediations, in circumstances where:**
 - the necessary technical skills and expertise are not available in-house, or where the City would otherwise benefit from external advice or a second opinion;
 - there are internal resourcing issues; and/or
 - the mediation involved complex technical issues,**subject to point 3., below.**
- 2. Where Council has made a decision which differs from a planning officer recommendation, staff will consult with the Mayor and Councillors to understand the Council position and expectations, and then further that case at mediation.**

- 3. It is acknowledged that on planning matters (as with any other matters) staff implement Council decisions. Nevertheless, (and whether or not the circumstances at point 1. (above) apply), the usual practice where a Council decision differs from a planning officer recommendation is that external planning consultants *will* be engaged to assist at mediation *unless* through the consultation described at point 2. (above) all relevant parties are satisfied that external consultants are not required for a particular mediation.**

CARRIED 8/0

6:30pm

Mayor McMullen provided the following reasons:

1. *Whether LPP 7.4 is retained or revoked as a result of agenda Item C2, the policy requires a refresh. The planning framework has changed since the preparation of adoption of LPP 7.4; and the need for a refresh of LPP 7.4 was also expressly identified as an action item arising out of the review of planning services undertaken by the City in 2022-2023*
2. *In light of reason 1, this motion is necessary and appropriate whatever the resolution on C2. LPP 7.4 should not be retained indefinitely; nor should the City operate with no replacement, indefinitely. This motion can sit comfortably with the resolution on C2 - whatever that is.*
3. *Based on staff advice, the new policy would not be a planning policy withing the meaning of the Planning and Development Act and Regulations. It would be a Council policy.*
4. *The intent behind the new policy is to ensure access to independent planning advice in SAT mediations where needed, while respecting and empowering the City's planning staff in the exercise of their professional judgement and expertise.*
5. *If and when the new policy is approved by Council, the revocation of LPP 7.4 (if still retained by that point) can be resubmitted to Council.*
6. *This motion does not limit what may be included in and covered by the new policy.*

The Deputy Mayor, Cr Kosovich vacated the chair at 6:30pm and Mayor McMullen assumed the chair.

Executive Summary

- Local Planning Policy 7.4 (LPP 7.4) – Applications for Review of Town Planning Decisions and Written Directions has recently been reviewed by officers as part of regular reviews of the local planning policy manual.
- Most of the provisions in LPP 7.4 are administrative and/or are captured by legislation, including State Administrative Tribunal (SAT) documents, and the policy is duplicative in this regard.
- There are unique provisions related to public consultation, and it is proposed that these provisions are incorporated into Local Planning Policy 7.3 – Public Consultation for Planning Proposals (LPP 7.3).
- It is recommended LPP 7.4 be revoked and provisions relating to notification to submitters of SAT applications for review are transferred over to LPP 7.3. This change can be accommodated as a minor amendment, does not require public consultation, and is covered by a separate report to Council at this meeting.

Background

LPP 7.4 was adopted in October 2011 and had an administrative review (renumbered) in February 2021. The policy provides guidance to City officers in responding to applications that are lodged with the SAT for the review of a planning decision made by

the City (Council and officers under Delegated Authority). The policy provides guidance on:

- The process to handle a SAT application for review, where:
 - Council’s decision was consistent with the officer recommendation.
 - Council’s decision was inconsistent with the officer recommendation.
- When to engage legal representation.
- When to engage an expert witnesses.
- The process to involve third parties.
- The process to conduct mediation.
- The process to reconsider decision under s.31 of the *State Administrative Tribunal Act 2004* (SAT Act).

Comment

Review of LPP 7.4 provisions

LPP 7.4 mainly includes administrative processes relating to SAT applications for review. Much of the procedural nature of reviews is prescribed in SAT documentation and legislation and the policy is duplicative and redundant.

For the reasons outlined in **Table 1** below, it is recommended that LPP 7.4 be revoked, and internal processes guide any matters in the SAT similar to how officers deal with reviews under other legislation (*Dog Act 1976*, Local Laws, Parking, *Building Act 2011* etc).

Table 1: LPP 7.4 – Review of policy provisions	
Clause	Comments
Statutory Background	<ul style="list-style-type: none"> • This section of the report is out of date, as it references clauses contained in Town Planning Scheme No. 4 (TPS 4), which was rescinded and replaced by Local Planning Scheme No 5 in 2020.
Purpose	<ul style="list-style-type: none"> • The policy considers that where Council makes a decision that is inconsistent with an officer recommendation, that it is not appropriate that officers respond on behalf of Council. • This comment is inconsistent with the <i>Local Government Act 1995</i> where officer functions (through the CEO) are to cause decisions of Council to be implemented.
1. Council decision inconsistent with officer recommendation	<ul style="list-style-type: none"> • The existing policy seeks to appoint planning consultants where decisions are made inconsistent with an officer recommendation. • As described above, officer duties are to cause Council decisions to be implemented and there is no demonstrated need for this to be achieved through a planning consultant. • Planning consultants could be used where a matter proceeds to a hearing, as the assessing officer has already made an opinion, however, the City could also consider having another person (not involved in the assessment) appear as a witness. • The way applications are procedurally handled should be consistent irrespective of if a decision was made consistent with officer advice.
2. Council Decision Consistent with Officer Recommendation	<ul style="list-style-type: none"> • This clause outlines that where the Council decision was the same as the officer recommendation, officers may act on behalf of the Council, or a consultant can be engaged at the discretion of the Manager Planning Services.
3. Parties not legally represented	<ul style="list-style-type: none"> • This clause is covered by the SAT Act and SAT information sheet 3 and information sheet 4.
4. Legal Representation	

5. Expert Witnesses	<ul style="list-style-type: none"> This section guides officers on electing an expert witness and specifies the need for the Manager Planning Services or Director Development Services to approve the expert witness selection which would occur with or without such policy.
6. Notification of Interested Parties of an Application for Review of a Decision	<ul style="list-style-type: none"> The requirement to notify interested parties (submitters) of an Application for Review of a Decision goes beyond requirements in legislation and SAT procedures and is an important transparency component of LPP 7.4. It is proposed to retain this provision and have it transferred into LPP 7.3.
7. Involvement of Third Parties	<ul style="list-style-type: none"> This clause is covered by SAT information sheet 6 and Section 242 of the <i>Planning and Development Act 2005</i>. Third parties are considered by SAT, which the City is unable to influence.
8. Mediation	<ul style="list-style-type: none"> This clause is covered by SAT information sheet 10 and is subject to orders from the Tribunal.
9. Referrals under s31 of the State Administrative Tribunal Act	<ul style="list-style-type: none"> This clause is covered by SAT information sheet 7. The notification to original submitters regarding a s.31 decision can be captured within LPP 7.3 consistent with clause 6 above.
10. Adjournment of Proceedings	<ul style="list-style-type: none"> These clauses are procedural in nature and are considered on an individual basis for each application. Generally parties before SAT bear their own costs. DAP provisions have been updated where the DAP Executive Director is the respondent however the provisions in the local planning policy provide limited guidance.
11. Application for Review lodged while a Direction under s214 of the Planning and Development Act is in Force	
12. Appeals against Decisions of the Tribunal	
13. Costs	
14. Development Assessment Panels	

Transfer of suitable provisions to LPP 7.3

As identified in **Table 1**, the following LPP 7.4 provisions are suitable for retention and are recommended to be transferred to LPP 7.3:

Clause 6 – Notification of Interested Parties of an Application for Review of a Decision

Clause 6 is considered transferrable:

‘Upon receipt of written advice that an application for a review of a decision has been lodged, the City will advise all parties who made a submission with regard to the original decision that such an application has been received. This notification shall be made in writing once only within ten (10) days of the City receiving such written advice and will only contain information regarding the reviewable decision, the Tribunal’s reference number and contact details.

The City will not provide updates as to the progress of any application for review.’

Clause 9 – Referrals under s.31 of the State Administrative Tribunal Act

The following part of Clause 9 is considered transferrable:

‘Where submissions relating to the original proposal were received, the City will notify those submitters that the matter has been referred to Council under the provisions of s31 of the Act however, it will not seek further submissions on the proposal unless directed to do so by the Tribunal.’

The remainder of the clause is administrative and does not need to be transferred.

LPP 7.3 is the appropriate location for both provisions and complements the following objective of LPP 7.3:

- a) *Provide consistent consultation processes for planning proposals*

The transfer of these provisions are deemed to be a minor amendment which does not require advertising, as they are existing provisions in the City's planning framework and the change only relates to which policy they are located in.

These changes are recommended through a separate report to this Council meeting.

Consultation

The *Planning and Development (Local Planning Schemes) Regulations 2015* does not require public consultation for the revocation of a local planning policy. A notice of revocation is required to be published in a newspaper circulating within the Local Planning Scheme area.

Sustainability Considerations

There are no social or environmental implications for this report.

Strategic Considerations

The recommendation contributes to the following Council strategy:

Strategic Community Plan – Strategy 6.1.1

The Mayor and councillors provide strong, consistent and decisive leadership.

Statutory and Policy Considerations

Policies are useful in the exercise of discretion and are best used to guide decision making of officers. Planning policies have another function as they also amend development controls.

Policies are not well suited to administrative processes or duplicating controls in high order documents (such as the *Local Government Act 1995* and SAT Act).

LPP 7.4 duplicates many of these provisions and perhaps when first adopted served as a means of communication for community members – SAT practices and info sheets are now readily available for view.

The provisions in LPP 7.4 offering discretionary guidance to notify submitters of a planning application being reviewed by SAT are proposed to be transferred to LPP 7.3.

Resource Considerations

There are no financial, asset or organisational implications for this report.

Risk Considerations

Council policies which reiterate legislative provisions may fail to stay up to date with those provisions, resulting in inconsistent guidance to officers and the community. Revoking policy clauses which reiterate legislation helps to mitigate this risk.

Options

The following options are available to Council:

1. Revoke LPP 7.4 and transfer consultation provisions to LPP 7.3 as described in the report.
2. Retain LPP 7.4, meaning the policy will continue to be operational.
3. Defer consideration of LPP 7.4 and discuss potential changes at a workshop.

Retaining the policy means there is no practical change in the way SAT applications are dealt with, however the policy has sections that may become outdated with passing legislation and SAT practices.

Elected Members could defer to a workshop on this policy through option three. This report recommends the consultation provisions of LPP 7.4 be transferred to LPP 7.3, which has been addressed in a separate report to Council. If Council proceeds with options two or three above and adopts the recommendations from the other Council report on the LPP administrative review, the clauses will be duplicated in both LPP 7.4 and LPP 7.3 with no material impact.

Attachments

1. Local Planning Policy LPP 7.4 as adopted 11 October 2011

C3 LOCAL PLANNING POLICIES – ADMINISTRATIVE REVIEW***REPORT FROM DIRECTOR DEVELOPMENT SERVICES**

Author: Manager Planning Services, Anthony Denholm
Senior Strategic Planner, Emily Crosby

Date: 13 August 2024

File Reference: A/7658

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

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr de Vries / Seconded Cr O'Connor

- 1. The City of Subiaco proceeds with amended local planning policies (Attachments 1 – 11) in accordance with Schedule 2, Part 2, Clauses 4 and 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*:**
 - a. Local Planning Policy 1.3 – Sustainable Development
 - b. Local Planning Policy 2.1 – Restaurant/Café Development on Land Zoned Residential (R80 and Above)
 - c. Local Planning Policy 5.1 – Car Parking and Transport
 - d. Local Planning Policy 5.2 – Bicycle Parking and End of Trip Facilities
 - e. Local Planning Policy 7.2 – Refunding, Reducing and Waiving Planning Fees
 - f. Local Planning Policy 7.3 – Public Consultation for Planning Proposals
 - g. Local Planning Policy 7.6 – Amendment and Extension to Term of Development Approval
 - h. Local Planning Policy 7.8 – 3D Modelling Requirements for Development Applications
 - i. Local Planning Policy 8.1 – Development Approval Exemption for Land Uses in the Centre, Local Centre and Mixed Use Zones
 - j. Local Planning Policy 8.2 – Advertisements (Signs)
 - k. Local Planning Policy 8.3 – Percent of Public Art and Public Realm
- 2. The amended local planning policies are published on the City's website and a notice is placed on the City's website and in a newspaper circulating in the local area advising of the amended local planning policies.**

CARRIED EN BLOC 9/0

5:46pm

Executive Summary

- Local planning policies need to be regularly reviewed to ensure they remain contemporary and reflect best practice planning principles.
- Eleven local planning policies have been reviewed to improve readability, accuracy, and consistency with the local and state planning frameworks.
- The amendments are all administrative and minor, and don't change the intent of any existing policy provisions. As a result, no public consultation is required.
- It is recommended that Council proceeds with the amended local planning policies and publishes a notice on the City's website and in the local newspaper.

Background

Local planning policies (LPP) must be regularly reviewed to ensure they remain contemporary and relevant. After the gazettal of Local Planning Scheme No. 5 (LPS 5) in February 2020, a major review of the City's LPPs was undertaken. This included

preparing 10 new policies, amending 14 policies, and revoking 17 policies. The LPPs have since been reviewed as required. LPPs are now reviewed on an ongoing basis to ensure they remain up to date and fit for purpose.

Eleven of the City’s LPPs require minor administrative amendments and are considered in this report. None of the subject policies required an urgent review. Some LPPs will be more substantially reviewed as part of the ongoing review of the City’s LPP suite to continuously improve the policies. LPPs requiring more substantial review will be considered separately and referred to Council in due course.

This report considers the review of the LPPs outlined in **Table 1** and **Attachments 1 – 11**.

Table 1: LPPs for Review			
	Local Planning Policy	Adoption Date	Last Review Date
1.	1.3 – Sustainable Development	25 July 2023	N/A
2.	2.1 - Restaurant/Café development on land zoned residential (R80 and above)	23 February 2021	N/A
3.	5.1 - Car parking and transport	24 August 2021	N/A
4.	5.2 – Bicycle Parking and End of Trip Facilities	23 June 2009	28 May 2024
5.	7.2 – Reducing, Refunding and Waiving Planning Fees	19 June 2011	30 May 2023
6.	7.3 - Public Consultation for Planning Proposals	26 July 2016	23 November 2021
7.	7.6 - Amendment and Extension to Term of Development Approval	27 June 2017	21 September 2021
8.	7.8 - 3D Modelling Requirements for Development Applications	23 November 2021	N/A
9.	8.1 - Exemption from the Need to Obtain Development Approval for Land Use in the Centre, Local Centre, and Mixed-Use Zones	18 May 2021	N/A
10.	8.2 - Advertisements (Signs)	29 April 2003	23 November 2021
11.	8.3 - Percent for Public Art and Public Realm	23 November 2021	N/A

Comment

The City has a contemporary LPP suite and following review, minor amendments are recommended:

- Rewording to ensure the LPPs are in plain English for improved readability.
- Reformatting to align with the City’s LPP template.
- Restructuring to reflect logical sequencing.
- Alignment with changes to the state planning framework.
- Clarifying policy sections, provisions, and clauses to ensure the intent is clear.

Local Planning Policy 7.3 – Public Consultation for Planning Proposals

Local Planning Policy 7.4 – Applications for Review of Town Planning Decisions and Written Directions (LPP 7.4) is being presented to Council for revocation as a separate agenda item to the August 2024 Ordinary Council Meeting (OCM). Clauses 6 and 9 (in-part) have been transferred from LPP 7.4 into LPP 7.3 as part of the administrative review and will continue to have effect in the event Council resolves to revoke LPP7.4 as recommended in the separate agenda item.

A detailed schedule of amendments for each policy is provided in **Attachment 12**, with tracked changes versions in **Attachment 13**.

Consultation

Under Schedule 2, Part 2, clause 5(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015* (LPS Regulations), the local government can amend a LPP without public advertising if the amendments are minor.

Given none of the amendments change the meaning or intent of the policy provisions, the amendments are considered minor and no consultation is required.

If Council resolves to adopt the LPPs, a notice will be placed on the City's website and in the Post newspaper in accordance with the LPS Regulations. At that time the amended LPPs will take effect.

Sustainability Considerations

Regular review of LPPs ensures they remain relevant, best practice and provide clarity in guiding local development.

Strategic Considerations

The amended LPPs align with the following Council strategies:

Strategic Community Plan – Focus Area 4: Built Environment

Having a contemporary suite of LPPs supports the Built Environment vision by ensuring new development is planned effectively and is cognisant of the City's valued character.

Strategic Community Plan - Strategy 6.1.1

"The Mayor and councillors provide strong, consistent and decisive leadership."

Statutory and Policy Considerations

The process to amend the LPPs has been consistent with Schedule 2, Part 2, Clauses 4 and 5 of the LPS Regulations.

Resource Considerations

There are no resource considerations for this report.

Risk Considerations

LPPs need to be reviewed regularly to ensure they remain contemporary and relevant. The age of an LPP can influence the weight afforded by the State Administrative Tribunal (SAT) when considering applications for review of planning decisions.

Options

1. Support the officer recommendation and proceed with the draft amended policies contained in **Attachments 1 – 11**.
2. Support the officer recommendation with modifications. Council should choose this option if they wish to further modify the content of a policy. City officers would need to determine if such modifications are minor and could be considered as part of the administrative review. If the modifications are not minor, the policy would be presented to Council at a future OCM for public advertising prior to adoption by Council.

3. Not support the officer recommendation. This will mean no administrative improvements to the LPPs will be made. The policies will remain inconsistent with each other, and the minor matters that have been resolved will continue to exist.

Attachments

1. Local Planning Policy 1.3 – Sustainable Development
2. Local Planning Policy 2.1 – Restaurant/Café Development on Land Zoned Residential (R80 and Above)
3. Local Planning Policy 5.1 – Car Parking and Transport
4. Local Planning Policy 5.2 – Bicycle Parking and End of Trip Facilities
5. Local Planning Policy 7.2 – Refunding, Reducing and Waiving Planning Fees
6. Local Planning Policy 7.3 – Public Consultation for Planning Proposals
7. Local Planning Policy 7.6 – Amendment and Extension to Term of Development Approval
8. Local Planning Policy 7.8 – 3D Modelling Requirements for Development Applications
9. Local Planning Policy 8.1 – Development Approval Exemption for Land Uses in the Centre, Local Centre and Mixed Use Zones
10. Local Planning Policy 8.2 – Advertisements (Signs)
11. Local Planning Policy 8.3 – Percent of Public Art and Public Realm
12. Schedule of Amendments – All Reviewed Local Planning Policies
13. Tracked Changes Version – All Reviewed Local Planning Policies

C4 DRAFT DAGLISH PRECINCT LOCAL HERITAGE SURVEY – PREPARATION POST ADVERTISING*

REPORT FROM DIRECTOR DEVELOPMENT SERVICES

Author: Manager Planning Services, Anthony Denholm
 Coordinator Heritage & Climate Change, Sofia Boranga

Date: 13 August 2024

File Reference: A/7658

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

Crs O'Connor and de Vries declared an impartiality interest in this item.

Cr Powell left the meeting at 6:33pm and returned to the meeting at 6:34pm.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr de Vries / Seconded Cr Jones

1. **The Daghish Precinct Local Heritage Survey (Attachment 1) is prepared, made publicly available and provided to the Heritage Council pursuant of Part 8, Section 103 of the *Heritage Act 2018*.**
2. **Heritage Reference Group members are advised of the preparation of the Daghish Precinct Local Heritage Survey and thanked for their contribution to the project.**

CARRIED 8/1
 CR BURNS VOTED AGAINST

6:40pm

Executive Summary

- The *Heritage Act 2018* requires the preparation of a Local Heritage Survey (LHS) and the City's Heritage Strategy 2019-2023 commits to reviewing the LHS on a precinct by precinct basis.
- The LHS identifies places that are or may become of cultural heritage significance and provides the City with a cultural and historical record of the area. It is not an instrument for development control so there are no statutory implications for property owners.
- The preparation of the Daghish Precinct LHS was informed by a Heritage Reference Group (HRG) comprised of seven community members who live and/or own property in Daghish.
- The draft LHS was advertised for a period of 31 days. During the advertising period the City received three submissions, two in support and one objection.
- During the consultation period the City received two nominations from property owners for their places to be included in the LHS. These places have been assessed, are of some significance (level 3) and have been included in the draft LHS, resulting in minor modifications as detailed in **Attachment 2** – Schedule of modifications.
- It is recommended that the draft Daghish Precinct LHS be prepared.

Background

At its OCM on 23 April 2024 (Item C1) Council resolved to advertise the draft Daghish Precinct LHS for a period of no less than 21 days.

The boundaries of the precinct are identified in **Figure 1** below.

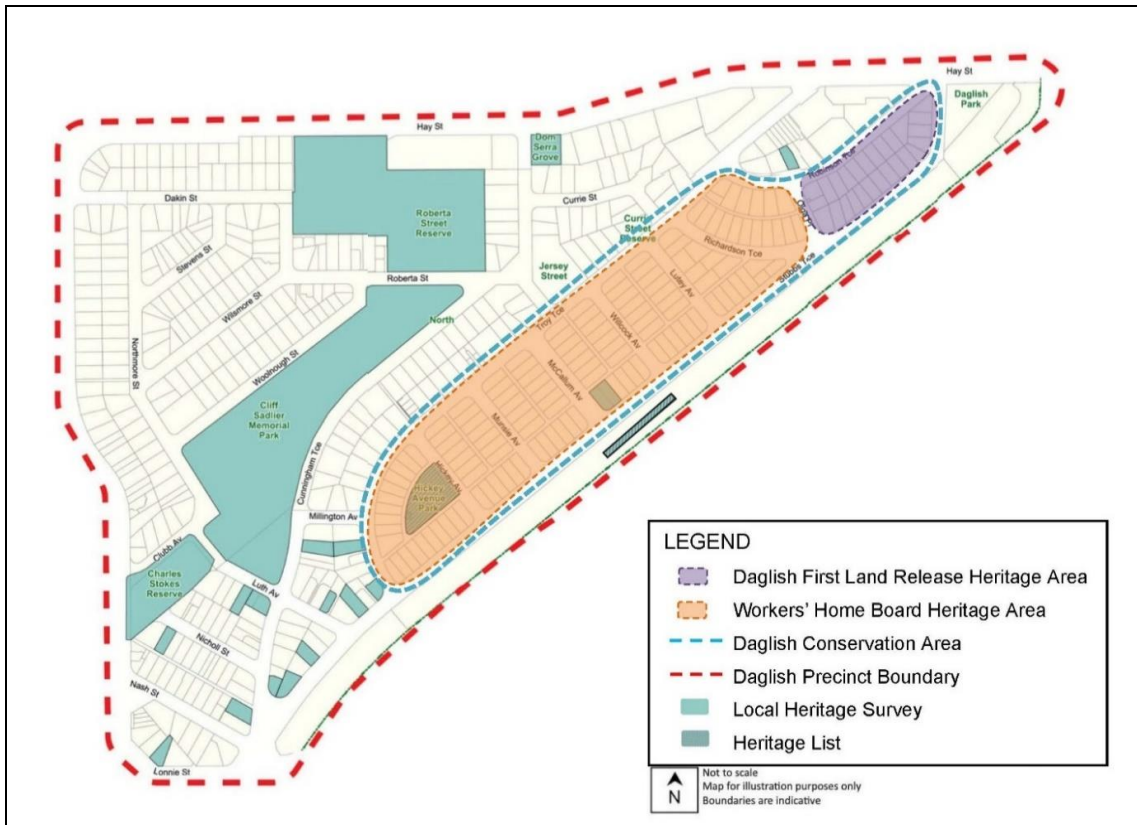


Figure 1 – Boundaries of the Daglish Precinct and individual places and heritage areas currently on the LHS.

The draft advertised Daglish Precinct LHS included 35 places and two heritage areas:

- 21 places already on the LHS (2 of which are on the Heritage List)
- 2 heritage areas already on the LHS (originally defined as one area in the 2002 LHS and redefined as two separate areas in 2016)
- 14 new places

This report considers the submissions received during advertising and final approval of the amended draft Daglish Precinct Local Heritage Survey (LHS) (**Attachment 1**).

The full schedule of modifications is contained in **Attachment 2** to this report.

Comment

The process undertaken to review the Daglish Precinct LHS and the outcomes of the review are detailed in the 23 April 2024 OCM report (Item C1).

This report considers the outcomes of public advertising and the key issues raised in submissions.

Public advertising

The draft LHS was advertised for a period of 31 days from 10 May 2024 to 10 June 2024 by the following means:

- Notice in Subi Scene when advertising commenced.
- Notice on the City’s online engagement platform Have your Say Subiaco (HYSS).

- Advertising on the City's social media.
- Advertising in the City's E-Newsletters.
- Letters sent to the owners and occupiers of all places (individual places and areas) included in the draft LHS.

During the advertising period the City advised property owners that they could also nominate their properties for inclusion in the LHS.

Nominations were received from the owners of 10 Hickey Avenue, Daglish and 7 McCallum Avenue, Daglish. Assessments of these places has identified them as having some significance (level 3), warranting inclusion on the LHS.

Results of public advertising

The page on HYSS received 138 visits summarised below:

- 96 participants visited the page.
- 54 participants visited multiple pages and downloaded documents.
- 3 participants made submissions via the online survey.
- 2 property owners nominated their properties for inclusion in the LHS.

Submissions

The City received three submissions, two in support of the draft LHS and one against.

The complete schedule of submissions including officer responses is provided in **Attachment 3** to this report. Key issues raised in submissions are discussed below.

Submissions in support of the proposal

The two submitters in support of the proposal were appreciative of the LHS as a well-researched and informative cultural and historical record of the precinct.

One of the submitters in support expressed a desire to see the two heritage areas provided statutory protection. Statutory protection for the heritage areas was considered in 2017. Following a period of extensive community consultation, Council acknowledged the Daglish community's view that the existing planning controls were considered adequate and formed the opinion that special planning controls were not needed to conserve and enhance the areas cultural heritage significance and character. City officers do not propose revisiting the designation of these areas. However, it is recommended that the rate of demolition and change be monitored and, should heritage values start to be significantly eroded, that this be brought to the attention of Council.

Submission objecting to the proposal

The submission received against the proposal was from a property owner objecting to their property being 'heritage listed'. The property is not being considered for inclusion on the Heritage List. That is a separate process under the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The property is not identified individually on the LHS but falls within the boundaries of the Daglish First Land Release Heritage Area which was included on the LHS in 2002 as part of the Daglish Precinct Conservation Area and then further defined as a separate area in 2017. The submission did not contest the heritage values of the area

and did not provide any reason for the objection. City officers attempted to contact the submitter to discuss their objection but did not receive a response.

Section 5.2 of the Guidelines for Local Heritage Surveys prepared under section 105 of the Act states that 'objections unrelated to heritage significance should not be entertained as a reason for exclusion or removal of a place from the LHS'. Consequently, there are no modifications proposed to the LHS because of the submission.

Modifications to the draft LHS resulting from public submissions

The advertised LHS has been modified to include the two properties which have been nominated by the respective landowners for inclusion – 10 Hickey Avenue and 7 McCallum Avenue, Daglish. This has resulted in minor administrative and numerical modifications to the LHS document (**Attachment 2**).

Next LHS Review

In accordance with the City's Heritage Strategy the LHS for Shenton Park will be reviewed next and the review will be undertaken using a similar methodology to the Daglish Precinct LHS review and the reviews of the other two precincts.

Consultation

The review of the LHS was informed by the HRG, made up of seven community members who live in or own property in Daglish. The group met three times and assisted with establishing the consultation/engagement process with the wider community and to define the key messages and preferred methods for project communications and engagement.

Further details on the engagement and consultation activities undertaken in the lead up to, during and following the nomination period are contained in the OCM report on 23 April 2024 (Item C1).

Sustainability Considerations

The LHS provides an important record and understanding of the City's heritage and plays a role on recognising and preserving heritage value into the future.

Strategic Considerations

The recommendations of this report align and are consistent with the City's strategic framework, including the following strategies and actions:

Local Planning Strategy –Section 4.6 Urban Design, Character & Heritage Action (1):
Ensure that the City's Local Government Inventory and Heritage List are comprehensive and prepared in accordance with best practice criteria developed by the Heritage Council of WA.

Strategic Community Plan - Strategy 4.1.3

Identify and protect significant heritage buildings, places and streetscapes.

Heritage Strategy 2019-2023

- Action K3: Undertake surveys of heritage investigation areas identified in the City of Subiaco Local Planning Strategy

- Action K4: Update the Local Heritage Survey following surveys of Heritage Investigation Areas.

Statutory and Policy Considerations

Heritage Act 2018

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

Local Planning Scheme No. 5 (LPS 5) Clause 9(g) Aims of the scheme:

The recommendation is consistent with Clause 9 – Aims of Scheme – part (g):

Promote and safeguard the special character and cultural heritage of the City by:

- (i) identifying, conserving and enhancing those places which are of significance to the City's cultural heritage;*
- (ii) encouraging development that is in harmony with the cultural heritage value of an area;*
- (iii) protect and enhance local heritage and character recognising and preserving the traditional setting of existing dwellings including curtilage, garden areas and open space; and*
- (iv) promoting public awareness of cultural heritage generally.*

An up-to-date LHS will assist with identifying places and areas that should be considered for built heritage conservation and protection under LPS 5.

Local Planning Policy 3.1 – Additions and amendments to the Local Heritage Survey and Heritage List (LPP 3.1)

LPP 3.1 requires a minimum of twenty-one days (21) advertising on LHS proposals. The proposal was advertised for thirty-one (31) days.

Local Planning Policy 3.5 – Assessment of cultural heritage significance (LPP 3.5)

The criteria used for assessing cultural heritage significance is in accordance with LPP 3.5. The use of this criteria is consistent with the Guidelines for Local Heritage Surveys prepared under Section 105 of the Act.

Resource Considerations

There are no financial, asset or organisational implications for this report.

Risk Considerations

Without the LHS the City would be without of an important cultural and historical record of the district.

Options

The following options are available to Council:

1. Resolve to support the officer recommendation and proceed with the draft Daglish Precinct LHS as recommended.
2. Resolve to support the officer recommendation with amendments.
3. Resolve not to proceed with the draft LHS and the existing LHS will remain in place.

Should Council resolve option 2 any amendments should be based on cultural heritage significance as identified through the assessment process. Resolving to remove or include places based on matters unrelated to heritage significance would be

inconsistent with the Guidelines for Local Heritage Surveys prepared under Section 105 of the Act.

Should Council resolve option 3 the LHS would not be reflective of identified improvements and community submissions.

Attachments

1. Draft Darglish Precinct Local Heritage Survey
2. Schedule of modifications
3. Schedule of submissions

C5 TENDER A/7783 – COORDINATION OF THE SUNSET@SUBI CONCERT SERIES

REPORT FROM DIRECTOR DEVELOPMENT SERVICES

Author: Community Development Officer - Events, Russ Pirie
 Manager Cultural Services, Elizabeth Connolly

Date: 13 August 2024

File Reference: A/7658

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

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr de Vries / Seconded Cr O'Connor

Tender A/7783 for the Coordination of the Sunset@Subi Concert Series be awarded to Spirit Events and Entertainment for \$156,504 (excl. GST) for the 2024/25 season, with an option of two, one-year extensions (for the 2025/26 and 2026/27 concert series).

CARRIED EN BLOC 9/0

5:46pm

Executive Summary

- The City seeks to appoint, through this tender a suitable contractor to coordinate the Sunset@Subi concert series for the 2024/25 season with an option of two 1-year extensions at the City's discretion.
- The City advertised the Request for Tender (RFT) via Tenderlink and the West Australian newspaper in accordance with the requirements of the *Local Government Act 1995* on 26 June 2024.
- City officers assessed submissions against qualitative and quantitative criteria, and value for money.
- It is recommended that **Spirit Events and Entertainment** is awarded the contract.

Background

The City's popular summer concert series, sunset@subi has been attracting large audiences to parks and gardens across Subiaco for over 35 years. The annual sunset@subi concert series takes place from December to February each year, with audiences comprised of residents and visitors who enjoy a picnic and a relaxed ending to the weekend.

In accordance with the requirements of the *Local Government Act 1995*, the City advertised Tender A/7783 for the coordination of the sunset@subi concert series from 26 June to 17 July 2024.

The successful tenderer will be offered a contract to coordinate the sunset@subi concert series for one year, commencing September 2024 and finishing March 2025. There is the option of two, one year extension periods as part of this tender at the discretion of the City.

Comment

Three submissions were received by the closing date of 17 July 2024. These were assessed by a panel comprising City officers who assessed the submissions against the following criteria.

Description of Criteria	Weighting
Relevant Experience	40%
Skills and experience of key personnel	30%
Demonstrated understanding	20%
Sustainable Procurement Questionnaire	10%

Following the combined assessment of the criteria, **Spirit Events and Entertainment** scored the highest and is recommended as the best value for the City.

Spirit Events and Entertainment submitted a well written tender that outlined a strong understanding of the concert series and demonstrated that the company has the skills and experience to deliver a contemporary and creative program. The team bring experience in the successful management of community events and City Officers are confident in their ability to deliver a high-quality product.

Consultation

No public consultation was undertaken relevant to the subject of this report, however consideration of the feedback gathered from the Community Scorecard, as well as feedback from past concert series has been considered in developing the tender documentation.

Sustainability Considerations

Social

The concert series provides significant social benefits to the local community, including opportunities for social interaction across generations, between residents and with visitors to the City. The opportunity to experience a variety of performances enhances the artistic and cultural environment within the community. 93.4% of attendees at the 2023-24 concert series said that they felt more connected to the Subiaco community.

Strategic Considerations

The recommendation contributes to the following Council strategies:

Strategic Community Plan - Strategy 1.2.2

Facilitate a range of opportunities to foster community health and wellbeing that are accessible and inclusive for everyone.

Strategic Community Plan - Strategy 1.2.3

Contribute to a safe environment for the community.

Strategic Community Plan - Strategy 1.3.1

The community is strengthened through its events, programs and public art.

Strategic Community Plan - Strategy 3.1.1

Continue to support Subiaco as a hub for arts, culture and entertainment.

Statutory and Policy Considerations

The tender was conducted in accordance with the tendering requirements of the City's Purchasing policy and Part 4 of the Local Government (Functions and General) Regulations 1996.

Resource Considerations

Financial

The sum of \$156,504 (ex. GST) will be provided to **Spirit Events and Entertainment** for the coordination of the sunset@subi concert series. This expenditure can be accommodated through funds available in the 2024/25 budget.

Risk Considerations

The general and special conditions within the request for tender ensures suppliers hold appropriate insurances and demonstrate the ability to deliver a high quality, safe and successful event for the community.

Spirit Events and Entertainment underwent additional assessments prior to being recommended for the contract, which included obtaining Australian Securities & Investments Commissions and ACN Record Check with no concerns.

Spirit Events and Entertainment will provide an event specific risk management plan.

Options

1. Award tender A/7783 to **Spirit Events and Entertainment**.
2. Award tender A/7783 to an alternative company. This is not recommended, as Spirit Events and Entertainment provides the best value to the City based on their skills, experience, and tendered amount. Choosing an alternative company could risk service delivery quality.
3. Not award tender A/7783. This is not recommended as it may lead to negative community feedback and increased reputational risk.

Attachments

There are no attachments for this report.

C6 TENDER A/7730 – SUPPLY AND INSTALLATION OF STREET LIGHTING UPGRADES AT VARIOUS LOCATIONS

REPORT FROM DIRECTOR TECHNICAL SERVICES

Author: Manager Engineering Services, Randhir Karma
Date: 13 August 2024
File Reference: A/7658
Voting Requirements: Simple - More than half elected members present required to vote in favour.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr de Vries / Seconded Cr O'Connor

Tender A/7730 – Supply and Installation of Street Lighting Upgrades at Various Locations is awarded to Eamco Pty Ltd for \$475,389.69 (excluding GST) based on its tender submission.

CARRIED EN BLOC 9/0

5:46pm

Executive Summary

- As part of the street lighting upgrade program City owned street lights are progressively being replaced with LEDs.
- A Request for Tender was advertised on 15 May 2024 via Tenderlink and the West Australian newspaper in accordance with the requirements of the *Local Government Act 1995*.
- Through this tender the City seeks to appoint a suitably experienced and competent contractor to undertake this upgrade work at 17 locations.
- City officers evaluated submissions against qualitative and quantitative criteria.
- It is recommended that Eamco Pty Ltd is awarded the contract as they are considered qualified to execute the works and deemed to offer best value for money.

Background

The street lighting upgrade program was included in the Annual Budget adopted by Council on 25 June 2024. The work involves replacing existing CFL (Compact Fluorescent Lamps) with LED lights on various City roads to improve safety, reduce whole of life costs and ensure compliance with standards. The following roads are included in the program:

Subiaco	Daglish	Shenton Park
Ambrose Lane	Dakin Street	Derby Road
Arthur Street	McCallum Avenue	Evans Street
Bedford Avenue	Northmore Street	Excelsior Street
Darbyshire Drive	Stevens Street	Keightley Road
Duke Street	Wilsmore Street	
Minerva Lane	Woolnough Street	
Leccino Lane		

The street lighting improvements planned for roads in Shenton Park area are aligned to specific road upgrade projects and are included in this City-wide program to achieve delivery and cost efficiencies. Specifically, the street lighting improvements planned for Evans Street, Excelsior Street and Keightley Road relate to the Safe Active Street (SAS) project. Whilst the street lighting improvements for Derby Road relates to the

Black Spot project from Nicholson Road to Aberdare Road that is subject to further Council consideration. Should the Blackspot project vary or not proceed, the related lighting upgrade would be varied accordingly.

Comment

The Request for Tenders was advertised on 15 May 2024 using the following means of advertising:

- West Australian newspaper
- City website
- Tenderlink

Submissions were received from the following Respondents:

1. Powerlyt Group Pty Ltd
2. Eamco Pty Ltd
3. Surun Services Pty Ltd

An evaluation panel consisting of City officers completed an evaluation of responses comparing each response against the below criteria.

Description of Criteria	Weighting
<p>Compliance Criteria and Pre-Qualification Requirements</p> <p>Compliance criteria is designed to mitigate common purchasing risks and determine the respondent's ability to comply with contract conditions. Where a respondent fails to indicate that they can comply with this criterion they may fail to proceed to future evaluation stages.</p>	<p>Non-weighted</p>
<p>Qualitative Criteria</p> <p>The Qualitative Criteria is weighted to indicate the relative degree of importance each technical aspect is likely to have on a respondent's ability to successfully deliver the Contract. Responses were assessed against the following qualitative criterion.</p>	
<p>Relevant Experience</p> <p>Experience in completing and or supplying of similar scoped works.</p>	30%
<p>Skills and Experience of Key Personnel</p> <p>Skills, experience, and relevant qualifications of personnel to be allocated to this project.</p>	10%
<p>Resources</p> <p>Demonstrated ability to supply and sustain the necessary plant, equipment, and materials to fully deliver the required works.</p>	20%
<p>Demonstrated Understanding</p> <p>Process respondents intend to use to achieve the Requirements of the Specification.</p>	30%
<p>Environmental Questionnaire</p> <p>Evaluation of environmental performance of organisation</p>	10%

Value for Money Consideration

The evaluation panel made a series of value considerations based on the respondents' qualitative criteria ranking and the price offered to determine which respondent offers the best value for money to the City.

Consultation

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

Sustainability Considerations

An Environmental Questionnaire was issued with the tender documentation which formed part of the qualitative criteria in the evaluation process. Two of the tenderers currently implement an Environmental Management System (EMS); while Eamco Pty Ltd is the sole tenderer with an independently certified EMS.

Upgrading street light luminaires to more energy-efficient LED's contributes positively to the City's sustainability outcomes, particularly reducing greenhouse gas emissions.

Strategic Considerations

The recommendation contributes to the following Council strategies:

Strategic Community Plan - Strategy 5.1.2

Design and maintain our streets acknowledging that they are spaces that connect our community.

Strategic Community Plan - Strategy 5.2.4

Invest in improved pedestrian and cycle networks.

Statutory and Policy Considerations

The tender was conducted in accordance with the tendering requirements of the City's Purchasing policy and Part 4 of the *Local Government (Functions and General) Regulations 1996*.

Resource Considerations

Financial

The City has the necessary funding for this contract allocated in the current budget.

Assets

This tender intends to replace City-owned lights with longer life, lower maintenance and lower energy usage alternatives. This represents better whole of life costs for the assets and reduction in the City's emissions.

Risk Considerations

Procurement risks have been suitably mitigated through a robust procurement process in accordance with the City's policy and processes.

Options

The following options are available to Council:

1. Award tender to the preferred respondent;
2. Award part of tender to the preferred respondent; or
3. Reject all tenders.

All four Shenton Park projects within the tender are grant funded projects. Should the tender not be awarded there is a risk the projects may not be delivered in accordance with grant timeframes, risking loss of funding and penalties for future programs.

Attachments

There are no attachments for this report.

C7 241 ROKEBY ROAD, SUBIACO WA – ARCHITECT PROCUREMENT**REPORT FROM DIRECTOR CORPORATE SERVICES**

Author: Manager Commercial Services and Property, Joel Guest
Date: 13 August 2024
File Reference: A/7658
Voting Requirements: Simple - More than half elected members present required to vote in favour.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr de Vries / Seconded Cr O'Connor

The tender process to recommend an architect for the design of a new civic building and its surrounds, is conducted in two stages, beginning with the shortlisting of tenderers based on qualitative criteria, followed by a further assessment of shortlisted tenderers based on their concept designs produced in response to a tender design brief.

CARRIED EN BLOC 9/0

5:46pm

Executive Summary

- On 19 March 2024 (item C4), Council resolved to initiate a request for tender process to recommend a qualified and experienced architect to produce a concept design for a new civic building and a preliminary masterplan for its surrounds.
- Given the project's significance, Council also resolved that Elected Members be provided with opportunities for input on the tender process, evaluation criteria and the suitability of tenderers.
- Two workshops have been held with Elected Members to consider the tender process in further detail, facilitated by a consultancy with expertise in architectural procurement.
- The workshops considered the characteristics of tender process that attracts quality architects while providing for a robust evaluation.
- Based on these workshops, this report recommends a two-stage tender process. The first stage would shortlist tenderers based on qualitative criteria, and the second stage would recommend the preferred tenderer based on their response to a tender design brief.
- A client advisory group comprising Elected Members may be formed to provide input to an expert tender evaluation panel at each stage of the tender process.
- Further workshops will be conducted to finalise the tender design brief, tender process and approach to community consultation.

Background

The Civic Precinct comprises the E H Parker Library, Subiaco Museum, Council Chambers and Administration Centre, Rankin Gardens and Fallen Soldier's Memorial Clock Tower.

In recent years, the Council Chambers and Administration Centre at 241 Rokeby Road has experienced water damage, leading to flooding, mould, and damage to fixtures and furniture. The Corporate Business Plan 2021-2025 identified a priority project to prepare a plan for the redevelopment of the administration centre and surrounding areas. A fire in the roof cavity in September 2022 provided further impetus to progress the project.

The redevelopment of 241 Rokeby Road and its surrounds is a strategic decision in shaping a place that will serve the community for the next 50-100 years. There have been a number of Elected Member workshops held and Council decisions made to determine its future.

On 13 December 2022, Council resolved (item C7) to progress with the demolition and rebuild of 241 Rokeby Road, subject to a subsequent Council decision being made to proceed with the demolition, and subject to having finalised the design brief, project management plan and construction contracts for the rebuild. Council resolved to hold further Elected Member workshops to explore and consider fundamental aspects of the project.

Following further workshops, on 19 March 2024, Council resolved (item C4) to initiate a request for tender process to recommend an architect to prepare a concept design for a new civic building and a preliminary master plan for its surrounds within the Civic Precinct. Noting the significance of the project, Council also resolved that Elected Members be provided with the opportunity for input regarding the tender process, evaluation criteria and the suitability of tenderers based on submissions received.

Comment

This report responds to the resolution (item C4, part 2) to consider a tender process which may provide Elected Members with opportunities to provide input and feedback to the evaluating officers regarding the tender process and the suitability of tenderers, prior to officers putting a recommendation to Council for the award of the contract.

The recommended approach stems from two Elected Member workshops held since March 2024, facilitated by a consultancy with expertise in procuring architects across a broad range of public and private projects.

During the workshops a potential two stage procurement process was discussed, whereby a) tenderers are initially shortlisted based on qualitative criteria, and then b) a further assessment of shortlisted tenderers is made based on their concept designs produced in a response to a tender design brief.

This process has several benefits, including:

- Better assessment of tenderers in relation to specific needs
- Illustration of various design opportunities
- Testing of the tender design brief for feasibility.

The winning concept design can be a starting point for further iteration and community consultation once the preferred tenderer is appointed. The tender design brief does not necessarily represent the final design brief for the project; the two-stage procurement process provides the opportunity to review the brief based on risks, challenges and opportunities identified during the procurement process.

This approach has some similarities to the 'architectural tender' option discussed in the March Council report, however is more oriented towards testing tenderers in relation to their response to a design brief, rather than using a competition format to arrive at a near-final concept.

It is anticipated that an effective way of providing Elected Members with the opportunity for input throughout the tender is to form a client advisory group. The client advisory

group would have the opportunity to review submissions and provide opportunity to the evaluation panel at each stage. In order to attract quality tenderers and provide for a robust assessment, it is anticipated that the evaluation panel will include arms-length, respected experts with experience across a range of relevant design disciplines such as architecture, urban design, placemaking and strategic development.

Consultation

The approach to community engagement is being progressed as part of Elected Member workshops. As resolved at the March Council meeting, priority will be given to the identification of suitable community touchpoints as the tender is finalised.

Sustainability Considerations

The redevelopment of 241 Rokeby Road provides the opportunity to set the benchmark for environmental sustainability, protect and enhance the urban forest, and to provide spaces that serve evolving and diverse community needs.

Strategic Considerations

The recommendation supports the following Council strategy:

Corporate Business Plan – 6.1.1

Prepare a plan for the redevelopment of the administration centre and surrounding areas.

Statutory and Policy Considerations

The recommended approach to procuring an architect is in accordance with the tender requirements of s3.57 of the *Local Government Act 1995* and Division 2 of the *Local Government (Functions and General) Regulations 1996* which specify how and when public tenders are to be invited. It is also in accordance with the City's Purchasing policy.

Resource Considerations

Shortlisted tenderers who participate in the second stage of the recommended procurement process would receive an honorarium to compensate for their preliminary concept design effort. The cost would largely be offset by savings in the concept design phase once the architect is appointed.

The estimated cost of the recommended architect procurement process is \$300,000, inclusive of advisory fees, honoraria for shortlisted tenderers, jury fees and contingencies. This has been provided for in the FY2024-25 budget.

Risk Considerations

The recommended procurement approach mitigates the risk of selecting an unsuitable architect through a robust assessment of qualitative criteria such as prior track record, as well as their ability to produce a suitable concept design in response to a tender design brief.

Options

It is open to Council to:

1. Proceed with the recommended procurement process;
2. Proceed with a procurement process that varies from the recommendation;
3. Not finalise the procurement process at this time and undertake additional strategic workshops to determine the way forward.

An example of a process which varies from the recommendation could be a one-stage process whereby the architect is selected solely based on qualitative criteria.

A one-stage process may possibly be slightly cheaper than a two-stage process overall, once the savings in the concept design phase in the two-stage process are taken into account; however, it would not allow for testing of tenderers' ability to respond to the City's design brief, or testing of the design brief prior to a contractual commitment being made.

Attachments

There are no attachments for this report.

C8 FINANCIAL STATEMENTS AND REPORTS FOR THE MONTH ENDING 31 JULY 2024*

REPORT FROM DIRECTOR CORPORATE SERVICES

Author: Manager Finance Services, Bianca Jones
Date: 23 August 2024
File Reference: A/7658
Voting Requirements: Simple - More than half elected members present required to vote in favour.

OFFICER RECOMMENDATION / COUNCIL DECISION

Moved Cr de Vries / Seconded Cr O'Connor

The following reports for the month ending 31 July 2024 are endorsed:

- Financial Activity Statement.
- Statement of Financial Position.
- Net Current Assets.
- Summary of Cash and Investments.
- Summary of Major Debtor Categories.
- Payments From Municipal or Trust Fund.
- Credit Card Payment Summary.

CARRIED EN BLOC 9/0

5:46pm

Additional Information

The Summary of Cash and Investments (Attachment 4) has been amended to reflect the percentage of rates uncollected as at 31 July 2024. The Summary of Major Debtor Categories (Attachment 5) has been amended to reflect the values of cash and cash equivalents shown for 31 July 2024.

Executive Summary

- The attached reports provide an overview of the City's financial performance for the month ending 31 July 2024.
- These have been prepared in accordance with the *Local Government Act 1995*, the *Local Government (Financial Management) Regulations 1996* and the Australian Accounting Standards (to the extent that they are not inconsistent with the Act).
- The reports fairly represent, in all material respects, the results of the operations for the month being reported.

Background

The financial reports represent a snapshot as at 31 July 2024. A full set of audited financial statements including the final financial position for the year ended 30 June 2024 will be presented to Council once the annual audit is complete.

Comment

Financial Activity Statement

As at the end 31 July 2024, the City's net surplus was \$11.640m higher than budget, primarily due to:

- \$18.546m higher than budgeted opening surplus position (subject to change as part of the preparation of 30 June 2024 financial statements);
- \$0.847m greater than anticipated fees and charges due to the timing of revenue compared to YTD budget;

- \$5.716m in profits generated through sale of land;
- \$0.694m in wages savings due to employee vacancies;
- \$0.668m less than budgeted depreciation expense due to pending allocation of depreciation on fixed assets;
- \$0.317m lower than budgeted insurance premiums which are not yet due for payment;
- \$0.404m lower than expected property plant and equipment expenses, as plant items are yet to be delivered;
- \$0.788m reduction in payments for construction of infrastructure due to the timing of capital works projects; and
- An adjustment for the disposal of 2 Upham St comprising the recorded value of the asset when held for sale (\$9.784m) plus the profit generated on the sale (\$5.716m).

Statement of Financial Position

The City's current assets of \$131,976,385 are mainly comprised of cash and cash equivalents of \$94,315,434, and trade and other receivables of \$37,104,950.

Less restricted assets (Reserves), the City has net current assets of \$55,864,988 as shown below:

	<u>31 July 2024</u>
Current Assets	131,976,385
Less: Current Liabilities	15,458,335
Less: Total adjustments to net current assets	
Cash Backed Reserves	61,306,141
Current Portion of Borrowings	53,188
Current Portion of Lease Liabilities	(706,266)
Resulting In:	
Net Current Assets (*)	55,864,988

(*) Subject to year end adjustments in progress

Cash and investments

The City currently holds financial investments of \$68,306,141.

This includes cash backed reserves of \$61,206,141 held to support the City's ability to allocate funds to future projects, \$7,000,000 retained in municipal funds, as well as \$100,000 in a growth investment. These financial investments have been made in accordance with the City's Investment Policy.

For short term liquid investment assets, the Investment Policy requires that no more than 30% is to be invested with any one institution at the time of investment, and that investments in short term bank deposits and bank bills are made with institutions with a minimum A-2 rating.

Statement of Major Debtor Categories

The attached report provides a summary of outstanding debts payable to the City of Subiaco. The balance of debts outstanding (including rates and sundry debtors) at 31 July 2024 was \$35,235,631.

Outstanding rates and charges include amounts in arrears and current year levies which have not yet been paid, for example where ratepayers have elected to pay by

instalments. It also includes amounts deferred by ratepayers under the *Rates and Charges (Rebates and Deferment) Act 1992*.

Payments Summary

A list of accounts paid under delegated authority between 1 July and 31 July 2024 is provided in the reports attached.

During the reporting period the City made the following payments:

Payroll payments to Employees	1,710,488.75
Cheque & EFT payments to Creditors	1,629,319.69
Credit Card Payments	14,838.43
TOTAL PAYMENTS	3,354,646.87

Consultation

No consultation was undertaken relevant to the subject of this report.

Sustainability Considerations

Prudent management of the City's funds is critical in enabling the City to support the economic, social and environmental sustainability of the local district.

Strategic Considerations

The recommendation contributes to the following Council strategy:

Strategic Community Plan - Strategy 6.1.5

Create organisational and community culture that is underpinned by financially sustainable practice.

Statutory and Policy Considerations

The financial statements and reports are prepared in accordance with the requirements of the *Local Government Act 1995 and the Local Government (Financial Management) Regulations 1996*, including:

- (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)*

The reports are also prepared in accordance with the *Trustees Act 1962 (Part III)* and the City's Investment Policy.

Resource Considerations

Financial

The attachments show that the City's financial position is performing well compared to budget expectations for 2024-25.

Risk Considerations

Monthly reporting is a key control in ensuring that the City prudently manages its financial position with due regard to anticipating and mitigating financial risks.

Options

This report supports the City in meeting its statutory requirement to present financial statements and reports at an ordinary meeting of council within 2 months after the end of the relevant month, and to record the statements and reports in the minutes, in accordance with the *Local Government (Financial Management) Regulations 1996*.

Council could choose not to endorse the financial statements and reports, noting that this statutory requirement would still be met.

Attachments

1. Financial Activity Statement – July 2024
2. Statement of Financial Position – July 2024
3. Net Current Assets – July 2024
4. Summary of Cash and Investments – July 2024
5. Summary of Major Debtor Categories – July 2024
6. Payments From Municipal or Trust Fund – July 2024
7. Credit Card Payment Summary – July 2024

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

Nil

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

Nil

13. MEETING CLOSED TO THE PUBLIC

COUNCIL DECISION

Moved Cr Kosovich / Seconded Cr O'Connor

The meeting be closed to the public, pursuant to section 5.23(2)(a) and (c) of the *Local Government Act 1995* while items 13.1, 13.2 and 13.3 are considered.

CARRIED 9/0
6:41pm

Reasons:

- *Section 5.23(2)(a) provides that a meeting may be closed to deal with a matter affecting an employee or employees.*
- *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.*

13.1 100 CHISHOLM CRESCENT, KEWDALE WA – CONFIDENTIAL*

The Presiding Member adjourned the meeting at 6:41pm and reconvened the meeting at 6:47pm.

COUNCIL DECISION

- 1. The property located at 100 Chisholm Crescent, Kewdale WA is disposed of for \$19,000,000 as a going concern to Kewdale Central WA Pty Ltd ACN 678 137 703 as trustee for the Kewdale Central Trust ABN 65 166 880 081, noting that no submissions were received during the local public notice period relating to the proposed sale.**
- 2. The Chief Executive Officer is authorised to execute any documents, deeds and agreements necessary to give effect to this resolution.**

CARRIED

13.2 JOHN XXIII AVENUE, MOUNT CLAREMONT WA – CONFIDENTIAL

COUNCIL DECISION

- 1. The City of Subiaco consents to a Management Order at Mount Claremont for the purposes of a municipal depot, on reasonable terms acceptable by the City.**
- 2. The Chief Executive Officer is authorised to execute any documents, deeds and agreements necessary to give effect to this resolution.**

CARRIED

13.3 CHIEF EXECUTIVE OFFICER REVIEW PROCESS – CONFIDENTIAL *

The Chief Executive Officer declared a financial interest in this item.

The Director Corporate Services declared an impartiality interest in this item.

COUNCIL DECISION

- 1. The CEO Performance Review for 2023-24 is endorsed and the CEO Performance Criteria for 2024-25 are adopted as recommended by the CEO Review Performance Panel at Attachment 1.**
- 2. Council endorse a 4.5% increase to CEO Cameron’s remuneration for 2024-25.**

CARRIED

Cr Burns left the meeting at 7:26pm and did not return.

COUNCIL DECISION

The meeting come out from behind closed doors.

CARRIED**14. CLOSURE OF MEETING**

The Presiding Member declared the Ordinary Council Meeting of 27 August 2024 closed at 7:30pm.