(B) RESPONSE TO PREVIOUS PUBLIC QUESTIONS TAKEN ON NOTICE

Dudley Maier of Highgate – Items 9.1 and 9.4

1. The list for expenditure for the period ending 31 October 2024 show a payment of $5,703.05 to "The Factory" for "Pine Tree Christmas Lights 2024". Was this a one-off payment (i.e. just for lights to be used once) and where were the lights/tree located?

   The payment of $5,703.05 is a 50% deposit for the annual hire, installation and removal of Christmas lights for a tree in Braithwaite Park.

2. At the November council meeting I asked questions about payments concerning the transport and storage of an artwork to be located in Leederville. The final question was:

   Are the delays in installation the artist's responsibility or have the final payments been held up because of delays outside their area of control?

   The response was:

   To date the City has paid the artist a total of $80,000 this includes a variation of $8,000 due to the need to redesign the artwork to accommodate changes to the install location. An amount of $8,000 remains outstanding and will be paid on installation. Delay to completion of the project is due to the servicing constraints previously advised and the approvals required prior to installation being permitted.

   This did not answer my question which was about who was responsible for the delay in installation, and therefore the delay in making the final payment to the artist.

   Who was responsible for arranging the necessary infrastructure that has been referred to in previous answers – was it the artist's responsibility, or was it the City's? If it was the City's, don't you consider it unfair to hold off on the final payment to the artist, who seems to have completed construction of the work over a year ago, when it is not their fault?

   The City is responsible for the delay in installation due to the previously stated servicing approvals. The City is paying the artist storage and transport fees incurred by the delays. The final payment is tied to the contract terms which state installation of the artwork.

3. With regards to the proposed Significant Tree Policy, did the City seek external legal advice as to the legal standing of concepts such as 'secondary owner' and the rights of neighbours who have trees hanging over their property to cut down those branches.

   The City has received legal advice regarding who is authorised to undertake maintenance pruning to trees listed on the Significant Tree Inventory. This advice informed the definition of 'secondary owners' in the draft Trees of Significance Policy.

4. In answer to a previous question about fee reductions for obtaining Life Cycle Assessments (LCAs) it was stated that 13 applicants have received fee reductions since February. Are Life Cycle Assessments mandatory? Were the applicants informed prior to obtaining the LCAs that these were mandatory? Does Section 1.8 of the Built Form Policy imply that applicants need to provide a Life Cycle Assessment in Accordance with EN15978? Does the WAPC have to approve the requirements of Section 1.8 of the Built Form Policy? If so, have they provided approval?

   The GreenTrack assessment pathway is opt-in.

   The lodgement of a Life Cycle Assessment is only mandatory if applicants are lodging a development application for assessment through the GreenTrack pathway.

Where a Life Cycle Assessment is not provided by an applicant, these applications are not eligible for a refund of application fees or a prioritised assessment.

The local housing objectives of Section 1.8 of the Built Form Policy require a development to demonstrate that it is capable of achieving a reduction in global warming potential and net fresh water use through the submission of a Life Cycle Assessment.

The WAPC is required to approve the local housing objectives of Section 1.8 of the Built Form Policy. The WAPC has yet to make a determination on the Built Form Policy.

5. In Part 2, Clause 3.2, dot point 3 of the Draft Significant Tree Policy it makes reference to Part 2 Clause 2.3 and 2.4. On what page of the draft policy can those two clauses be found?

   This clause incorrectly references Clause 2.3 and 2.4. This should instead reference Clauses 3.3 and 3.4 which can be found on page 5 of the draft Trees of Significance Policy.

   This error will be corrected following community consultation and before Council considers the outcomes of this.

6. The recommendation in Item 9.4 – Robertson Park Stage 1B it states that $1,477,000 is required to be included in the 2025/26 budget. Why is this so given that the tender is for approximately $2,851,305 and $1,579,000 of this has been included in the 2024/25 budget? Shouldn't only approximately $1,272,000 be included in the 2025/56 budget?

   Administration have maintained a contingency allowance of approximately 7% with consideration of the uncertainties within the current construction industry, specifically around the supply of labour and materials. This construction contingency will also cover the risk of variations and unforeseen items encountered during construction.

7. I think the proposed approach is superficial and has not been thought through. It might be used to generate some positive press, and is likely to appeal to members of the community who naively think that, by being adversarial, the city has become the champions of tree preservation. The reality is that is more likely to result in trees being cut down as a precautionary measure by owners who don't want to take a risk of having their trees listed.

   There are three categories of tree owners, without getting into the murky and probably over-ambitious legal area of 'primary' and 'secondary' owners:

- Primary owners who self-nominate;
- Primary owners whose tree is nominated by a third party and who have no objection; and
- Primary owners who do object to listing.

For the first two categories there probably is very little risk of the tree being removed – the owner was always likely to retain the tree.

It is the third category who are the ones in play. Put yourself in the place of a person who has a tree and who gets a letter from the City saying that the tree has been nominated. They are told that listing means they can't get rid of the tree, and that the Council will make the final decision if the owner objects to the listing.

What do you think they would do, remembering that they are in the third category – the objectors. They have two choices – hope the council will see their point of view and not list the tree, or chop the tree down, or at least cut it back so that it is less than 4 metres high.

It would only be natural for them to think that retaining the tree may reduce the perceived value of their land as a sub-division proposal, or if it would impede any future development by themselves or a future owner. As objectors the obvious choice is to remove the tree.

So basically you have three groups of people: the policy will have no impact on the first two – they are happy to keep the tree; and it is highly likely to encourage owners in the final group to cut down the tree in the time between they are notified and when it goes to council. It is only human nature.

I see that the recommendation now has a waffly fourth part which says that the staff will still look at incentives. This is just putting off meaningful changes to the never-never.

The reality is that the biggest problem with tree loss is the assessments of the planning staff. There are so many developments around where the staff 'ignore' the open space provisions and approve developments that cover most of the block, which means that the current owners, let alone future owners, cannot plant a significant tree. The planning staff are the enablers for a lot of tree removal.

If you were serious about coming up with a meaningful solution you would look at:

- Putting provisions in the LPS to maintain a certain level of open space for all new developments. Maybe not to the same level as the deemed to comply provisions of the R-Codes, but something significant. Of course, the staff will argue against this as they always want to retain some flexibility – flexibility which has so far resulted in effective boundary-to-boundary development and no ability to plant trees;
- Investigate financial incentives such as an annual rates reduction/bonus for people with listed significant trees.

Yes, this sounds too difficult but unless you bite the bullet and actually do something difficult all you will achieve is the ability to say "we tried".

Of course you will get push back from the Department and the minister, who somehow thinks it is all about the quantity of housing and not the quality/liveability. But you should have that fight.

As to a financial incentive scheme: it could go along the lines of people apply via a stat-dec, including a photo of the tree(s); the list is made public (as the current one is) along with the photos; invite people to dob-in any cheats. The fact that the nomination is via a stat-dec means that the breech is of a false stat-dec rather than a piddly fib on a form. And I'm not even sure that the City would have to spend time and money prosecuting. The threat of a dob-in encourages people to be honest.

If you take an arbitrary payment of $100 (large enough to be a significant recognition, but small enough to not be a great impost) it would mean that if there were 1,000 significant trees it would cost residential ratepayers $5.65 on average – the tree owners would also pay this so they would be $94 better off. If you had 2,000 significant trees the amounts become $11.30 and $89 better off etc. Not only would this send a signal that here is a recognition that trees are a cost to maintain, but more importantly, that they are also a significant benefit; plus it might encourage some people to plant a tree so that they can join the cool gang.

Of course the staff will come up with a lot of reasons this won't work – that's the nature of the beast. When it was initially proposed that there be a financial assistance for maintaining significant trees all the staff did was put in a vague clause to say that owner may be eligible for financial assistance. It was the council that pushed the process – specified how much, over what time frame, and that people had to pay it back if they later cut down the tree. [OMC 12 March 2013 – Item 9.1.8]

All it takes is a bit of imagination; a realisation that unless there is an overnight, heavy-handed listing of trees you will drive some owners to prematurely chop down trees; the way to get kudos is by doing something bold that is positive and is based on sound principle – the community benefits from having more trees.

It would also be interesting to see if the (wacky) notion of primary and secondary owners has been tested legaLife Cycle Assessment in Accordance with EN15978lly (i.e. the city obtained legal advice) - both the notion of there being a 'secondary owner', but also stopping neighbours who suffer from an

inappropriate tree from doing anything about it – I thought that if a tree had branches hanging over your property you could cut them back and throw the branches on the owner's property – if that is law how can this policy override that?

The draft Trees of Significance Policy allows secondary owners, including those who have the canopy of a tree overhanging their property, to undertake works to a listed tree. Specifically, the Policy provides for exemptions for maintenance pruning to not require a development application.

For any works that are over and above this, a development application would be required to be lodged by the secondary owner and approved by the City before the works could occur.

Yimeng Chen of North Perth – Item 9.3

Thank you for discussing my concerns during the December 3rd Council Briefing.

While several questions were addressed, I wish to voice three critical concerns pending answers during the Council Briefing:

- [A] Non-representative responses and inclusion of unaffected properties potentially bias policy deliberation
- [B] Inadequate information about the nomination, policy implications, and methodological concerns
- [C] Unintended adverse policy outcomes to preserve streetscape

Details for each point are marked in green in the email chain below for reference context.

I note that Agenda 9.3 for the December 10th meeting hasn't been updated since the December 3rd Council Briefing (previously Agenda 5.3). My references are based on the currently available agenda.

I kindly request my following concerns be given due consideration in your policy deliberations.

Potential bias in survey representativeness (pp.12-13):

- The survey response rate of 35% (11 of 31 character area properties) does not provide a statistically representative sample for policy determination (<40%).

[A] Non-representative responses and inclusion of unaffected properties are potentially biased for policy deliberation

Effective support rate = 17%

- Members previously questioned the support rate calculation as percentage of total affected for context - this remains unaddressed in the current online version of Agenda 9.3.
- While Local Planning Policy doesn't specify a minimum community support threshold for Council approval, a 40% support rate is needed for initial nomination consideration.
- The 40% nomination threshold even sets a higher standard for preliminary consideration, yet the final policy approval is now being primarily based on a response rate of 35% (= 11/31) and 17% of effective supporters.

Interpretation on non-representative submissions

- In addition, the current interpretation based on a non-representative sample provides insufficient information on total affected and therefore is biased or potentially misleading for decision-making.

- To illustration: If 2 out of a total of 10 affected, both respond positively, this shouldn't be interpreted as unanimous support (2/2 = 100%). The actual support rate is only 20% (2/10) of the total affected population.

The interpretation of survey results from a non-representative sample raises significant methodological concerns and were echoed by multiple participants during the briefing session.

- The purported 55% majority in support (6 of 11 respondents) represents only 17% of total street properties, raising questions about the conclusiveness of these findings.
- Whether all six supporting responses are from front-facing properties that would be directly impacted by the proposed amendments

Inclusion of unaffected properties

- ***The briefing confirmed that, of the 6 'Yes' responses received, 5 were from properties directly affected by the policy (street-facing properties and Unit A in subdivided blocks). 1 'Yes' vote was from an unaffected Unit B property***
- ***Excluding the unaffected property shows an equal 5-5 split between support and opposition among affected properties, rather than the 55% majority support initially reported.***

The submission method (survey) may also suffer from potential a self-selection bias where properties that have already undertaken modifications inconsistent with the proposed amendments may not be included.

- When accounting for properties with existing non-consistent modifications (6 opposition 5 non-character modifications) and survey objectors (5), the effective opposition rate would be 65% 63% [= (5 + 6 5) / (11 responses + 6 5)].

'No' by action

- Among the 31 affected properties, there are 5 non-character properties or exhibiting inconsistent modifications as the proposed amendments
- When these properties are considered as explicit 'No' based on their actions, the total opposition adds to 10 properties (almost double the number of supporting votes)

[B] Inadequate information of the nomination, policy implications and methodological concerns

On page 1, regarding "the nomination was supported by 66 percent of landowners (26 landowners in total). This exceeded the threshold of 40 percent support that is outlined in the Character Area Policy for the City to progress with a nomination"

While this 40% threshold only applies to nominations, there is no minimum rule-based threshold for draft polices to be mandated through Council approval.

Nevertheless, as the nomination serves as a critical pre-requisite for initial consideration, these numbers require careful review and validation (questions not fully addressed in the previous briefing are repeated in blue).

- What was numerator and denominator to arrive at a 66%? with consistent application of only including front-facing property criteria?

Validity of nomination results

- The denominator and numerator and the calculation method of the 66% was undisclosed.

- **Back-calculating from 26 supporting landowners suggests a total of 39 properties (26/66%), yet there are only 31 affected properties on the street (as illustrated in Figure 1).**
- On page [2], "47 letters distributed to owners and occupiers of properties in the proposed Auckland Street character area."; How do we reconcile 47 to 31 affected properties

Inadequate communication of policy implications

- How do we reconcile 11 survey submissions to 26 landowners, suggesting less support of nomination for new amendments to date?
- Were the policy implications (both direct and indirect) clearly communicated to all stakeholders during nomination?
- If not clearly communicated, how do we ensure if landowners made informed decisions of supporting the nomination with full understanding of the consequential policy implications?

How do we reconcile the gap between the 26 landowners to 6 supporting submissions eventually? suggesting supporters of nomination do NOT support policy amendments (a significant of drop after fully understood the policy implications which is different from the from the understanding from nomination communication?).

- On page [2], "A street meeting held on 9 October 2024 at Hobart Street Reserve on the corner of Hobart and Auckland Streets that was attended by 10 residents."
- On page [3], "At the conclusion of this period a total of 11 submissions were received from property owners on Auckland Street and within the proposed Character Area
- The above references indicate a consistent engagement from only 10-11 affected properties, with 5 of these opposing the proposal (as noted on page 12). This actual engagement level stands in sharp contrast to the unverifiable 66% support of nomination
- Is 26 landowners based on the properties count (without multiple votes from single property)?

Methodology verification

- The briefing confirmed that survey submission were calculated per property (removing duplicate responses from the same address)
- However, it was unclear whether this method has been applied consistently to the nomination response and whether non-affected properties are excluded?
- Are these land owners verified as registered land owners in land title? (as opposed to rental residents)?
- Is there clear documentation of inclusion and exclusion method and criteria to ensure accurate representation of affected properties throughout?

Nature of information accessibility

On page [5], "The draft Guidelines included in Attachment 1 have been developed in consultation with residents (surveys and working group)"

- As a registered landowner of the affected property, I received no formal notification about either the nomination process or working group opportunities until the announcement of successful nomination and the October 9, 2024 meeting at Hobart Reserve - which was presented as for information nature

- The practice of 'door-knocking' and scheduling working group meetings during business hours effectively precluded employed residents from participating in the process
- On page [2], only 3 out of the 6 listed are directly addressed to the affected audience; the rest are passive communication to any targeted audience.

  • [Passive] Notices published on the City's website, the City's social media, and displayed at the City's Administration and Library and Local History Centre.

  • [Passive] Noticed published on the City's 2 October E-news publication.

  • [Passive] A Notice published on the 28 September 2024 issue of the Perth Voice.

  • 47 letters distributed to owners and occupiers of properties in the proposed Auckland Street character area.

  • A street meeting held on 9 October 2024 at Hobart Street Reserve on the corner of Hobart and Auckland Streets that was attended by 10 residents.

  • A survey hosted on the Imagine Vincent project page for the duration of community consultation activities.

Policy Implications:

The proposed amendments raise several equity concerns:

- They would impose disproportionate regulatory burdens on remaining character properties while exempting previously modified properties
- They would create an inequitable advantage for properties that have already undertaken inconsistent modifications
- Current policies, if properly enforced, are sufficient to preserve street character while maintaining appropriate architectural diversity

Based on the above-mentioned concerns, I don't support the proposed amendments to be mandated through the planning policy.

I believe a voluntary design guideline approach would better serve the street's character while avoiding potential policy complications (e.g., voluntary guideline of 3 meters and 2 meters as minimum requirement in current planning policy).

[C] Unintended adverse policy outcomes to preserve streetscape

The proposed increase in upper floor setback from 2 to 3 meters for Unit A properties presents several critical implications that contradict the policy's core objectives and sustainability implications (page 2):

- The expanded setback requirement renders upper-floor extensions economically unfeasible
- Without viable upper-floor extensions, owners may be forced to demolish ground-floor structures to, compromising original facades
- Such demolition or structural alterations would directly contradict the intended objective of preserving character

Proposed solution: I respectfully request the Council consider exempting Unit A properties from [C1.2] should the proposed amendment proceed.

- As advised in the briefing session, 2 out of total affected 3 Unit A properties on the street voted NO.

- An exemption would maximise preserve the street's architectural heritage (no impact to Unit A YES) while maintaining development flexibility in the intent of preserving rather than demolishing character.
- This approach would align with sustainability goals by encouraging building retention rather than demolition

1. ***What was numerator and denominator to arrive at a 66%? with consistent application of only including front-facing property criteria?***

   At the time of nomination there were 40 properties within the proposed character area. There was 26 properties in support of the nomination. This equals 65 percent.

   Further to the responses providing in the minutes from the Council Briefing from 3 December 2024, there are five sites that have been subdivided.

   If the five rear properties were excluded from this, there would be 35 properties in the proposed Character Area at the time of the nomination. 23 properties were in support of the nomination. This equals 66 percent.

2. ***How do we reconcile 11 survey submissions to 26 landowners, suggesting less support of nomination for new amendments to date?***

   A response to this question was provided in the minutes from the Council Briefing from 3 December 2024. In summary the reasons why there were less responses received during the consultation period compared to the original nomination are unclear and could include either consultation fatigue, a lack of interest in the Character Area and/or Guidelines, or individuals choosing not to make a formal submission

3. ***Were the policy implications (both direct and indirect) clearly communicated to all stakeholders during nomination?***

   An information sheet was available on the City's website which outlined the implications of the proposed Character Area. Letters were distributed to all owners of the proposed Character Area which directed to this information sheet.

4. ***If not clearly communicated, how do we ensure if landowners made informed decisions of supporting the nomination with full understanding of the consequential policy implications?***

   Refer to response 3 above.

5. ***How do we reconcile the gap between the 26 landowners to 6 supporting submissions eventually? suggesting supporters of nomination do NOT support policy amendments (a significant of drop after fully understood the policy implications which is different from the from the understanding from nomination communication?).***
   Refer to response 2 above.

6. ***Is 26 landowners based on the properties count (without multiple votes from single property)?***

   A response to this question was provided in the minutes from the Council Briefing from 3 December 2024. The 26 responses did not include where multiple owners of the same property support the nomination. In these instances it was counted as one support.

7. ***However, it was unclear whether this method has been applied consistently to the nomination response and whether non-affected properties are excluded?***

The Character Area Guidelines would apply to allow properties in the designated Character Area, not just those that are street facing.

Because of this the 26 supportive of the nomination included a combination of front and rear properties.

8. ***Are these land owners verified as registered land owners in land title? (as opposed to rental residents)?***

   Administration verified those in support as being landowners of the respective properties based on the City's records.

9. ***Is there clear documentation of inclusion and exclusion method and criteria to ensure accurate representation of affected properties throughout?***

   As outline in response 7, the Character Area Guidelines would apply to allow properties in the designated Character Area, not just those that are street facing. Administration's clearly outlines how the nomination threshold of 40 percent was achieved.

Judy Burrows of North Perth – Item 9.3

I am responding to Item 9.3 on Tuesdays Agenda after watching the replay of last weeks meeting.

Firstly, I want to address the 6 Yes to 5 No reported on the survey of 37 homes including rear subdivisions or 32 homes that are directly affected by streetscape.

- History shows that anyone who was unhappy would have sent in their objection as this is the most passionate group – total 5.
- Anyone who felt it was needed would have sent in their support –total 6.
- The remainder who have supported the Character area in writing may have felt they had already conveyed their support previously, so it was not necessary.
- Based on 32 homes that face the street, that leaves 21 and I would take odds that the majority of those approve however feel they have already advised this in the past, so why do you need it again. This is a comment I get often. Cosi also took this option on one of the early surveys, after all we had meetings with M****** in person and he knew where we all stood.
- Last time this came to Council and there was a threat of it being cancelled all together you will remember it resulted in a petition of 14 approvals in writing gained from a less than 1 hour survey of the street by C*** from those who were home at the time – No-one objected. (You were sent a copy at the time). You will also remember that you had many people from the street contacting you with their approval. I am not organising this again but hope you would understand that the results would be similar.

With this in mind, I would ask you to please approve this Character Area as it does nothing to change the Planning Codes to affect a potential DA, providing they are building to the current regulations*. This is just an extra level of protection for the Streetscape only which is open and community friendly. This is supported by M**** in the notes.**

The comments made at the meeting by two residents are offensive and based on misinformation/disinformation they were also voiced on 9th Oct - Both were offered the opportunity to talk to M****** in July 2023 to have him come to their homes and discuss before signing and this was again offered in person at the recent meeting in the park on October 9th when M****** affirmed they would not be affected if renovating. To my knowledge they did not take advantage of this, which shows no real commitment to deciding based on truth.

The original Character Nomination Form they referred to allows for signatures of Support or Objection in proceeding to creating a residents working group to decide what they felt needed to be included for a Character Area. This form provided by M****** in no way contained any information as to what the

Character Area would look like because no working group had been nominated or decisions made which both parties were told. So, no-one tricked them at any stage and I can guarantee that had the percentages favoured a No Vote I would not have proceeded – but to me it is as always a fully inclusive Street vote – including them.

This initial survey resulted in 28 supporting setting up a Character Area proposal. In giving you this information I have removed T**'s signature in giving this total, this I had done previously so he could talk to his wife however he added it again after a final chat before submitting to M******. In addition both these couples were obviously primed by someone that this would affect their ability to renovate **prior** to being approached with the survey and were very defensive believing this to be true based on no substance.

I thank you all for taking a considered approach to this item, thank you for all your hard work throughout the year, it is greatly appreciated and wishing you all Seasons blessings for Christmas and the Holiday Season.

*The only impact, which is low, is a change from 2m to 3m upper level setback which considering these are big blocks with 50.3m depth on the Eastern Side and 42.1m depth on the Western Side, it is not a huge impact. Reminding you also that only 3 blocks on the Eastern side can still be subdivided and none on the Western Side.

3.4 Ian Poustie of Mt Hawthorn – Item 10.2

His full statement can be found here.

Did the risk assessment, completed by the Council for this proposal, take into account the current condition of the grounds, the stormwater drainage and the vulnerability of Menzies to overuse?

Was Les Lilleyman Reserve considered as a zero cost option to ratepayers, where the Cardies have priority use to train and play, in preference to it being used by a club that is not based in the City of Vincent?

These questions were responded to during discussion of Item 10.2.

The discussion can be found here.