



## Perth Local Development Assessment Panel Minutes

**Meeting Date and Time:** Thursday, 30 March 2023; 9:30am  
**Meeting Number:** PLDAP/123  
**Meeting Venue:** Electronic Means

*This DAP meeting was conducted by electronic means (Zoom) open to the public rather than requiring attendance in person*

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**Mr Ray Haeren**  
**Presiding Member, Perth LDAP**

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## Attendance

### DAP Members

Mr Ray Haeren (Presiding Member)  
Mr Jarrod Ross (Deputy Presiding Member)  
Mr Jason Hick (A/Third Specialist Member)  
Cr Catherine Lezer (Local Government Member, City of Perth)

### Officers in attendance

Ms Julia Kingsbury (City of Perth)  
Mr Roberto Colalillo (City of Perth)  
Mr Dimitri Fotev (City of Perth)

### Minute Secretary

Mr Stephen Haines (DAP Secretariat)

### Applicants and Submitters

Mr Daniel Lees (Element)  
Mr Colin Conn (Box Architects)  
Ms Heather Lynch  
Mr Gerrad Lynch

### Members of the Public / Media

Ms Victoria Rifici from Perth Now and Ms Nadia Budiharjo from Business News were in attendance.

## 1. Opening of Meeting, Welcome and Acknowledgement

The Presiding Member declared the meeting open at 9:43am on 30 March 2023 and acknowledged the traditional owners and paid respect to Elders past and present of the land on which the meeting was being held.

The Presiding Member announced the meeting would be run in accordance with the DAP Standing Orders 2020 under the *Planning and Development (Development Assessment Panels) Regulations 2011*.

### 1.1 Announcements by Presiding Member

The Presiding Member advised that in accordance with Section 5.16 of the DAP Standing Orders 2020 which states '*A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of the DAP meeting unless the Presiding Member has given permission to do so.*', the meeting would not be recorded.

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This meeting was convened via electronic means (Zoom). Members were reminded to announce their name and title prior to speaking.

## **2. Apologies**

Ms Diana Goldswain (Third Specialist Member)  
Cr Viktor Ko (Local Government Member, City of Perth)

## **3. Members on Leave of Absence**

DAP Member, Ms Diana Goldswain has been granted leave of absence by the Director General for the period of 30 March 2023 to 21 April 2023 inclusive.

## **4. Noting of Minutes**

DAP members noted that signed minutes of previous meetings are available on the [DAP website](#).

## **5. Declaration of Due Consideration**

All members declared that they had duly considered the documents.

## **6. Disclosure of Interests**

Nil.

## **7. Deputations and Presentations**

- 7.1** Mr Gerrad Lynch and Ms Heather Lynch addressed the DAP against the recommendation for the application at Item 8.1.
- 7.2** Mr Colin Conn (Box Architects) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.3** Mr Daniel Lees (element) addressed the DAP in support of the recommendation for the application at Item 8.1 and responded to questions from the panel.
- 7.4** The City of Perth officers addressed the DAP in relation to the application at Item Number 8.1 and responded to questions from the panel.

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## 8. Responsible Authority Reports – DAP Applications

### 8.1 52-56 (Lots 6 and 5) Bennett Street and 7 (Lot 4) Forrest Avenue, East Perth

Development Description: Proposed 22 Level Mixed Use Development  
Comprising 73 Service Apartments, 12 Multiple  
Dwellings, A Restaurant/Cafe Tenancy and 55  
Car Parking Bays

Applicant: Element  
Owner: Bennett Apartments Pty Ltd, Delstrat Pty Ltd,  
MCPBB Pty Ltd  
Responsible Authority: City of Perth  
DAP File No: DAP/22/02228

### REPORT RECOMMENDATION

**Moved by:** Cr Catherine Lezer

**Seconded by:** Mr Jarrod Ross

That the City of Perth Local Development Assessment Panel resolves to:

1. **Approve** DAP Application reference DAP/22/02228 and accompanying perspectives (Attachment 2) and development plans (Attachment 3) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of City Planning Scheme No. 2 subject to the following conditions:

#### Conditions

1. the owner submitting evidence and final confirmation to the City that the transaction in respect of transfer of plot ratio has been finalised between the owners of 76 (Lot 5) Wittenoom Street, East Perth and 360 (Lot 123) Murray Street, Perth prior to the commencement of construction, noting the transaction of transferred plot ratio will then be registered in the City Planning Scheme No. 2 Transferred Plot Ratio Register;
2. any subsequent change of use of the 'Special Residential' (Serviced Apartment) portion of the development being prohibited within 10 years from the date of lawful occupation of those portions of the development pursuant to Clause 35 of City Planning Scheme No. 2;

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3. a section 70A notification under the Transfer of Land Act 1893 prepared to the City's satisfaction at the cost of the subject owner/s, being placed on the relevant titles prior to occupation of the 'Special Residential' (Serviced Apartment) use and prior to any transfer of ownership, advising prospective purchasers of:-
  - a) the presence of serviced apartments for short term accommodation throughout the building and the resulting impact that may have on the amenity of long term residential/occupants by way of noise, security and other activity; and
  - b) the approved 'Special Residential' (Serviced Apartment) portion of the approved development being prohibited from any subsequent change of use within 10 years from the lawful occupation of those portions of the development;
4. the development being constructed with high quality and durable materials and finishes and to a level of detailing that is consistent with the elevations and perspectives received on 14 March 2023, with final details of the design including a sample board of the proposed materials, colours and finishes being submitted for approval by the City prior to applying for a building permit;
5. the two lower basement levels (B1 and B2) not forming part of this approval, with revised plans confirming their removal being submitted for approval by the City prior to applying for a building permit;
6. the approved boundary walls and footings being constructed wholly within the subject lot, with the external surface of the walls being finished to complement the approved development. Final details to be submitted for approval by the City prior to applying for a building permit;
7. the podium car parking levels being designed to ensure all car parking is screened from view from the street and surrounding properties with the final details being submitted for approval by the City prior to applying for a building permit;
8. final details of the location, design and materials of the fire booster cabinet, demonstrating the facility being suitably positioned, vertically orientated and integrated with the development's frontage, being submitted for approval by the City, in consultation with the Department of Fire and Emergency Services prior to applying for a building permit;
9. a final landscaping and reticulation plan, including the provision of mature/advanced plantings within the deep planting zone adjacent to Forrest Avenue, being submitted for approval by the City prior to applying for a building permit. The approved landscaping is to be installed prior to occupation of development and thereafter maintained to a high standard to the City's satisfaction;
10. a final Serviced Apartments/Short Stay Management Plan addressing the operation of the short stay accommodation in accordance with the provisions of the City's Special Residential (Serviced and Short Term Accommodation) Policy 3.9 being submitted for approval by the City prior to the occupancy of the accommodation with the management plan being implemented by the proprietor/manager on an on-going basis and to the satisfaction of the City;

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11. the proposed development being designed and constructed in such a manner that existing and future noise levels occurring between dwellings, and from external noise sources and mechanical plant and equipment that could potentially affect future occupiers, can be successfully attenuated in accordance with the City Planning Scheme No. 2 - Residential Design Policy 4.9 and State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning. Details of such noise attenuation measures shall be prepared by a qualified acoustic consultant and be submitted for approval by the City prior to applying for a building permit;
12. a final environmental wind assessment, including wind tunnel model measurements, being undertaken to quantify and compare the wind conditions against the relevant pedestrian wind comfort criteria and, if necessary, including mitigation strategies to achieve compliance with the criteria, with details being submitted by the applicant for approval by the City prior to applying for a building permit, with any significant design changes resulting from the amended wind impact analysis being the subject of a separate application for approval;
13. a final Waste Management Plan satisfying the City's waste collection requirements being submitted for approval by the City prior to applying for a building permit;
14. a right-of-carriageway easement in favour of the current users of the existing Right of Way to the north of the subject site (being 56-60 Bennett Street; and 67, 69, 7177 Goderich Street) being granted over the proposed laneway widening provided on the subject site by the proposed development, with the easement being in place to the satisfaction of the City prior to the occupation of the development with all costs associated with the preparation of the easement being borne by the owner/applicant;
15. the dimensions of all car parking bays, vehicle entrances, aisle widths and circulation areas complying with the Australian Standard AS2890.1, with a certificate of compliance by an architect or engineer being submitted for approval by the City prior to applying for a building permit;
16. a minimum of one car bay being allocated to each multiple dwelling within the development and each pair of tandem bays being allocated to the same multiple dwelling, with all on-site residential car bays being for the exclusive use of the residents of the development and their visitors;
17. a maximum of 32 commercial tenant car parking bays being provided on site, being for the exclusive use of occupants of the serviced apartments and commercial tenancy within the development and not being leased or otherwise reserved for the use of the tenants or occupants of other buildings or sites to the satisfaction of the City, in consultation with the Department of Transport;
18. the proposed floor levels of the pedestrian and vehicle entrances to the building being designed to match the current levels of the immediately adjacent footpath, to the satisfaction of the City;

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19. all redundant crossovers being removed and the verge and footpaths being reinstated in accordance with the City's specifications and satisfaction and at the expense of the developer/landowner and all new proposed crossovers being located and constructed to the City's specification and satisfaction prior to occupation of the development, with any additional works (with the exception of awnings) external to the property boundaries of the site not being approved as part of this development and being subject to a separate application(s) for approval;
20. on-site stormwater disposal/management being to the City's specifications with details being submitted for approval by the City prior to applying for a building permit;
21. any signage for the development required to be integrated into the design of the building in accordance with the City's Signs Policy 4.6 and subject to a separate application for approval where required;
22. the existing street trees located in the road verge on Bennett Street and Forrest Avenue being retained and protected from damage throughout any demolition and/or construction works with tree protection zones being established and maintained during the demolition and/or construction periods in accordance with the Australian Standard S4970-2009 - Protection of Trees on Development Sites, to the satisfaction of the City, with the owner/applicant being liable for any damage or removal of the trees;
23. the subject lots being amalgamated into one lot on one Certificate of Title prior to the occupation of any of the buildings within the development; and
24. a construction management plan for the proposal prepared in accordance with the City's pro-forma and requirements being submitted for approval by the City prior to applying for a building permit.

### Advice Notes

1. This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
2. The development is approved with a total combined maximum plot ratio floor area of 7,216m<sup>2</sup> [comprising Bennett Street sites - 4.2:1 (5,418m<sup>2</sup>) and Forrest Avenue site 5.6:1 (1,797m<sup>2</sup>)] inclusive of:-
  - a) 20% bonus plot ratio (1,031m<sup>2</sup> of plot ratio floor area) for providing a new Special Residential use in accordance with Clause 28 of City Planning Scheme No. 2 and the requirements of the Bonus Plot Ratio Policy 4.5.1; and
  - b) 20% transfer plot ratio (1,031m<sup>2</sup> of plot ratio floor area) from 76 (Lot 5) Wittenoom Street, East Perth and 774m<sup>2</sup> (or 15%) from 360 (Lot 123) Murray Street, Perth in accordance with Clause 30 of City Planning Scheme No. 2 and the requirements of the Transfer Plot Ratio Policy 4.6.2;

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3. The applicant is advised that the approved development will require all sites to be amalgamated or an amendment to City Planning Scheme No. 2 to create a special control area over the site, in order to ensure the car parking and plot ratio provisions for the respective lots comply with the City Planning Scheme No. 2 and Perth Parking Policy 2014.
4. The City advises that the final Waste Management Plan is required to address the following additional matters:-
  - a) bin store facility to be provided with self-closing doors; and
  - b) a maximum travel distance of 10 metres being provided between the waste vehicle and collection point.
5. The applicant is advised the removal of the future car parking basement levels is based on the impracticality of the development providing vacant spaces for future conversion at a later time, which will be subject to separate approval/s under a likely different planning framework, with no guarantees of approval or implementation.
6. Any installation of outdoor lighting to be in accordance with the requirements of Australian Standard AS 4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting".

#### **AMENDING MOTION 1**

**Moved by:** Mr Jarrod Ross

**Seconded by:** Cr Catherine Lezer

With the agreement of the mover and the seconder, the following changes were moved en bloc:

- i) That Condition No. 5 be deleted and the remaining \_\_\_ be renumbered accordingly.
- ii) That Advice Note No. 5 be deleted and the remaining advice notes be renumbered accordingly.
- iii) That a new Condition no. 25 (now 24) be added to read as follows:

***Prior to occupation of the development, a physical barrier is to be constructed restricting access to basement levels 2 and 3, with details of the proposed barrier, being submitted for approval prior to the submission of a Building Permit, to the satisfaction of the City.***

- iv) That a new Condition no. 26 (now 25) be added to read as follows:

***Prior to the occupation of the development, the owner is to enter into a legal agreement with the City, whereby access to and the use of basement levels 2 and 3 are restricted to the satisfaction of the City, unless otherwise approved. The agreement is to be prepared to the satisfaction of the City at the cost of the owner(s).***

- v) That a new Advice Note no. 7 (now 6) be added to read as follows:

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***The applicant/developer is encouraged to ensure that, should the building be strata titled into future, the City strongly encourages the developer to ensure that the future owners of the permanent residential dwellings do not contribute to any levy or other payment associated with the commercial tenant car parking bays.***

**The Amending Motion was put and CARRIED UNANIMOUSLY.**

**REASON:** The panel considered the submissions made and feedback from the officers of the City of Perth and considered the amendments to conditions to be appropriate to balance the need to clarity of requirements, the adaptability of the building and the management of the requirement of no use of the additional basement levels. The additional advice note was included to provide direction to the applicant although noting that the process was out of the Planning process to control.

### **REPORT RECOMMENDATION (AS AMENDED)**

That the City of Perth Local Development Assessment Panel resolves to:

1. **Approve** DAP Application reference DAP/22/02228 and accompanying perspectives (Attachment 2) and development plans (Attachment 3) in accordance with Clause 68 of Schedule 2 (Deemed Provisions) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, and the provisions of City Planning Scheme No. 2 subject to the following conditions:

#### **Conditions**

1. the owner submitting evidence and final confirmation to the City that the transaction in respect of transfer of plot ratio has been finalised between the owners of 76 (Lot 5) Wittenoom Street, East Perth and 360 (Lot 123) Murray Street, Perth prior to the commencement of construction, noting the transaction of transferred plot ratio will then be registered in the City Planning Scheme No. 2 Transferred Plot Ratio Register;
2. any subsequent change of use of the 'Special Residential' (Serviced Apartment) portion of the development being prohibited within 10 years from the date of lawful occupation of those portions of the development pursuant to Clause 35 of City Planning Scheme No. 2;
3. a section 70A notification under the Transfer of Land Act 1893 prepared to the City's satisfaction at the cost of the subject owner/s, being placed on the relevant

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- titles prior to occupation of the 'Special Residential' (Serviced Apartment) use and prior to any transfer of ownership, advising prospective purchasers of:-
- a) the presence of serviced apartments for short term accommodation throughout the building and the resulting impact that may have on the amenity of long term residential/occupants by way of noise, security and other activity; and
  - b) the approved 'Special Residential' (Serviced Apartment) portion of the approved development being prohibited from any subsequent change of use within 10 years from the lawful occupation of those portions of the development;
4. the development being constructed with high quality and durable materials and finishes and to a level of detailing that is consistent with the elevations and perspectives received on 14 March 2023, with final details of the design including a sample board of the proposed materials, colours and finishes being submitted for approval by the City prior to applying for a building permit;
  5. the approved boundary walls and footings being constructed wholly within the subject lot, with the external surface of the walls being finished to complement the approved development. Final details to be submitted for approval by the City prior to applying for a building permit;
  6. the podium car parking levels being designed to ensure all car parking is screened from view from the street and surrounding properties with the final details being submitted for approval by the City prior to applying for a building permit;
  7. final details of the location, design and materials of the fire booster cabinet, demonstrating the facility being suitably positioned, vertically orientated and integrated with the development's frontage, being submitted for approval by the City, in consultation with the Department of Fire and Emergency Services prior to applying for a building permit;
  8. a final landscaping and reticulation plan, including the provision of mature/advanced plantings within the deep planting zone adjacent to Forrest Avenue, being submitted for approval by the City prior to applying for a building permit. The approved landscaping is to be installed prior to occupation of development and thereafter maintained to a high standard to the City's satisfaction;
  9. a final Serviced Apartments/Short Stay Management Plan addressing the operation of the short stay accommodation in accordance with the provisions of the City's Special Residential (Serviced and Short Term Accommodation) Policy 3.9 being submitted for approval by the City prior to the occupancy of the accommodation with the management plan being implemented by the proprietor/manager on an on-going basis and to the satisfaction of the City;
  10. the proposed development being designed and constructed in such a manner that existing and future noise levels occurring between dwellings, and from external

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noise sources and mechanical plant and equipment that could potentially affect future occupiers, can be successfully attenuated in accordance with the City Planning Scheme No. 2 - Residential Design Policy 4.9 and State Planning Policy 5.4 - Road and Rail Transport Noise and Freight Considerations in Land Use Planning. Details of such noise attenuation measures shall be prepared by a qualified acoustic consultant and be submitted for approval by the City prior to applying for a building permit;

11. a final environmental wind assessment, including wind tunnel model measurements, being undertaken to quantify and compare the wind conditions against the relevant pedestrian wind comfort criteria and, if necessary, including mitigation strategies to achieve compliance with the criteria, with details being submitted by the applicant for approval by the City prior to applying for a building permit, with any significant design changes resulting from the amended wind impact analysis being the subject of a separate application for approval;
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14. the dimensions of all car parking bays, vehicle entrances, aisle widths and circulation areas complying with the Australian Standard AS2890.1, with a certificate of compliance by an architect or engineer being submitted for approval by the City prior to applying for a building permit;
15. a minimum of one car bay being allocated to each multiple dwelling within the development and each pair of tandem bays being allocated to the same multiple dwelling, with all on-site residential car bays being for the exclusive use of the residents of the development and their visitors;
16. a maximum of 32 commercial tenant car parking bays being provided on site, being for the exclusive use of occupants of the serviced apartments and commercial tenancy within the development and not being leased or otherwise reserved for the use of the tenants or occupants of other buildings or sites to the satisfaction of the City, in consultation with the Department of Transport;
17. the proposed floor levels of the pedestrian and vehicle entrances to the building being designed to match the current levels of the immediately adjacent footpath, to the satisfaction of the City;
18. all redundant crossovers being removed and the verge and footpaths being reinstated in accordance with the City's specifications and satisfaction and at the expense of the developer/landowner and all new proposed crossovers being

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- located and constructed to the City's specification and satisfaction prior to occupation of the development, with any additional works (with the exception of awnings) external to the property boundaries of the site not being approved as part of this development and being subject to a separate application(s) for approval;
19. on-site stormwater disposal/management being to the City's specifications with details being submitted for approval by the City prior to applying for a building permit;
  20. any signage for the development required to be integrated into the design of the building in accordance with the City's Signs Policy 4.6 and subject to a separate application for approval where required;
  21. the existing street trees located in the road verge on Bennett Street and Forrest Avenue being retained and protected from damage throughout any demolition and/or construction works with tree protection zones being established and maintained during the demolition and/or construction periods in accordance with the Australian Standard S4970-2009 - Protection of Trees on Development Sites, to the satisfaction of the City, with the owner/applicant being liable for any damage or removal of the trees;
  22. the subject lots being amalgamated into one lot on one Certificate of Title prior to the occupation of any of the buildings within the development; and
  23. a construction management plan for the proposal prepared in accordance with the City's pro-forma and requirements being submitted for approval by the City prior to applying for a building permit.
  24. Prior to occupation of the development, a physical barrier is to be constructed restricting access to basement levels 2 and 3, with details of the proposed barrier, being submitted for approval prior to the submission of a Building Permit, to the satisfaction of the City.
  25. Prior to the occupation of the development, the owner is to enter into a legal agreement with the City, whereby access to and the use of basement levels 2 and 3 are restricted to the satisfaction of the City, unless otherwise approved. The agreement is to be prepared to the satisfaction of the City at the cost of the owner(s).

### Advice Notes

1. This decision constitutes planning approval only and is valid for a period of four years from the date of approval. If the subject development is not substantially commenced within the specified period, the approval shall lapse and be of no further effect.
2. The development is approved with a total combined maximum plot ratio floor area of 7,216m<sup>2</sup> [comprising Bennett Street sites - 4.2:1 (5,418m<sup>2</sup>) and Forrest Avenue site 5.6:1 (1,797m<sup>2</sup>)] inclusive of:-

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- a) 20% bonus plot ratio (1,031m<sup>2</sup> of plot ratio floor area) for providing a new Special Residential use in accordance with Clause 28 of City Planning Scheme No. 2 and the requirements of the Bonus Plot Ratio Policy 4.5.1; and
  - b) 20% transfer plot ratio (1,031m<sup>2</sup> of plot ratio floor area) from 76 (Lot 5) Wittenoom Street, East Perth and 774m<sup>2</sup> (or 15%) from 360 (Lot 123) Murray Street, Perth in accordance with Clause 30 of City Planning Scheme No. 2 and the requirements of the Transfer Plot Ratio Policy 4.6.2;
3. The applicant is advised that the approved development will require all sites to be amalgamated or an amendment to City Planning Scheme No. 2 to create a special control area over the site, in order to ensure the car parking and plot ratio provisions for the respective lots comply with the City Planning Scheme No. 2 and Perth Parking Policy 2014.
  4. The City advises that the final Waste Management Plan is required to address the following additional matters:-
    - a) bin store facility to be provided with self-closing doors; and
    - b) a maximum travel distance of 10 metres being provided between the waste vehicle and collection point.
  5. Any installation of outdoor lighting to be in accordance with the requirements of Australian Standard AS 4282 - 1997 "Control of the Obtrusive Effects of Outdoor Lighting".
  6. The applicant/developer is encouraged to ensure that, should the building be strata titled into future, the City strongly encourages the developer to ensure that the future owners of the permanent residential dwellings do not contribute to any levy or other payment associated with the commercial tenant car parking bays.

**The Report Recommendation (as amended) was put and CARRIED UNANIMOUSLY.**

**REASON:** The development was considered to be appropriate to the location and the design was modified based on feedback provided. The adaptability was considered appropriate in both a planning and sustainability perspective. Consistent with officer advice the overall proposal was supported and considered consistent with orderly and proper planning.

**9. Form 2 – Responsible Authority Reports – DAP Amendment or Cancellation of Approval**

Nil.

**10. State Administrative Tribunal Applications and Supreme Court Appeals**

Nil.

**11. General Business**

The Presiding Member announced that in accordance with Section 7.3 of the DAP Standing Orders 2020 only the Presiding Member may publicly comment on the

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operations or determinations of a DAP and other DAP members should not be approached to make comment.

## **12. Meeting Closure**

There being no further business, the Presiding Member declared the meeting closed at 10:44am.

A handwritten signature in black ink, appearing to read 'Haeren'.

**Mr Ray Haeren**  
**Presiding Member, Perth LDAP**