

**MINUTES**

**OF THE**

**ORDINARY MEETING OF THE COUNCIL**

**HELD ON**

**TUESDAY, 10 DECEMBER 2019**

**AT 6.30PM IN THE COUNCIL CHAMBERS**

**MELVILLE CIVIC CENTRE**

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## 1. OFFICIAL OPENING

The Presiding Member welcomed those in attendance to the meeting and officially declared the meeting open at 6:31pm. Mr B Taylor, A/Executive Manager Governance and Legal Services, read aloud the Disclaimer that is on the front page of these Minutes and then Mayor, Honourable George Gear, read aloud the following Affirmation of Civic Duty and Responsibility.

### **Affirmation of Civic Duty and Responsibility**

I make this Affirmation in good faith on behalf of Elected Members and Officers of the City of Melville. We collectively declare that we will duly, faithfully, honestly and with integrity fulfil the duties of our respective office and positions for all the people in the district according to the best of our judgement and ability. We will observe the City's Code of Conduct and Meeting Procedures Local Law to ensure the efficient, effective and orderly decision making within this forum.

## 2. PRESENT

Mayor Honourable G Gear

### **COUNCILLORS**

Cr N Pazolli (Deputy Mayor)  
Cr S Kepert  
Cr D Macphail, Cr N Robins  
Cr C Robartson, Cr M Woodall  
Cr G Barber, Cr J Barton  
Cr K Mair, Cr M Sandford  
Cr T Fitzgerald  
Cr K Wheatland (*from 6:52pm*)

### **WARD**

Applecross – Mount Pleasant  
Applecross – Mount Pleasant  
Bateman – Kardinya - Murdoch  
Bull Creek - Leeming  
Bicton – Attadale – Alfred Cove  
Central  
Palmyra – Melville - Willagee  
Palmyra – Melville - Willagee

## 3. IN ATTENDANCE

Mr M Tieleman  
Mr T Cahoon  
Mr S Cope  
Mr A Ferris  
Mr B Taylor

Ms C Newman  
Ms T Wright

Chief Executive Officer  
A/Director Community Development  
Director Urban Planning  
Director Corporate Services  
A/Executive Manager Governance and  
Legal Services  
A/Manager Governance and Property  
Governance Officer

At the commencement of the meeting there were approximately 10 members of the public and one representative from the Press in the Public Gallery

*At 6:32pm Cr Pazolli entered the meeting.  
At 6:32pm Cr Sandford entered the meeting.  
At 6:32pm Cr Woodall entered the meeting.*

**4. APOLOGIES AND APPROVED LEAVE OF ABSENCE****4.1 APOLOGIES**

Cr K Wheatland (Late Arrival)	Palmyra – Melville - Willagee
Mr M McCarthy	Director Technical Services

**4.2 APPROVED LEAVE OF ABSENCE**

Nil.

**5. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)  
AND DECLARATIONS BY MEMBERS****5.1 DECLARATIONS BY MEMBERS WHO HAVE NOT READ AND GIVEN  
DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE  
BUSINESS PAPERS PRESENTED BEFORE THE MEETING.**

Cr Robins advised that she had not read any emails that had been sent today in relation to tonight's meeting as she has come straight from work.

On her arrival at 6:52pm Cr Wheatland advised that she had not read the emails sent by Cr Pazolli and Cr Kepert just prior to the meeting.

**5.2 DECLARATIONS BY MEMBERS WHO HAVE RECEIVED AND NOT READ  
THE ELECTED MEMBERS BULLETIN.**

Nil.

## **6. QUESTION TIME**

### **29 November 2019 Public Question Time – Correction**

#### **6.3.1 City of Melville Residents and Ratepayers Association Inc.**

At the 19 November 2019 Ordinary Meeting of the Council an error in a response that was given to a question from the City of Melville Residents and Ratepayers Association Refer Item 6.3.1 Question 4.

The response advised that:

“The contractor has previously been appointed under a tender arrangement to undertake demolition and asbestos removal works for the City....”

The contractor was not previously appointed under a tender arrangement, previous appointments had been through the calling of quotations.

### **6.1 Questions Received with Notice**

#### **6.1.1 City of Melville Residents and Ratepayers Association (Inc)**

1. We refer item C19/6002, schedule and the payment # E076483 for \$ 637,200.82 to LGISWA for insurance premiums, please confirm:

##### Question 1

- 1.1 *What is the City’s total annual spending on insurance, risk management, other related services and procurement fees, such as those paid to WALGA (Total Spend)?*

##### Response

The City’s total premiums paid for the 2019-2020 financial year is \$1,288,977 (inclusive of GST) for Local Government Insurance Scheme Insurances. This is the amount prior to the application of any Scheme credits that will be received or further adjustment credits or debits.

These amounts are paid to Local Government Insurance Services Western Australia (LGISWA). This covers property, workers compensation, public and products liability, casual hirers liability and crime insurance which are covered through the local government pooled scheme managed by LGISWA.

A further \$206,125 (inclusive of GST) has been paid for non-scheme insurance policies that are arranged through LGISWA and cover placed with external insurance providers. These insurance covers include Corporate Travel, Cyber, Motor Vehicle, Journey Injury, Personal Accident and Management Liability (professional indemnity).

6. *Question Time, City of Melville Residents and Ratepayers Association (Inc) cont'd*

Question 2

- 1.2 *How much of the Total Spend is directed to a) LGISWA or affiliated companies, and b) to other WALGA preferred suppliers*

Response

As detailed above Pooled Scheme \$1,288,977 inclusive of GST and non-scheme \$206,125 inclusive of GST paid to non-affiliated insurance companies. The external insurances are quoted or tendered on the City's behalf by LGISWA.

Question 3

- 1.3 *How much of the Total Spend is (sic) makes its way to WALGA, either directly through fees/commissions or via profit from insurance related entities*

Response

This question would need to be directed to WALGA.

Question 4

- 1.4 *When was the last time Council resolved that LGIS was the most competitive/highest value for money insurance supplier?*

Response

As the City is a member of the WA Local Government Pooled Insurance Scheme, managed by LGISWA as WALGA appointed scheme manager, those insurance arrangements that form part of that insurance pool are not tendered. The Scheme covers Public Liability, Casual Hirers Liability, Management Liability (Professional Indemnity) and Workers Compensation and the covers are tailored to meet the specific insurance needs of local government in WA.

Motor vehicle insurance is tendered on an annual basis by LGISWA on behalf of the City and is currently insured through Zurich Australian Insurance Ltd.

- 2 *We refer to item M19/5724 Delegation of Authority to Appoint Approved and Authorised 20 Officers for the Purposes of the Criminal Procedure Act 2004: please confirm:*

Question 5

- 2.1 *Your report states "Delegation to the CEO the appointment of authorised and approved officers for the purposes of the Criminal Procedures Act would improve effectiveness of compliance functions" yet the report does not provide any efficiency and effective improvement measures; what are they, how will the City's activities change, what cost savings will be realised or what additional costs will be incurred?*

6. *Question Time, City of Melville Residents and Ratepayers Association (Inc) cont'd*

Response

Infringements provide for a reasonable and proportionate alternative to prosecution for specific offences prescribed by the Regulations, which generally have minor consequences, are straightforward in matters of fact and law, and where the facts are readily ascertainable.

City officers already have the power to issue infringement notices under other legislation, such as the Cat Act, Dog Act, Food Act, Litter Act, Local Government Act, etc. This delegation extends the City's scope to infringements under the Health (Asbestos) Regulations and the Building Regulations, which are covered by the Criminal Procedure Act.

- a) The efficiency improvements relate to the considerably lower cost of issuing an infringement notice compared to engaging legal counsel to prepare a prosecution and act on behalf of the City. The cost savings are not limited to the City. Non-compliant parties will pay less under the infringement system than they would if they incurred the legal costs of defending a prosecution and then potentially were given a fine of between 5 and 40 times the modified penalty that would have applied under an infringement notice.

For example, the fine for transporting material containing asbestos is \$10,000 if prosecuted, but the modified penalty under an infringement notice is only \$1,000. Under the Building Act, failure to erect an adequate temporary barrier attracts a fine of \$5,000, but the modified penalty imposed by an infringement notice is \$1,000. Encroachment beyond boundaries without authority carries a fine of \$25,000 but the modified penalty is \$2,500.

- b) The effectiveness improvements relate to the City having access to an intermediate level of enforcement under this legislation. Reluctance to prosecute for minor offences where the penalty is likely to be less than the cost of taking action can result in offenders not incurring any meaningful penalty for their offence. An infringement notice may also provide a greater incentive for compliance among people who wilfully ignore warnings and notices.
- c) The first steps of the compliance process, being investigation of alleged non-compliance, a request to comply, and issuing notices or orders, will not change. Stronger responses are only initiated if these measures are ineffective. Infringements issued by the City may be withdrawn if the person can provide evidence indicating that this is appropriate. The option to have the matter heard by a magistrate remains available to alleged offenders who may dispute the infringement.
- d) Cost savings cannot be quantified in advance because this depends on the frequency of non-compliance events, the willingness of non-compliant parties to cooperate with requests, and the number of prosecutions avoided by the use of infringement notices.
- e) No additional costs will be incurred by the City.

6. *Question Time, City of Melville Residents and Ratepayers Association (Inc) cont'd*

Question 6

2.2 *Your report does not provide any tangible statistics on the City's compliance functions activities in order to contextualised the delegation request motions; please provide the summary as outlined in the table below?*

Response

The research required to facilitate the compilation of the 192 metrics outlined in the table below would in the CEO's opinion, divert a substantial and unreasonable portion of the local government's resources away from its other functions and it will therefore not be completed.

Question 7

2.3 *How many officers, and in what roles, will likely be authorised and approved by the CEO to perform these roles?*

Response

Appointments will be made by reference to position or title.

The Health (Asbestos) Regulations are administered by Environmental Health Services.

Under Regulation 15D of those Regulations, the Senior Environmental Health Officer and the nine current Environmental Health Officers are proposed to be appointed as **authorised officers who are able to issue infringements**. These officers are already authorised to issue infringements under the Food Act.

The Building Act and Building Regulations are administered by Building Services.

Under Regulation 70 of the Building Regulations, the Building Services Coordinator, two Senior Building Surveyors and the Swimming Pool Coordinator will be appointed as **authorised officers who are able to issue infringements**.

The Coordinator Environmental Health Services (for Health (Asbestos) Regulations infringements only), the Manager Building and Environmental Health Services and the Director Urban Planning will be appointed as **approved officers with the power to withdraw infringements** under the relevant legislation.

Question 8

2.4 *How often is it anticipated that the CEO will exercise the proposed delegation?*

Response

After the initial appointments for existing staff, the CEO or sub-delegate will exercise the delegation when new officers are recruited to the specified positions.

6. *Question Time, City of Melville Residents and Ratepayers Association (Inc) cont'd*

Question 9

2.5 *What is the justification to allow sub-delegation to Director-Urban planning, a position that falls outside of the oversight and reach of Council, given that does not seem to have been expressly outlined in the report?*

Response

The Building Services and the Environmental Health Services functions operate within the Urban Planning Directorate. It is operationally appropriate that the Director should be able to appoint authorised and approved officers within that Directorate for the purposes of the Criminal Procedure Act as it relates to those functions.

This delegation applies only to the appointment of authorised and approved officers under the specified legislation. The legislation itself provides the head of power for issuing and withdrawing infringements for prescribed offences at an operational level.

Question 10

2.6 *How many addresses/land-owners/residents were the subject of multiple repeated occurrences for noncompliant pool barriers as a result of ad-hoc /on complaint pool inspections over the period back to 1/1/2014, eg per metric 9 in the table below; how many of these repeat offenders had prosecutions initiated against them?*

Response

The research required to respond to this question would in the CEO's opinion, divert a substantial and unreasonable portion of the local government's resources away from its other functions and it will therefore not be responded to.

Question 11

2.7 *How many addresses/land-owner/residents/builders were the subject of multiple repeated occurrences of the requirement to apply for building approval certificates (aka 'retrospective building approvals') per over the period back to 2014 metric 26 in the table below; how many of these repeat offenders had prosecutions initiated against them?*

Response

The research required to respond to this question would in the CEO's opinion, divert a substantial and unreasonable portion of the local government's resources away from its other functions and it will therefore not be responded to.

6. *Question Time, City of Melville Residents and Ratepayers Association (Inc) cont'd*

Question 12

2.8 *What is the current administrative procedure for deciding the proposed course of action on the discovery of an alleged breach, ie the City either taking no action, issuing a warning letter, issuing a direction, issuing an infringement and/or initiating a prosecution; who is accountable for the decision of infringement vs prosecution?*

Response

The City aims to take a reasonable and proportionate approach to suspected non-compliance with the law, based on the potential seriousness of the consequences and the individual circumstances.

Officers are empowered to exercise discretion using their professional judgement and the City's preference is to resolve the matter informally and cooperatively if possible. Standard procedure is as follows:

1. Investigate the matter to determine whether the non-compliance exists and whether the responsible party is aware of the non-compliance. If the complaint of non-compliance is unsubstantiated or based on false information, no further action is taken.
2. If non-compliance exists, officers issue a verbal warning and request the responsible person to rectify the non-compliance.
3. Follow up after a reasonable time, and if the non-compliance remains send a warning letter, a direction notice or an order, according to the provisions of the legislation.
4. If the matter is a prescribed offence, the City has the power to issue infringements, the matter is straightforward and the facts are readily ascertainable, an infringement notice may be issued. The person may choose to pay the penalty, request that the notice be withdrawn or have the matter heard by a magistrate.
5. In very simple circumstances, such as clear non-compliance with parking laws, an infringement notice may be issued without a prior verbal or written warning.
6. If the person given an infringement notice neither pays the penalty nor formally disputes the infringement, the matter is referred to the Fines Enforcement Registry at the Department of Justice.
7. In some cases of non-compliance with a notice or order, the City has the power to rectify the non-compliance itself and recover the costs from the offender.
8. If the matter is an offence that is not prescribed for infringement purposes, or if the issues are complex, the facts are disputed, or the potential public consequences of the offence are significant, independent legal advice is sought on whether it is reasonable to initiate a prosecution.
9. Factors affecting a decision whether to prosecute include whether the available evidence appears on assessment to prove the offence and whether it is in the public interest to prosecute given the circumstances and likelihood of conviction. The City would generally not initiate a prosecution if it appears unlikely to succeed.

Question 13

2.9 *What is the current process/procedure by which residents and ratepayers can have the Administration's prosecution and/or infringement decisions reviewed by a) the CEO and b) Council; how many such requests has the City received in the period back to 2014 and how many were reviewed by Council or the relevant Committee?*

6. *Question Time, City of Melville Residents and Ratepayers Association (Inc) cont'd*

Response

Only officers specifically authorised by the relevant legislation have the power to withdraw infringement notices. Legislation does not provide for Council intervention in such matters.

The infringement notice forms prescribed in the relevant regulations explain the process for requesting that the notice be withdrawn. The City of Melville website also explains how to dispute or appeal infringements for parking and animal offences, and the process is effectively the same for all infringements. The recipient of an infringement notice may also elect to have the matter dealt with by prosecution in court.

City-initiated prosecutions unrelated to infringement notices are a last resort measure after all other attempts to have the non-compliance rectified by the offender have failed. Prosecution may also be initiated if an offender commits multiple offences of the same type over an extended period. They are initiated only on the advice of independent legal counsel that a *prima facie* case has been established. The Court then independently reviews the evidence and circumstances.

**Table of activity/key performance metrics (referred to in question/s 6, 10 and 11)**

#	Activity/key performance metrics	Number of occurrences/incidences						
		2014	2015	2016	2017	2018	2019	Total
1	All prosecutions initiated (across all functions/acts) - total							
2	- Health							
3	- Environmental Protection							
4	- Planning and development							
5	- Local Government							
6	- Others (including building per below)							
	<b>Building Act 2011/Building Regulations 2012</b>							
7	Pool inspections conducted (scheduled 4 yearly/new builds)							
8	Pool inspections conducted (ad-hoc, on complaint)							
9	Pool inspection reports identifying non-compliances							
10	Pool inspection reports issued requiring remedial work							
11	Smoke detector alarm inspections							
12	Non-compliant smoke detectors identified							
13	Building Act prosecutions (per Part 12 Building Act)							
14	Building orders issued (s 110)							
15	Building orders issued for non-compliant pool barriers							
16	Notice of intention to issue building orders (s 111)							
17	Notice of intentions issued for non-compliant pool barriers							
18	Letters with directions requiring work (pre s 111 notices)							
	<b>Incidences of breaches</b> (inclusive of complaints received)							
19	Encroachments identified without consent (incl. s 76)							
20	Work to party walls, substantial boundary walls, boundary walls without consent (incl. s 79)							
21	Failures to give notice of completion/cessation (s 33 & 34)							
22	Removal of fences, gates etc without consent (incl. s 80)							
23	Access to other land without consent (incl. s 81)							
24	Other Part 6 breaches							
25	Unauthorised work (s 9 and s 10)							
26	Building approval certificate applications (s 51)							

6. *Question Time, City of Melville Residents and Ratepayers Association (Inc) cont'd*

<b>Other metrics</b>								
27	Building/Demolition permits issued							
28	Building Surveyors employed (contract and staff FTE)							
29	Compliance officers employed (contract and staff FTE)							
30	No of scheduled permit compliance audits completed							
<b>Health (Asbestos) Regulations</b>								
31	Incidences as described by Schedule 1 – Prescribed offences and modified penalties							
32	Incidences in 31 that were in conjunction with building/demolition permits							

**6.2 Questions Received without Notice**

**6.2.1 Mr R Willis, Bull Creek**

Question 1

*On 20 August 2019 the Council directed the Chief Executive Officer to include involvement of Bull Creek Tennis Club in site identification of the proposed Men's Shed to ensure that any possible future expansion requirements of the Club are considered: To date this has not happened.*

*Will the Chief Executive Officer please meet with the Tennis Club and the Men Shed representatives before the end of 2019?*

Response

Officers have met with Bull Creek Tennis Club representatives on-site regarding possible future expansion requirements. Officers have also met with community representatives (Mr Perrigo and Mr Willis) interested in the development of a Men's Shed. The next planned meetings will be in January 2020.

*In addition to the response provided above the Mayor advised that he had also met with representatives of Bull Creek Tennis Club.*

Question 2

*We welcome the other major stakeholders on Bob Gordon Reserve being the Scouts and the BMX Association to be included so we are transparent with any development on Bob Gordon Reserve and how it can fit into the Premier Playspace proposed Development. To date it would appear communication has been done on a one on one basic not as a group.*

*Does the CEO know that the adopted plans for the location for the Men Shed, as presented by officers to council, is in the middle of proposed future tennis courts (3)?*

Response

The location of both proposed future courts at Bull Creek Tennis Club and a Men's Shed is yet to be determined.

6. *Question Time, Mr R Willis cont'd*

Question 3

*I have attached details of the Bull Creek Tennis Clubs previously given for your convenience.*

*As the Council has been considering a Men Shed site since an item was presented to council on 15 May 2018 can the CEO please give this matter priority to be resolved?*

Response

Yes, the relevant priority level is given to this project.

**6.3 Questions Taken on Notice at Previous Meeting**

Nil

**7. AWARDS AND PRESENTATIONS**

Nil.

**8. CONFIRMATION OF MINUTES****8.1 ORDINARY MEETING OF THE COUNCIL – 19 NOVEMBER 2019  
Minutes 19 November 2019****COUNCIL RESOLUTION**

At 6:50pm Cr Barton moved, seconded Cr Robins –

**That the Minutes of the Ordinary Meeting of the Council held on Tuesday, 19 November 2019, be confirmed as a true and accurate record.**

At 6:51pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (12/0)**

**8.2 NOTES OF AGENDA BRIEFING FORUM – 26 NOVEMBER 2019  
ABF Notes 26 November 2019****COUNCIL RESOLUTION**

At 6:51pm Cr Barber moved, seconded Cr Robartson –

**That the Notes of Agenda Briefing Forum held on Tuesday, 26 November 2019, be received.**

At 6:51pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (12/0)**

**8.3 SPECIAL MEETING OF THE COUNCIL – 27 NOVEMBER 2019  
Special Meeting Minutes 27 November 2019****COUNCIL RESOLUTION**

At 6:51pm Cr Woodall moved, seconded Cr Pazolli –

**That the Minutes of the Special Meeting of the Council held on Wednesday, 27 November 2019, be confirmed as a true and accurate record.**

At 6:51pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (12/0)**

**8.4 FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE  
COMMITTEE – 2 DECEMBER 2019****COUNCIL RESOLUTION**

At 6:51pm Cr Macphail moved, seconded Cr Barber –

**That the Minutes of the Financial Management, Audit, Risk and Compliance Committee Meeting held on Monday, 2 December 2019 be noted.**

At 6:51pm the Mayor submitted the motion, which was declared  
**CARRIED UNANIMOUSLY (12/0)**

**NB:**  
**Minutes to be confirmed at next Financial Management, Audit, Risk and Compliance Committee Meeting.**

**8.5 GOVERNANCE COMMITTEE – 2 DECEMBER 2019****COUNCIL RESOLUTION**

At 6:51pm Cr Sandford moved, seconded Cr Robartson –

**That the Minutes of the Governance Committee Meeting held on Monday, 2 December 2019 be noted.**

At 6:52pm the Mayor submitted the motion, which was declared  
**CARRIED UNANIMOUSLY (12/0)**

**NB:**  
**Minutes to be confirmed at next Governance Committee Meeting.**

## 9. DECLARATIONS OF INTEREST

### 9.1 FINANCIAL INTERESTS

Nil.

### 9.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

- Cr Wheatland – 16.5 Motion with Notice – Mt Pleasant Bowling Club Review, Interest Under the Code.
- Cr Wheatland – 16.5 Motion with Notice – Mt Pleasant Bowling Club Review, Indirect Financial Interest
- Cr Sandford – 17.1 Motion without Notice – Wheel Clamping, Interest Under the Code.
- Cr Wheatland – 17.1 Motion without Notice – Wheel Clamping, Proximity Interest.
- Cr Mair – 17.3 Motion Without Notice – Immediate Commencement of Canning Bridge Activity Centre Plan Full Review, Impartiality Interest.

*At 6:52pm Cr Wheatland entered the meeting.*

## 10. DEPUTATIONS

- 10.1 Mr J O'Brien representing Mount Pleasant Bowling Club, and Mr D Vyse representing Tingara Netball Club**  
Motion with Notice – 16.5 Mt Pleasant Bowling Club Review

At 6:53pm Mr J O'Brien and Mr D Vyse entered the Chambers for the purpose of making a deputation in relation to Item 16.5 – Motion with Notice Mt Pleasant Bowling Club Review.

### COUNCIL RESOLUTION

At 7:04pm Cr Kepert moved, seconded Cr Wheatland –

**That the Mr O'Brien and Mr Vyse be granted a further 5 minutes to speak on this matter.**

At 7:04pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (13/0)**

The presentation concluded at 7:05pm.

At 7:22pm Mr J O'Brien and Mr D Vyse departed the Council Chambers.

**11. APPLICATIONS FOR NEW LEAVES OF ABSENCE**

At 7:23pm Cr Macphail moved, seconded Cr Barton –

**That the application for new leaves of absence submitted by Cr Sandford, Cr Barton, Cr Kepert and Cr Mair on 10 December 2019 be granted.**

At 7:23pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (13/0)**

**12. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED**

Nil.

**13. PETITIONS**

Nil.

**16.5 Cr Mair – Mt Pleasant Bowling Club Review**Disclosures of Interest

Member	Cr Wheatland
Type of Interest	Interest Under the Code
Nature of Interest	Former Executive Manager of Fremantle Netball Association.
Request	Stay, discuss and vote
Decision	Stay, discuss and vote
Member	Cr Wheatland
Type of Interest	Indirect Financial Interest
Nature of Interest	Operational Manager for Sports Centre AESS potential uniform provider for Tingara Netball Club.
Request	Stay, discuss and vote
Decision	Stay, discuss and vote

**COUNCIL RESOLUTION**

At 7:25pm Cr Mair moved, seconded Cr Wheatland –

**That Item 16.5 Motion with Notice – Mt Pleasant Bowling Club Review be brought forward for the convenience of the public gallery.**

At 7:25pm the Mayor submitted the motion, which was declared

**CARRIED (13/0)**

*At 7:26pm Cr Woodall left the meeting and returned at 7:30pm.*

*At 7:27pm Cr Barton left the meeting and returned at 7:31pm.*

**MOTION**

At 7:26pm Cr Mair moved, seconded Cr Kepert –

**That the Council request the CEO to undertake research into previous Council resolutions relating to:**

- A the Mt Pleasant Club requests for financial support and requests to changes to financing commitments**
- B the relocation of the Mt Pleasant Bowls Club and the development of Club site, and**
- C the noting and endorsing the City of Melville Bowls Strategy Report,**

**and provide a report to the Council on the implications, both financial and non-financial, of the Council rescinding previous motions relating to the relocation of the Mt Pleasant Bowls Club and the noting and endorsing of the City of Melville Bowls Strategy Report.**

At 7:39pm during discussion and debate on the motion, the mover and the seconder consented to the changes to the second final paragraph by the inclusion of the words “*which includes consideration and investigation of a home base for Tingara Netball Club at Mount Pleasant Bowling Club*”.

### 16.5 Motion with Notice Cr Mair – Mt Pleasant Bowling Club Review

At 7:41pm during discussion and debate on the motion the mover and seconder agreed to further changes to the final paragraph by the inclusion of the words “*or other interested sporting clubs*”.

### COUNCIL RESOLUTION

At 7:26pm Cr Mair moved, seconded Cr Kepert –

**That the Council request the CEO to undertake research into previous Council resolutions relating to:**

- A the Mt Pleasant Club requests for financial support and requests to changes to financing commitments**
- B the relocation of the Mt Pleasant Bowls Club and the development of Club site, and**
- C the noting and endorsing the City of Melville Bowls Strategy Report,**

**and provide a report to the Council on the implications, both financial and non-financial, of the Council rescinding previous motions relating to the relocation of the Mt Pleasant Bowls Club, which includes consideration and investigation of a home base for Tingara Netball Club or other interested sporting clubs at Mount Pleasant Bowls Club and the noting and endorsing of the City of Melville Bowls Strategy Report.**

At 7:51pm the Mayor submitted the motion, which was declared

**CARRIED (12/1)**

Vote Result Summary	
Yes	12
No	1

Vote Result Detailed	
Cr Barber	Yes
Cr Barton	Yes
Cr Fitzgerald	Yes
Cr Kepert	Yes
Cr Mair	Yes
Cr Pazolli	Yes
Cr Robartson	Yes
Cr Robins	Yes
Cr Sandford	Yes
Cr Wheatland	Yes
Cr Woodall	Yes
Mayor	Yes
Cr Macphail	No

**16.5 Motion with Notice Cr Mair – Mt Pleasant Bowling Club Review****Reasons for the Motion as provided by Cr Mair**

1. Now that the Shirley Strickland and Thompkins Park Reserves have fully funded redevelopment plans for sports and recreation facilities, whether they go ahead with them or not, there is no longer any need for Mt Pleasant Bowling Club to be developed for the purposes of raising revenue for the development of these two reserves.
2. Mt Pleasant Bowling Club has been located in Ardross on Crown Land for 60 years and the land was set aside for Bowls. The Council should honour this recreational space and retain it in perpetuity for sports. Now the two reserves Shirley Strickland and Thompkins Park are fully funded for redevelopment, there is no need for The Mt Pleasant Bowling Club to be redeveloped into housing. There is also ample opportunity for urban infill in the the current City of Melville footprint of housing to increase density with adjustments in the Planning Scheme. With increased urban infill, Mt Pleasant Bowling Club will become more important for the community as an active and passive recreational reserve and community facility.
3. Since The City of Melville's Lawn Bowls Strategy supported the merger of both the Mt Pleasant and Melvile Bowling Clubs into the Thompkins Park Facility, both clubs have experienced a downturn in membership: pennant players and social members. The potential closure of these two Bowling Clubs has caused a lot of public angst, debate and was the subject of a number of Special Elector's Meetings. Since there is no individual strategy for any other sport, the Lawn Bowls Strategy should be scrapped. It also has many deficiencies such as how membership is calculated, namely it does not recognise any other members other than pennant players. These players only respresent a portion of Bowling Club membership groups and does not take into consideration any other user groups or potential user groups at the facility.
4. Since redevelopment of the Mt Pleasant Bowling Club was signalled in 2016, Mt Pleasant Bowling Club lost many of its top bowlers and struggled for membership and has declined financially and in memberships. However this is changing already with renewed optimism about the Club and its portential. And once the Council rescinds their decision to redevelop the land, we will see a resurgence of their past success as a sporting and social hub.
5. Currently the Mt Pleasant Bowling Club is developing a business plan inclusive of other sporting clubs and social activities. It is keen to rebrand itself as a Bowling Club an Community Centre. Currently, the Mt Pleasant Bowling Club is not permitted to make itself more viable by including other sporting clubs like netball so it has little ability to improve its financial position to any great degree. Currently membership is increasing catering for the more casual bowlers which are now becoming a fast growing group generally in bowls. The Club is seen as a focal point for locals to walk there for social interaction and bowls.

**14.1 ITEM FROM THE FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE MEETING 11 MARCH 2019**

**C19/6171 – LATE ITEM FROM FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE - CITY OF MELVILLE ANNUAL FINANCIAL REPORT FOR 2018-2019 (REC) (ATTACHMENT)**

Ward	:	All
Category	:	Operational
Subject Index	:	Financial Reporting – Annual Financial Reports
Customer Index	:	Grant Thornton under the supervision of the Office of the Auditor General(OAG)
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item M19/5712 City of Melville Annual Report 2018-2019 of the 12 November 2019 Council Meeting Item C19/6170 City of Melville Annual Financial Report 2018-2019 Financial Management, Audit, Risk and Compliance Committee 2 December 2019
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Alan Ferris Director Corporate Services

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input checked="" type="checkbox"/>	Information	<b><i>For the Council/Committee to note.</i></b>

**C19/6171 – LATE ITEM FROM FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE - CITY OF MELVILLE ANNUAL FINANCIAL REPORT FOR 2018-2019 (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- All Local Government Financial statement audits are now conducted by the Office of the Auditor General (OAG). For the City of Melville the OAG appointed Grant Thornton to conduct the audit work with the OAG being responsible for issuing the audit opinion.
- This report presents the 2018-2019 Annual Financial Report, the Audit Findings Report and a summary of variances. It is recommended that after review and discussion with the OAG and Grant Thornton, the Committee notes the report and recommends the report for consideration by Council.
- The City has received the Auditor General's opinion as the Financial Statements have been considered by the Financial Management, Audit, Risk, and Compliance (FMARC) Committee and they have received the signed management representation letter.
- Adoption of the Annual Report will take place at the Ordinary Meeting of Council on Tuesday 10 December 2019.
- The overall closing funds/unrestricted cash amount available to be carried forward to 2019-2020 is \$3,967,320. This is \$3,967,320 more than the opening funds required to balance the 2019-2020 Annual Budget.
- In accordance with Council resolution (Special Meeting of Council held 18 June 2019 Item C19/5688 – Consideration and Adoption of the 2019-2020 Budget), the surplus funds are transferred to the Rates Equalisation Reserve account.

**BACKGROUND**

The *Local Government Act 1995* (the Act) prescribes the following (but not limited to) in relation to the Annual Report:

- Section 5.53(1) requires a local government to prepare an Annual Report for each financial year.
- Section 5.53(2)(f) states that the Annual Report must contain the financial report for the financial year.
- Section 5.54 requires the Annual Report for a financial year is to be accepted by the local government no later than 31 December after that financial year.

The City refers to its Annual Report as the Community Annual Report and presents it in two parts:

- Part A – contains the full-text summary and an extract of the Annual Financial Report
- Part B – contains the full Annual Financial Report and a copy of the letter from the Office of the Auditor General.

The Community Annual Report Parts A and B for 2018-2019 requires acceptance by the Council prior to the Annual General Meeting of Electors.

**C19/6171 – LATE ITEM FROM FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE - CITY OF MELVILLE ANNUAL FINANCIAL REPORT FOR 2018-2019 (REC) (ATTACHMENT)**

The Community Annual Report will be presented to Council at the Ordinary Meeting of Council on Tuesday 10 December 2019. This report is the vehicle whereby the Council will have presented for acceptance the full Annual Financial Report for 2018-2019 after consideration by the FMARC Committee.

The Annual General Meeting of Electors is required to be held within 56 days of the adoption of the Annual Report by the Council.

**DETAIL**

This item presents the City of Melville's Annual Financial Report for 2018-2019 and supporting analysis in the following attachments:

1. Variances Report on Rate Setting Statement [6171A](#)
2. Office of the Auditor General's Audit Findings Report [6171B](#)
3. Audited Annual Financial Report (including):  
[6171 Annual Financial Report 2018-2019](#)
  - a. Statement by the Chief Executive Officer
  - b. Management Representation Letter
  - c. Statements of Comprehensive Income by Nature or Type
  - d. Statements of Comprehensive Income by Program
  - e. Statement of Financial Position
  - f. Statement of Changes in Equity
  - g. Statement of Cash Flows
  - h. Rate Setting Statement by Program and Sub-Program
  - i. Notes to and Forming Part of the Annual Financial Report.

The 2018-2019 Annual Financial Report shows a positive end to the 2018-2019 financial year for the City, with an overall cash surplus of \$3,967,320. This is \$3,967,320 more than the budgeted amount required to balance the 2019-2020 Annual Budget. In accordance with previous Council resolutions, the surplus is transferred to the Rates Equalisation Reserve to be used to reduce the need to raise rates in future years or to meet any budget shortfalls identified during budget reviews. A brief analysis of the significant variances which contributed to this positive position is included in the Financial Implications section of this report and in the Variance Report on Rate Setting Statement Attachment [6171A](#).

The financial outcomes for the year are specified in the Annual Financial Report and are summarised in the Financial Implications section of this report.

The City has received an unqualified audit opinion in respect to the 2018-2019 Annual Financial Report. [6171 Unqualified Auditor's Opinion](#)

There are eight findings and recommendations identified during the Audit. Two findings are significant, 5 moderate and 1 minor. The City has provided management comments and timelines in response to the recommendations. Of the significant ratings one relates to the valuation of the City's drainage assets, which the City has a program in place to improve and the other relates to payroll reconciliations which the City has a number of compensating controls in place.

**C19/6171 – LATE ITEM FROM FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE - CITY OF MELVILLE ANNUAL FINANCIAL REPORT FOR 2018-2019 (REC) (ATTACHMENT)**

The findings, recommendations and management response are attached at [6171B](#)

**STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

No external public consultation has been carried out.

**II. OTHER AGENCIES / CONSULTANTS**

Amendments to the Local Government Act 1995 were passed by State Parliament that enabled the Auditor General to audit Local Government. The 2018-2019 financial year is the City's first audit under the OAG. Grant Thornton has undertaken the work, on behalf of the OAG

The OAG and Grant Thornton Australia attended the FMARCC meeting on Monday 2 December 2019 to discuss the Audit Completion Report including the Audit Findings during their audit work. The Office of the Auditor General has issued the unqualified Auditor's opinion on the financial statements for 2018-19 to the Mayor and the CEO.

**STATUTORY AND LEGAL IMPLICATIONS**

Section 5.53 of the Act headed "Annual reports" specifies that:-

*"(1) The local government is to prepare an annual report for each financial year and that.*

*(2) The annual report is to contain... (f) the financial report for the financial year; ..."*

Section 5.54 of the Act headed "Acceptance of annual reports" specifies that the Annual Report for the financial year is to be accepted by the Local Government no later than 31 December after that financial year.

Section 5.27 of the Act specifies that a General Meeting of Electors is to be held within fifty-six (56) days after the local government accepts the Annual Report for the previous financial year.

Section 5.94 of the Act provides that *"a person can attend the office of a local government during office hours and, unless it would be contrary to section 5.95, inspect, free of charge, in the form or medium in which it is held by the local government and whether or not it is current at the time of inspection — ... (c) any annual report;"*

**C19/6171 – LATE ITEM FROM FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE - CITY OF MELVILLE ANNUAL FINANCIAL REPORT FOR 2018-2019 (REC) (ATTACHMENT)**

Section 6.4 of the Act headed “Financial report” specifies that:-

- “(1) A local government is to prepare an annual financial report for the preceding financial year and such other financial reports as are prescribed.*
- (2) The financial report is to —*
- (a) be prepared and presented in the manner and form prescribed; and*
  - (b) contain the prescribed information.*
- (3) By 30 September following each financial year or such extended time as the Minister allows, a local government is to submit to its auditor —*
- (a) the accounts of the local government, balanced up to the last day of the preceding financial year; and*
  - (b) the annual financial report of the local government for the preceding financial year.”*

The Annual Financial Report has been prepared in accordance with all relevant *Local Government Act 1995* requirements and accounting standards.

**FINANCIAL IMPLICATIONS****Operating Surplus**

The net result for the 2018-2019 financial year was an operating surplus of \$14.39m as calculated in the Statement of Comprehensive Income.

The operating surplus is the result of:

- Operating revenue of \$122.49m
- Operating expenditure of \$111.04m
- Non-operating revenue of \$4.14m
- The City’s share of the net result of the joint venture with the Southern Metropolitan Regional Council (SMRC) of \$0.69m loss.
- Loss on asset disposals of \$1.03m

This operating surplus is different from the actual cash surplus, previously mentioned, of \$3.9m. The operating surplus measures the ability of the City to cover its operational costs and have revenues available for capital funding. The cash surplus is then calculated following the inclusion of the capital outlays and reserve transfers.

The Department of Local Government and Communities (DLGC) set an advanced target for the Operating Surplus Ratio of greater than 0.15 (the higher the better). The City achieved a ratio of 0.09 which has declined due to minimal rate increases and a significant increase in depreciation cost.

**C19/6171 – LATE ITEM FROM FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE - CITY OF MELVILLE ANNUAL FINANCIAL REPORT FOR 2018-2019 (REC) (ATTACHMENT)**

**Cash Surplus**

The cash surplus for the 2018-2019 financial year was \$3,967,320 as calculated in the Rate Setting Statement.

This is determined by the inclusion of the following items:

- Operating revenue
- Operating expenditure
- Non-operating revenue
- Capital expenditure
- Reserve account transfers
- Reversal of non-cash items (such as asset depreciation)

This surplus was carefully analysed to fully understand the drivers behind this variance. There are a number of variances that are offset by a corresponding value such as income, expenditure or a transfer to or from reserve. In these cases, the variance does not contribute to the overall surplus and have therefore not been reflected in the summary below. The following table outlines the key areas contributing to the \$3,967,320 surplus:

	<b>Variance</b>
General Purpose Funding positive variance	\$225,569
Operating Income positive variance	\$775,539
Operating Expenditure positive variance	\$2,268,992
Capital Income negative variance	(\$290,479)
Capital Expenditure positive variance	\$573,931
Net Reserve transfers negative variance	(\$107,644)
Other positive variances	\$521,412
<b>Total Surplus</b>	<b>\$3,967,320</b>

Net operating expenditure contributed \$3.6m to the surplus. This was mainly due to income generated by building and planning applications, parking, animal control, Healthy Melville and Leisurefit being higher than budgeted and significant savings made across various areas of the organisation predominantly in employee costs, materials and contractor expenses.

To be consistent with previous month end financial reports, a variance analysis at the Program/Sub Program level is detailed in the Variance Report on Rate Setting Statement Attachment [6171A](#).

The City budgeted for Nil opening funds for the 2019-2020 financial year when setting the Budget for 2019-2020. This has resulted in an unallocated surplus of \$3,967,320 that will be transferred to the Rates Equalisation Reserve to be used to offset future year's rate increases.

**C19/6171 – LATE ITEM FROM FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE - CITY OF MELVILLE ANNUAL FINANCIAL REPORT FOR 2018-2019 (REC) (ATTACHMENT)****Trust Funds**

The OAG has recently released their position on trust monies held as bonds, such as work bonds, building bonds and hire bonds. These bonds should not be regarded as Trust Fund money in terms of the Local Government Act 1995. Consequently, this money should be held in the Municipal Fund, recognised on the statement of financial position in the annual financial report and interest, if any, earned on that money would therefore not need to be paid to the person entitled to the money in accordance with section 6.9(3)(a) of the Act.

The City supported the OAG position and a total of \$978,562 of work bonds, building bonds and hired bonds which were previously held in Trust contrary to the OAG's recommendations have been transferred to Municipal Fund in 2018-2019. Separate accounting records have been maintained for these amounts of money in Municipal funds, as one of the control measures to ensure that they are used for the correct purpose.

The information is available in the financial system and the total trust investment holding as of 30 June 2019 is \$33,013.

**Investment**

The City manages its investments with the care and diligence that a prudent person would exercise.

According to the City's investment policy, all the investments must be maintained within investment parameters and should be in compliance with the legislative requirements on a monthly basis. The City must obtain not less than three quotations from authorised institutions with healthy credit ratings whenever an investment is proposed or renewed. The best quote on the day will be successful after allowing for administrative and banking costs, as well as having regard to the maximum investment limits at respective the credit rating.

In 2018-2019, the investment earnings on Municipal and Trust Funds were \$784,301 and interest earning on Reserve funds were \$4,106,296. The weighted average interest rate for Municipal & Trust and reserve Fund investments as at 30 June 2019 were 2.27% and 2.50% respectively.

The City currently earns the lower interest income as the Reserve Bank of Australia has cut the official cash rate to historically the lowest rate of 0.75%.

**C19/6171 – LATE ITEM FROM FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE - CITY OF MELVILLE ANNUAL FINANCIAL REPORT FOR 2018-2019 (REC) (ATTACHMENT)**

**Reserves**

The City's cash-backed reserves total \$158m as at 30 June 2019, which is an increase of \$11.50m from the previous financial year. The City uses a number of reserves to streamline funding needs and quarantine funds for specific purposes.

The increasing reserve balance is due mainly to the net result of the following:

<b>Reserve</b>	<b>Increase /(Decrease)</b>	<b>Comment</b>
Alfred Cove East UGP & Streetscape Enhancement Reserve	(\$1.36m)	\$1.36m transfer from reserve. Funds were used for payment of Cash Calls.
Commercial Refuse Reserve	\$393k	\$393k transfer to reserve for surplus generated from commercial waste operations. Funds required for development of commercial waste operations.
Community Facilities Reserve	(\$298k)	\$3.22m transfer to reserve (as per asset management plans) compared with a higher transfer from reserve of \$3.52m to fund actual spend on community facilities. Funds are required for identified project in future years.
Fleet Services Vehicles, Plant and Equipment Replacement Reserve	\$1.24m	\$2m transfer to reserve (as per asset management plan) compared with a lower transfer from reserve of \$757k. Funds are required in future years to ensure optimal life cycle replacement of assets.
Future Works Reserve	\$1.54m	\$3.81m transfer to reserve (as per asset management plans) compared with a lower transfer from reserve of \$2.27m. Funds are required for identified projects in future years.
Infrastructure Asset Management Reserve	\$2.54m	\$12m (as per asset management plans) and \$619k (advance Federal Assistance Grant funds for roads) transfer to reserve compared with a lower transfer from reserve of \$10.09m. Funds are required for identified projects in future years.
Land and Property Reserve	(\$626k)	Property sales proceeds of \$104k (relating to 4, Temby Court, Kardinya) and \$2.09m (Federal Assistance Grants- General) transferred to reserve compared with a higher transfer from reserve of \$2.82m. Funds are required for identified projects in future years and to fund strategic property and land services.
Melville North UGP & Streetscape Enhancement Reserve	\$536k	\$536k being funds left over after cash calls paid during the year transferred to reserve. Funds are required for payment of Cash Calls identified in future years.

**C19/6171 – LATE ITEM FROM FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE - CITY OF MELVILLE ANNUAL FINANCIAL REPORT FOR 2018-2019 (REC) (ATTACHMENT)**

Organisational Environment Sustainability Initiative Reserve	\$186k	\$250k transfer to reserve (as per budget) compared to \$64k transfer from reserve to fund environment sustainability projects. Funds are required for identified projects in future years.
Public Open Space and Urban Forest Reserve	\$574k	1% of rates is transferred to this reserve annually. This amount was higher than the transfer from reserve to fund projects. Funds are required for identified projects in future years.
Rates Equalisation Reserve	\$2.78m	The unallocated surplus of \$4.5m from the 2017-2018 annual accounts was transferred to reserve. An amount of \$1,415m (for Cash Calls relating to Alfred Cove East underground power project) and \$635k (for change room upgrades) was used from this reserve. Funds required to fund future change room and river wall upgrades.
Recreation Centres Specialised Plant, Equipment and Structures Reserve	(\$380k)	\$430k transfer to reserve (as per budget) compared with a higher transfer from reserve of \$810k. Funds are required for identified projects in future years, including pool repairs.
Refuse Facilities Reserve	\$130k	\$241k transfer to reserve compared with a lower transfer from reserve of \$111k for costs associated with the implementation of the three bin FOGO waste collection system. Funds are required in the future for further FOGO costs and rehabilitation of former tip sites.
Risk Management and Insurance Equalisation Reserve	\$220k	Funds transferred to reserve consist of \$119k refunds from the Local Government Insurance Scheme and \$100k as funds set aside for risk management. Funds required for insurance related contingencies in the future.
Various Reserves	\$4.02m	Investment earnings being transferred to reserves to maintain their value.
	<b>\$11.50m</b>	

**Asset Revaluation**

Revaluation for fair value for financial reporting purposes and depreciation of assets is carried out in accordance with regulation 17A of the Local Government (Financial Management) Regulations and accounting standards AASB (Australian Accounting Standards Board) 113 and 116. Valuations are undertaken by an independent registered valuer appointed by the City. A full revaluation of all applicable asset classes is undertaken at least once every three years.

In the 2018-2019 financial year, the City was required to revalue the asset classes of Plant & Equipment and Infrastructure assets such as Road, Drainage and Footpaths. This exercise for plant and equipment was previously undertaken in 2015-2016 financial year with the annual revaluation of Infrastructure assets. In this financial year, the revaluation adjustment was an increase of \$43.6m and is shown in the relevant financial statements as a 'change on revaluation of non-current assets'.

**C19/6171 – LATE ITEM FROM FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE - CITY OF MELVILLE ANNUAL FINANCIAL REPORT FOR 2018-2019 (REC) (ATTACHMENT)**

The City's share of revaluation of assets in South Metropolitan Regional Council and LG House Unit Trust are shown under Other Comprehensive Income in the relevant financial statements.

The valuation of individual assets of Plant & Equipment has been undertaken by qualified valuers using either cost or the Market approach that reflects the current condition, make, size, year of manufacture and remaining useful life of the assessment inputs. The valuation of the infrastructure has been on Cost approach using depreciated replacement cost which reflects construction cost, current condition and remaining useful life of the assets.

**Financial Ratios**

The overall financial performance for the City as reported in the Annual Financial Report and the accompanying notes are positive. While the City has maintained a healthy Financial Health indicator (FHI) since 2014-2015 of 98 or above, the current score dropped to 92 for 2018-2019 due to the Operating surplus ratio that is performing slightly below with minimal rate increases and a significant increase in depreciation costs during the year. However, the overall FHI result of 70 and above indicates sound financial health.

Financial ratios are designed to provide users of annual financial reports with a clearer interpretation of the performance and financial results of the City. The table below outlines the seven financial ratios for 2018-2019, with comparisons to 2017-2018. All of the City's financial ratios, except for the Asset Consumption and Operating Surplus ratios, continue to perform above the recommended benchmarks set by the Department of Local Government and Communities (DLGC).

Ratio (higher the better)		DLGC Target	2018-2019	2017-2018	Comments
<b>Liquidity Ratio</b>					
Current Ratio	Ability to meet short-term financial obligations out of unrestricted current assets	> 1	1.30	1.421	Indicates good short-term financial strength but slightly dropped due to an increase of sundry creditors in current liabilities.
<b>Debt Ratio</b>					
Debt Service Cover Ratio	Ability to produce enough cash to cover debt payments	> 5	66.96	77.93	Indicates a strong ability to produce enough cash to cover its debt payments.
<b>Coverage Ratio</b>					
Own Source Revenue Coverage Ratio	Ability to cover costs through own taxing and revenue	> 0.90	1.05	1.17	The ratio has declined due to minimal rate increases and a significant increase in depreciation cost

**C19/6171 – LATE ITEM FROM FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE - CITY OF MELVILLE ANNUAL FINANCIAL REPORT FOR 2018-2019 (REC) (ATTACHMENT)**

<b>Financial Performance Ratio</b>					
Operating Surplus Ratio	Ability to cover operational costs and have revenues available for capital funding or other purposes	> 0.15	0.09	0.18	The ratio has declined due to minimal rate increases and a significant increase in depreciation cost
<b>Asset Ratios</b>					
Asset Sustainability Ratio	The extent to which assets are being replaced as they reach the end of their useful lives	between 0.90 and 1.10	1.26	1.35	The ratio has declined due to higher Depreciation cost and a delay in capital work projects.
Asset Consumption Ratio	The extent to which depreciable assets have been consumed	between 0.60 and 0.75	0.52	0.56	The ratio is slightly below the recommended range due to the condition of the asset.
Asset Renewal Funding Ratio	Ability to fund projected asset renewals /replacements in the future	between 0.95 and 1.05	1.00	1.00	The ratio has remained the same.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no strategic, risk or environmental management implications associated with this report.

**LOCAL GOVERNMENT AUDITING REFORMS**

Amendments to the Local Government (Audit Regulation) 1996 were passed by State Parliament that enabled the Auditor General to audit Local Government. Grant Thornton has been contracted to undertake the work, on behalf of the OAG and the Auditor General will provide their report on the financial statements for 2018-19 to the Mayor, the CEO, and the Minister for Local Government soon after their audit.

**AMENDMENT TO LOCAL GOVERNMENT (FINANCIAL MANAGEMENT) REGULATIONS 1996**

From 1 July 2018, an asset is to be excluded from the assets of a local government if the fair value of the asset as at the date of acquisition is under \$5,000. The City has already taken reasonable steps to prevent the theft or loss of portable and attractive items valued under \$5,000, by implementing a new portable and attractive assets register.

**C19/6171 – LATE ITEM FROM FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE - CITY OF MELVILLE ANNUAL FINANCIAL REPORT FOR 2018-2019 (REC) (ATTACHMENT)****POLICY IMPLICATIONS**

CP - 025 Accounting Policy – defines the policy relating to the preparation of the Annual Financial Report. It should be noted that the Council Policy defines some of the accounting policies that are applied to the preparation of the annual financial report and other requirements are set and described in the Accounting Standards.

CP – 008 Financial Sustainability - Forward Financial Planning and Funding Allocation.

***That the Council note that an estimated Municipal Fund 30 June 2019 closing funds amount of \$nil has been used as an opening position in the 2019-2020 budget and that the final net closing funds amount will be determined following receipt of the 2018-2019 audited financial statements and approves the transfer of any net closing funds for the completed 2018-2019 financial year being transferred to the Rates Equalisation Reserve account.***

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Should the Annual Report (which includes the Annual Financial Report) not be adopted by the Council, this would delay the annual general meeting of electors until such time as it is adopted.

**CONCLUSION**

The 2018-2019 Annual Financial Report has been completed and an unaudited extract will be included in the Community Annual Report for 2018-2019 (Part A), with the full audited Annual Financial Report (Part B) will be available on the City's website, at its five libraries, the Civic Centre and in printed form to individuals upon request.

**OFFICER RECOMMENDATION AND COMMITTEE RESOLUTION (6170)****NOTING**

At 7.26pm Cr Woodall moved, seconded Cr Macphail –

**That the Financial Management, Audit, Risk and Compliance Committee recommends that the Council:**

- 1 notes the Office of the Auditor General's Audit Findings Report; and**
- 2 notes the City of Melville 2018-2019 Annual Financial Report.**

At 7.54pm the Presiding Member submitted the motion, which was declared

**CARRIED UNANIMOUSLY (8/0)**

**C19/6171 – LATE ITEM FROM FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE - CITY OF MELVILLE ANNUAL FINANCIAL REPORT FOR 2018-2019 (REC) (ATTACHMENT)**

**COMMITTEE RECOMENDATION AND COUNCIL RESOLUTION**

**That the Council:**

- 1 notes the Office of the Auditor General's Audit Findings Report; and**
- 2 notes the City of Melville 2018-2019 Annual Financial Report.**

At 8:17pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (13/0)**

Footnote:

When the Council accepts the Annual Community Report and the Auditor's Unqualified Audit Report as attached to this report, an extract of the Annual Financial Report is included in the Community Annual Report Part A. Part B of the Community Annual Report will contain the full Annual Financial Report and Audit Opinion Letter.

**14.2 REPORTS OF THE CHIEF EXECUTIVE OFFICER**

**CD19/8122 - COMMUNITY DEVELOPMENT COUNCIL POLICY REVIEW  
(REC)(ATTACHMENT)**

Ward	: All
Category	: Policy
Subject Index	: Community Development Policy
Customer Index	: City of Melville
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: CD17/8103 - Policy Review – Ordinary Meeting of Council December 2017 CP-002 - Stakeholder Engagement Policy CP-028 - Physical Activity Policy CP-037 - Neighbourhood Development - Community Hub Policy CP-038 – Discretionary Services Review Policy CP-084 - Disability Access and Inclusion Policy CP-095 - Non-Monetary Grants Policy - Community Partnership Fund
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Christine Young Director Community Development

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	<b>Legislative</b>	<b><i>Includes adopting local laws, town planning schemes &amp; policies.</i></b>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**CD19/8122 – COMMUNITY DEVELOPMENT COUNCIL POLICY REVIEW (REC)**  
**(ATTACHMENT)****KEY ISSUES / SUMMARY**

- The policies within the responsibility of the Director Community Development have been reviewed and brought forward with any amendments for consideration and adoption.
- Policies that are defined as a Council Policy required the approval of the Council whereas Operational Policies are approved by the Chief Executive Officer.

**BACKGROUND**

Officers have reviewed the Community Development Policies endorsed in December 2017, and have not brought forward the reviewed policies with proposed amendments to the Council for consideration. A two yearly review cycle remains in place to ensure all policies remain current.

**DETAIL**

All policies are held under one of two categories – Council Policies or Operational Policies. The policies that are required to be approved by the Council relate to:

- Strategic Positioning of Council
- Executive Functions;
- Legislative Functions;
- Chief Executive Officer and Senior Officer Appointments; and
- Terminate payments in excess of contracts of employment or Award provisions

All other policies are considered to be operational in nature and have therefore been designated as Operational Policies. Operational Policies are those which are made in relation to the functions of the Chief Executive Officer (CEO) as prescribed by Section 5.41 of the Local Government Act 1995 (The Act) as follows:

- Management of the day to day operations of the local government;
- The employment, management supervision, direction and dismissal of other employees (subject to Section 5.37(2) in relation to senior employees;
- Ensuring that records and documents of the local government are properly kept for the purposes of The Act and any other written law; and
- Policy on powers and duties delegated by Council within the limitations as set by Section 5.43 of the Act.

**CD19/8122 – COMMUNITY DEVELOPMENT COUNCIL POLICY REVIEW (REC)  
(ATTACHMENT)**

This report provides comment on the reviewed Community Development Policies from the Director Community Development. All six policies referred to in this report can be accessed via the following attachment links:

[CP-002 Stakeholder Engagement Policy](#)

[CP-028 Physical Activity Policy](#)

[CP-037 Neighbourhood Development - Community Hub Policy](#)

[CP-038 Discretionary Services Review Policy](#)

[CP-084 Disability Access and Inclusion Policy](#)

[CP-095 Non Monetary Grants Policy - Community Partnership Fund](#)

Of the six policies reviewed by the Director Community Development:

Major Change: Nil

Minor Change: Three as shown below

No Change: Three

**CP-002 Stakeholder Engagement Policy**

Document has been reviewed with no changes.

**CP-028 Physical Activity Policy**

Document has been reviewed with one minor grammatical change.

**CP-037 Neighbourhood Development – Community Hub Policy**

Document has been reviewed with one minor grammatical change, and one minor change with the addition to include reference to place activation

**CP-038 Discretionary Services Review Policy**

Document has been reviewed with no changes.

**CP-084 Disability Access and Inclusion Policy**

Document has been reviewed with no changes.

**CP-095 Non Monetary Grants Policy Community Partnership Fund**

Document has been reviewed with one minor change to have clarity in regard application of Policy to all requests association with Council Fees for events or projects.

**CD19/8122 – COMMUNITY DEVELOPMENT COUNCIL POLICY REVIEW (REC)  
(ATTACHMENT)****STAKEHOLDER ENGAGEMENT****I. COMMUNITY****I. COMMUNITY**

Whilst no specific engagement has occurred in relation to these policies directly, they are informed by ongoing relationships and engagement with stakeholders and the community guided by the implementation of key documents developed following extensive community and stakeholder engagement. These include:

- Strategic Community Plan, People, Places Participation 2016 – 2026;
- Neighbourhood Plans;
- Health and Wellbeing Strategy; and
- Cultural Plan.

**II. OTHER AGENCIES / CONSULTANTS**

No other agencies or consultants have been involved in the review of policies.

**STATUTORY AND LEGAL IMPLICATIONS**

This review of policies has particularly included references to legislation to support the policy position. The policies are consistent with the current Act and relevant Regulations.

**FINANCIAL IMPLICATIONS****CP-002 Stakeholder Engagement Policy**

There are costs associated with the implementation of the Stakeholder Engagement Policy that are linked to specific projects. Cost savings can be realised through well designed engagement processes which inform good decision making which has sustainable outcomes.

**CP-028 Physical Activity Policy**

There are costs associated with the provision of opportunities for physical activity that include (but not limited to) the provision of facilities, open spaces, sporting club support and development, programmes at recreation facilities, and the bicycle and pedestrian path network.

**CP-037 Neighbourhood Development – Community Hub Policy**

There are costs associated with the provision of community hub infrastructure and planning. Cost savings can be achieved through proper community hub planning and colocation which sees more effective and multi-use of community facilities.

**CP-038 Discretionary Services Review Policy**

There are costs associated with the provision of discretionary services, and through the review of such services. Cost savings can be made through the review of such services.

**CD19/8122 – COMMUNITY DEVELOPMENT COUNCIL POLICY REVIEW (REC)**  
**(ATTACHMENT)**

**CP-084 Disability Access and Inclusion Policy**

There are costs associated with the implementation of the Disability Access and Inclusion Policy that are linked to specific projects and activities. These include capital upgrades to City facilities to ensure accessibility and fit for use public buildings.

**CP-095 Non Monetary Grants Policy Community Partnership Fund**

This Policy provides the opportunity to capture financial data in relation to non-monetary or in-kind support to community and not for profit organisations. The cost to the City will be an indirect one and included in financial reporting. The Non-Monetary Grants Policy has been utilised since the endorsement of the policy in 2015 as indicated below:

	2015-2016	2016-2017	2017 to date	2018-2019	2019 – to date
Non-monetary grant	\$1,113	\$688	\$798	\$1395.75	\$654.50

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

The process of policy review will serve to minimise both strategic and risk management implications by ensuring the policies are consistent with current legislation and practice.

<b>Risk Statement</b>	<b>Level of Risk</b>	<b>Risk Mitigation Strategy</b>
Administration undertakes functions delegated by the Council in a manner not in accordance with Council's objectives causing reputational risk.	Minor or Major depending on issue	Ensure sound Council Policies are in place that provides clear guidance to the administration.
Policies are not in compliance with legislative requirements or contemporary standards and practice.	Minor consequences which are possible, resulting in a Medium level of risk	Regular review mitigates against outdated legislative or other relevant references.

**POLICY IMPLICATIONS**

All Council Policies are being reviewed and a significant number will be amended as a consequence of the review.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

There are no alternative options presented as part of this Report.

**CD19/8122 – COMMUNITY DEVELOPMENT COUNCIL POLICY REVIEW (REC)  
(ATTACHMENT)****CONCLUSION**

The individual policies have been reviewed by senior officers and their amendments are consistent with the current provisions of the *Local Government Act 1995* and Regulations.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (8122) APPROVAL**

**That the Council approves the six policies reviewed by the Director Community Development as contained in the following attachments:**

[CP-002 Stakeholder Engagement Policy](#)

[CP-028 Physical Activity Policy](#)

[CP-037 Neighbourhood Development - Community Hub Policy](#)

[CP-038 Discretionary Services Review Policy](#)

[CP-084 Disability Access and Inclusion Policy](#)

[CP-095 Non Monetary Grants Policy - Community Partnership Fund](#)

At 8:17pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (13/0)**

**M19/5725 – RE-CONFIRMATION OF DELEGATION OF APPOINTMENT POWERS UNDER THE PUBLIC HEALTH ACT 2016 (AMREC) (ATTACHMENT)**

Ward	: All
Category	: Operational
Subject Index	: Delegated Authority 5.15P
Customer Index	: Environmental Health Services Ranger Services
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: P16/3733 – Appointment of Authorised Officers under Public Health Act 2016 (December 2016)
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Louis Hitchcock Executive Manager Governance and Legal Services

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	<b>Executive</b>	<b><i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i></b>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**M19/5725 – RE-CONFIRMATION OF DELEGATION OF APPOINTMENT POWERS  
UNDER THE PUBLIC HEALTH ACT 2016 (AMREC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- In December 2016, Council delegated to the CEO the power to designate authorised officers under the *Public Health Act 2016* and approved that the delegation be documented through an amendment to the existing instrument DA-055 - Appointment of Authorised Persons.
- The approved amendment to DA-055 was inadvertently not captured in the register of delegations.
- There is some ambiguity about whether the absence of the Public Health Act delegation on the register of delegations when Council reviewed the delegations in May 2017 could have affected the validity of the delegation.
- To avoid doubt, Council is asked to re-confirm its decision of 13 December 2016 to delegate to the CEO the power to appoint authorised officers under the Public Health Act,

**BACKGROUND**

At the Ordinary Meeting of Council of 13 December 2016, under section 21(1)(b)(i) of the *Public Health Act 2016*, Council by absolute majority decision delegated to the Chief Executive Officer the power to designate authorised officers under section 24(1) of that Act for the purposes of specified legislation.

Council further approved that the delegation should be documented by way of an amendment to the existing instrument DA-055.

Inadvertently, the approved amended version of DA-055 was not included on the register of delegations kept by the CEO, and this omission in the register was not detected until recently.

The register of delegations kept by the CEO under section 5.46(1) of the *Local Government Act 1995* is not a document that needs to be approved by Council as it is merely a record of delegations granted. However, past practice has been to have the Council “adopt” the Delegated Authority Manual) as a way of demonstrating that the delegations have been reviewed.

Following the annual review of delegations in May 2017, Council adopted the register of delegations (“Delegated Authority Manual”) which contained the unamended version of DA-055.

**DETAIL**

A delegation by Council cannot be revoked other than in writing by a decision of the delegator.

However, concern has been raised that there is some ambiguity about whether Council’s implicit acceptance of the omission of the delegation from the register of delegations when “adopting” the Delegations Manual in May 2017 may have had the unintended effect of negating the delegation approval given in December 2016.

To clarify this matter and for the avoidance of doubt, Council is asked to re-confirm its decision of 13 December 2016, in accordance with section 21(1)(b)(i) of the Public Health Act to delegate to the Chief Executive Officer the authority to designate authorised officers under section 24(1) of that Act.

An extract of the Minutes relating to item [P16/3733 December 2016 OMC](#) providing the rationale for the delegation is linked for information.

**M19/5725 – RE-CONFIRMATION OF DELEGATION OF APPOINTMENT POWERS  
UNDER THE PUBLIC HEALTH ACT 2016 (AMREC) (ATTACHMENT)****STAKEHOLDER ENGAGEMENT**

Not Applicable – administrative matter.

**STATUTORY AND LEGAL IMPLICATIONS**

Section 21(1)(b)(i) of the Public Health Act provides for an enforcement agency that is a local government to delegate to its chief executive officer or another officer authorised by it any power or duty conferred or imposed on the local government by the Act. The delegation must be in writing.

There is no requirement for a local government delegation under the Public Health Act to be by absolute majority decision. However, since the original decision was resolved by absolute majority decision, it is proposed that the re-confirmation also be by absolute majority decision.

**FINANCIAL IMPLICATIONS**

None

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

The ambiguity presented by the omission from DA-055 of the approved delegation under the Public Health Act for the CEO to designate authorised officers introduces uncertainty about the authority under which City officers, in particular its Environmental Health Officers and Rangers, undertake their duties and discharge the functions reserved to them.

The City is confident that in the absence of any written revocation of the delegation, it remains valid. However, for the avoidance of doubt and to mitigate any risk of officers' authority being challenged, re-confirmation of the December 2016 decision (P16/3733) is recommended.

**POLICY IMPLICATIONS**

There is no requirement for delegations made under the Public Health Act to be kept in a register or reviewed annually. However, for administrative efficiency, the CEO keeps all delegations on the register of delegations regardless of the legislation under which they are made, and includes all delegations in the annual review process.

The City has improved its systems for tracking the implementation of Council decisions, and this issue has prompted the CEO to instigate a review of the delegation review process to ensure such a situation does not recur.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The Council could choose to do nothing, but this would not resolve the ambiguity and would perpetuate the uncertainty about the status of the delegated authority.

**M19/5725 – RE-CONFIRMATION OF DELEGATION OF APPOINTMENT POWERS UNDER THE PUBLIC HEALTH ACT 2016 (AMREC) (ATTACHMENT)****CONCLUSION**

Council is asked to re-confirm its 13 December 2016 decision to delegate to the CEO the power to designate authorised officers under the Public Health Act in order to remove any doubt about the ongoing validity of this delegated authority.

*At 7:52pm Cr Robins left the meeting and returned at 7:52pm.*

*At 7:52pm Mr Cahoon left the meeting and returned at 7:54pm*

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5725)****ABSOLUTE MAJORITY**

At 7:53pm Cr Robins moved, seconded Cr Woodall –

**That the Council by Absolute Majority decision:**

- 1. Approves the re-confirmation of its absolute majority decision on 13 December 2016 (decision 3733) under section 21(1)(B)(l) of the *Public Health Act 2016* TO delegate to the CEO the power to designate authorised officers under section 24 of that Act.**
- 2. Notes that this delegation will be documented by means of an amendment to instrument DA-055 Appointment of Authorised Persons as approved by the decision on 13 December 2016 and shown in the attached document, [5725 Amended DA-055](#).**

**That the Council:**

- 3. Notes that the CEO will include the amended DA-055 Appointment of Authorised Persons on the register of delegations kept under section 5.46(1) of the Local Government Act.**

At 7:54pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (13/0)**

**M19/5722– DELEGATION OF POWERS AND DUTIES UNDER THE DOG ACT 1976**  
**(AMREC) (ATTACHMENT)**

Ward	:	All
Category	:	Operational
Subject Index	:	Delegated Authority 5.15P
Customer Index	:	Ranger Services
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	M96/107 – Delegation of Prosecutions Offences against Dog Act (November 1996) M97/3000 – Delegation of Notices – Dog Nuisance (February 1997) C07/5007 – Delegation of approval to keep more than two dogs (May 2007)
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Louis Hitchcock Executive Manager Governance and Legal Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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<input checked="" type="checkbox"/>	<b>Executive</b>	<b><i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i></b>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**M19/5722 - DELEGATION OF POWERS AND DUTIES UNDER THE DOG ACT 1976  
(AMREC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Most of the functions assigned to local governments under the *Dog Act 1976* are administrative or operational in nature.
- The CEO currently holds delegations under the *Public Health Act 2016* and the *Local Government Act 1995* to appoint authorised persons under the Dog Act and the Dog Local Law to exercise powers and undertake duties as provided under those laws, and specific delegations regarding prosecutions and temporary approval to keep more than two dogs.
- Functions not reserved to authorised persons under the Dog Act or covered under the specific delegations are undertaken by City officers on behalf of the local government under an acting-through arrangement, which does not provide for an adequate level of discretionary decision-making for administrative efficiency.
- Council is asked to replace the existing narrowly defined delegations with a broader delegation to the CEO of the powers and duties of local government under the Dog Act, other than those clearly reserved to Council.

**BACKGROUND**

Local governments have extensive responsibilities under the *Dog Act 1976* (Dog Act), most of which relate to operational functions associated with registration and enforcement. Section 10AA of the Dog Act provides that a local government may delegate to its chief executive officer any power or duty of the local government under another provision of the Act.

The Local Government Act gives responsibility for operational and administrative functions to the CEO, reserving a strategic oversight and policy role to Council. It is not practical for Council to oversee primarily administrative and operational functions or to develop sufficiently detailed policies as to negate the need for discretionary decisions at operational level.

Clause 19 of the Local Government Operational Guidelines Number 17 – Delegations, published by the Department of Local Government and Communities (as it was then) states that:

*“As far as is possible and reasonable, councils should be predominantly concerned with dealing with higher level policy matters for their local governments.*

*Duties and powers which are operational in nature, but exercise a discretion should be delegated to the CEO.”*

**DETAIL**

The City's rangers are currently appointed as authorised officers under the *Public Health Act 2016* for the purposes of the Dog Act and the Dog Regulations 2013, and as authorised persons under the *Local Government Act 1995* (Local Government Act) for the purposes of the Dog Local Law 2005 (including the functions of pound keeper). No further delegation is required for authorised persons to exercise the powers and undertake their duties under the Act.

**M19/5722 - DELEGATION OF POWERS AND DUTIES UNDER THE DOG ACT 1976  
(AMREC) (ATTACHMENT)**

Council has previously approved three ongoing delegations under the Dog Act:

- DA-056 – Authority to sign abatement notices for dog nuisance (now obsolete);
- DA-059 – Authority to commence legal proceedings for offences;
- DA-060 – Authority to approve applications to temporarily keep more than two dogs.

Currently, other functions under the Dog Act such as registration and dealing with dangerous dogs are undertaken under an “acting through” arrangement.

While section 5.45(2) of the *Local Government Act 1995* permits a local government to perform its functions by acting through persons other than the CEO, this is not a satisfactory long-term arrangement for ongoing administrative and operational functions. Acting through arrangements are primarily intended for functions where officers have minimal discretion in their performance of the duties associated with the function. While the Act limits discretion in relation to these matters, there are circumstances where optimal outcomes require the exercise of discretion.

A number of other metropolitan local governments have delegated to their CEOs all functions, powers and duties of the local government under the Dog Act. The City of Melville has previously taken the same approach to delegations under the *Food Act 2008* (DA-073) and the *Bush Fires Act 1954* (DA-023).

A delegation to the CEO of all functions, powers and duties of the local government under the Dog Act, with express approval to sub-delegate to other officers, meets the primary criterion set out in the Department’s Operational Guidelines:

*“...the delegation will improve the efficiency of the local government’s operations whilst ensuring that its policies are consistently implemented.”*

**STAKEHOLDER ENGAGEMENT**

Not Applicable – administrative efficiency matter.

**STATUTORY AND LEGAL IMPLICATIONS**

No further delegation is required for functions, powers and duties allocated by the Dog Act, the Dog Regulations and the Dog Local Law to authorised persons.

The proposed delegation would permit the CEO (and sub-delegates) to more efficiently undertake the local government’s other functions and exercise discretionary powers under the Dog Act.

Under current legislation, this would include the power to appoint authorised officers under section 29(1) of that Act (instead of the Public Health Act), but Council is advised that Section 29(1) of the Dog Act will shortly be superseded by amendments to section 9.10 of the Local Government Act. Those amendments will directly empower the CEO of a local government to appoint authorised persons for the purposes of six specified laws, including the Dog Act. The commencement date for these amendments has not yet been announced but is expected to be in 2020. The advantage of a generic delegation such as that proposed is that the delegation will not require amendment as a result of such legislative changes.

**M19/5722 - DELEGATION OF POWERS AND DUTIES UNDER THE DOG ACT 1976  
(AMREC) (ATTACHMENT)**

Under sections 10AA and 10AB of the Dog Act, delegations to the CEO:

- must be decided by absolute majority (s.10AA(1)),
- must be in writing (s.10AA(2)),
- may expressly authorise sub-delegation (s.10AA(3)),
- must be included in a register of delegations (s.10AB(1)), and
- must be reviewed by the delegator at least once every financial year (s.10AB(2)).

Certain functions in the Dog Act are reserved to the Council and cannot be delegated. These include the power to delegate under s.10AA(1), the power to specify a public place where dogs are prohibited (s.31(2B)) or to specify a dog exercise area (s.31(3A)) and the power to make local laws (s.49). The power to specify a rural dog leashing area (s.31(3B)) is also reserved to Council but is not relevant to the City of Melville.

**FINANCIAL IMPLICATIONS**

None

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

The current limited and narrow delegations under the Dog Act are inadequate for efficient and effective conduct of the local government's administrative and operational functions under the Dog Act. A broad delegation as proposed will permit better strategic management of the functions and contribute to risk management.

<b>Risk Statement</b>	<b>Level of Risk</b>	<b>Risk Mitigation Strategy</b>
An issue arises that requires the significant exercise of discretion in a function currently managed in an acting through arrangement.	Moderate consequences which are almost certain, resulting in a <b>High</b> level of risk.	Implementation of delegation of power to authorise officers to exercise discretion in operational matters.
An operational decision is subject to legal challenge because discretion was exercised in the absence of a formal delegation	Potentially significant consequences which are likely, resulting in a <b>High</b> level of risk.	Implementation of delegation of power to authorise officers to exercise discretion in operational matters.
Legislation is amended rendering an existing delegation obsolete.	Minor consequences which are possible, resulting in a <b>Low</b> level of risk.	Implementation of general delegation of all operational duties and powers under the Dog Act.

**POLICY IMPLICATIONS**

The Dog Local Law currently documents the approved Council policy positions concerning dogs in the City, and there no other current Council policies specifically related to dogs.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The Council could choose not to delegate the local government's powers and duties under the Act to the Chief Executive Officer. This would not affect the powers of authorised persons to undertake the duties and exercise the powers granted to them by the Act, but would require that other functions such as registration and dealing with dangerous dogs continue as an acting through arrangement.

**M19/5722 - DELEGATION OF POWERS AND DUTIES UNDER THE DOG ACT 1976  
(AMREC) (ATTACHMENT)**

In the absence of detailed Council policies on how these functions are discharged, this may expose the City to the risk of challenges to decisions involving the exercise of discretion. In the absence of delegated authority, mitigation of this risk would require the CEO to refer discretionary decisions on these matters to Council for resolution, incurring additional cost and imposing on Council's time. Those functions specifically conferred by the Act on authorised persons do not require delegation.

**CONCLUSION**

A broad delegation to the CEO of the local government's powers and duties under the *Dog Act 1976* will improve the efficiency of the City's operations and mitigate the risks associated with the exercise of discretion in functions such as managing dog registration and dealing with dangerous dogs.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5722)  
ABSOLUTE MAJORITY**

At 7:55pm Cr Robartson moved, seconded Cr Macphail –

**That the Council by Absolute Majority decision:**

1. **revokes Council delegation DA-056 – Authority to sign abatement notices for dog nuisance**
2. **revokes Council delegation DA-059 – Authority to commence legal proceedings for offences**
3. **revokes Council delegation DA-060 – Authority to approve applications to temporarily keep more than two dogs.**
4. **approves the delegation to the CEO of the powers and duties of the local government under the Dog Act 1976, as reflected in the attached instrument [5722 DA-122 Powers and Powers.](#)**

At 7:55pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (13/0)**

**M19/5724 DELEGATION OF AUTHORITY TO APPOINT APPROVED AND AUTHORISED OFFICERS FOR THE PURPOSES OF THE CRIMINAL PROCEDURE ACT 2004 (REC) (ATTACHMENT)**

Ward	: All
Category	: Operational
Subject Index	: Delegated Authority 5.15P
Customer Index	: Building Services Environmental Health Services
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Item A99/1004 – Appointment of Authorised Persons - Ordinary Meeting of Council June 1999 Item P16/3733 - Appointment of Authorised Officers under Public Health Act 2016 - Ordinary Meeting of Council December 2016
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Louis Hitchcock Executive Manager Governance and Legal Services

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	<b>Executive</b>	<b><i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i></b>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; policies.</i>
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<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**M19/5724 DELEGATION OF AUTHORITY TO APPOINT APPROVED AND AUTHORISED OFFICERS FOR THE PURPOSES OF THE CRIMINAL PROCEDURE ACT 2004 (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Prescribed infringements under the Building Regulations 2012 and the Health (Asbestos) Regulations 1992 must be issued or withdrawn by officers appointed by the local government under the relevant regulations for the purposes of Part 2 of the *Criminal Procedure Act 2004*.
- Delegating to the CEO the appointment of authorised and approved officers for the purposes of the Criminal Procedure Act would improve the effectiveness of compliance functions by allowing infringement notices to be issued for prescribed offences under these Regulations.
- The CEO currently holds delegations to appoint authorised persons under the *Local Government Act 1995*, the *Public Health Act 2016* and the *Building Act 2011*, but these do not specify authority to appoint for the purposes of the Criminal Procedure Act
- To ensure clear accountability, the Council is requested to delegate to the CEO the ongoing authority to appoint authorised and approved officers for the purposes of Part 2 of the Criminal Procedure Act under the Health (Asbestos) Regulations and the Building Regulations.

**BACKGROUND**

Legislation providing for offences may allow for some of those offences to be prescribed for the purposes of dealing with them through infringement notices and modified penalties. Infringement notices can be an effective enforcement tool when dealing with a minor offence involving straightforward matters of law and readily ascertainable facts. They are an incentive for behaviour change when education and notices of direction have proven ineffective but the matter does not justify the costs or consequences of formal prosecution for an offence provided for in legislation.

Most legislation provides for infringements to be issued for prescribed offences by officers authorised under that legislation. However, the Health (Asbestos) Regulations 1992 and the Building Regulations 2012 require officers issuing or withdrawing infringements to be appointed for the purposes of Part 2 of the *Criminal Procedure Act 2004*, in addition to their delegated powers or their appointment as authorised officers under other legislation.

Exercising existing delegated authority, the CEO has appointed authorised officers under the:

- *Public Health Act 2016* for the purposes of that Act and the *Health (Miscellaneous Provisions) Act 1911* (and subsidiary legislation, including the Health (Asbestos) Regulations),
- *Building Act 2011* for the purposes of that Act and its regulations, and
- *Local Government Act 1995* for functions under that Act and local laws.

However, none of these delegations specifically delegate the authority of the local government to appoint authorised and approved officers for the purposes of Part 2 of the Criminal Procedure Act as specified in the Health (Asbestos) Regulations or the Building Regulations..

**M19/5724 DELEGATION OF AUTHORITY TO APPOINT APPROVED AND AUTHORISED OFFICERS FOR THE PURPOSES OF THE CRIMINAL PROCEDURE ACT 2004 (REC) (ATTACHMENT)****DETAIL**

The *Criminal Procedure Act 2004* provides for regulations made under a prescribed Act to prescribe offences for which an infringement notice may be issued under Part 2 of the Criminal Procedure Act. This means that such infringement notices may only be issued by authorised officers appointed under the relevant regulations for the purposes of section 6(b) of that Act. Similarly, infringement notices may only be withdrawn by approved officers appointed under the relevant regulations for the purposes of section 6(a) of the Criminal Procedure Act.

The prescribed Acts listed in the Criminal Procedure Regulations 2005 that are relevant to the City of Melville are the *Building Act 2011*, the *Health (Miscellaneous Provisions) Act 1911* and the *Public Health Act 2016*, and the relevant regulations to date are the Health (Asbestos) Regulations 1992 and the Building Regulations 2012.

In these cases, appointment under the regulations as an authorised officer or an approved officer for the purposes of the Criminal Procedure Act is a requirement additional to any appointment or authorisation that the person may hold under the prescribed Act or other legislation.

Exercising delegated power, the CEO has appointed:

- Environmental Health Officers as authorised officers under section 24 of the *Public Health Act 2016* for the purposes of the Health (Asbestos) Regulations 1992. This entitles them to issue directions and take samples of material.
- Authorised persons under section 96(3) of the *Building Act 2011* which confers specified powers and duties under that Act and its Regulations.
- Authorised persons under section 9.10(1) of the *Local Government Act 1995* for the purposes of section 9.16 of the Local Government Act which confers the power to issue infringement notices for prescribed offences under subsidiary legislation made under the Local Government Act.

These officers may undertake a variety of functions under the respective legislation, but may not issue or withdraw infringement notices under the Health (Asbestos) Regulations or the Building Regulations unless they are also appointed under those regulations for the purposes of the Criminal Procedure Act. This restricts them issuing directions notices and in cases of non-compliance, moving directly to prosecution. Issuing infringement notices provides a medium-level enforcement tool.

Note that a person appointed as an approved officer with the power to withdraw infringement notices may not also be appointed as an authorised officer with the power to issue infringement notices. Authorised officers are required to carry proof of their authorisation.

These appointments are an administrative matter involving discretion and suitable for delegation to the CEO. Such delegation would complement existing delegations to appoint authorised officers under the Public Health Act, Local Government Act and Building Act and facilitate the use of infringement notices to enforce the requirements of the legislation.

**M19/5724 DELEGATION OF AUTHORITY TO APPOINT APPROVED AND AUTHORISED OFFICERS FOR THE PURPOSES OF THE CRIMINAL PROCEDURE ACT 2004 (REC) (ATTACHMENT)**

Council is requested to delegate to the CEO the local government's power under the Health (Asbestos) Regulations 1992 and the Building Regulations 2012 to appoint authorised and approved officers for the purposes of Part 2 of the Criminal Procedure Act.

This delegation complements existing delegations to appoint authorised officers/persons under the primary Acts and will facilitate the issuing of infringements for offences prescribed under those Regulations.

**STAKEHOLDER ENGAGEMENT**

Not applicable. This is an administrative efficiency measure to facilitate the efficient management and enforcement of existing legislative powers and duties.

**STATUTORY AND LEGAL IMPLICATIONS**

The CEO's functions set out in section 5.41 of the *Local Government Act* 1995 include managing the day to day operations of the local government and being responsible for the employment, management, supervision, direction and dismissal of local government employees.

Appointing and authorising officers to fulfil the operational obligations of the local government under relevant legislation is part of the day to day operations of the local government and of managing employees.

Council has previously delegated to the CEO the power under section 9.10(1) of the Local Government Act to appoint persons or classes of persons for the purposes of performing particular functions and the power under section 24(1) of the Public Health Act to designate a person or class of persons as authorised officers for the purposes of that or another specified Act.

Under section 127 of the Building Act, a local government may delegate any of its powers or duties to a local government employee. Under section 26 of the Health (Miscellaneous Provisions) Act 1911, a local government may appoint a person to discharge all or any of its powers and functions under that Act and the regulations, local laws and orders made thereunder.

Regulation 15D(5) of the Health (Asbestos) Regulations 1992 provides that "A local government may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of the Criminal Procedure Act 2004 Part 2", while Regulation 15D(6) requires the local government to issue each authorised officer with proof of authorisation.

Regulation 70(1) of the Building Regulations 2012 provides that "A permit authority that is a local government may, in writing, appoint to be an approved officer for the purposes of the Criminal Procedure Act 2004 section 6(a), a specified employee of the local government." A specified employee is one to whom the CEO's power to perform a function under section 9.19 (extend time for payment of modified penalty) and/or section 9.20 (withdraw infringement notice) is delegated.

**M19/5724 DELEGATION OF AUTHORITY TO APPOINT APPROVED AND AUTHORISED OFFICERS FOR THE PURPOSES OF THE CRIMINAL PROCEDURE ACT 2004 (REC) (ATTACHMENT)**

Regulation 70(2) of the Building Regulations provides that “A permit authority that is a local government may, in writing, appoint to be an authorised officer for the purposes of the Criminal Procedure Act 2004 section 6(b), a person appointed under the Local Government Act 1995 section 9.10(1) and authorised for the purpose of performing functions under section 9.16 of that Act.” Section 9.16 of the Local Government Act provides for the issuing of infringement notices. Regulation 70(3) requires each authorised officer to be issued with a certificate of appointment.

The Building Act and the Health legislation do not require that local government delegation be by absolute majority decision and they do not mandate annual reviews. However, the City for administrative efficiency lists all delegations in the register of delegations kept under s.5.46(1) of the Local Government Act and reviews them all annually.

**FINANCIAL IMPLICATIONS**

Insignificant. Use of infringement notices may avoid costly prosecution and may result in minor additional revenue on an occasional basis.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

This delegation will facilitate the use of infringement notices as a means of enforcing those provisions of the Health (Asbestos) Regulations and the Building Act that include prescribed offences. This may provide greater incentive for compliance with the law and reduce the community risk associated with non-compliance.

Asbestos is a serious environmental and health risk in locations where it is present in a form that could lead to contamination of land and air. The capacity to issue infringements will assist in managing this risk.

There are no strategic management implications.

**POLICY IMPLICATIONS**

Not applicable. The relevant legislation is clear about the circumstances and processes for issuing and withdrawing infringement notices.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The City could continue to manage non-compliance through low-key education and directions without enforcement. This has generally been adequate in the past, but leaves the City with few practical incentives or escalation options for people who refuse to comply other than full prosecution. Increasing concern over asbestos in the City suggests that this may not be an effective long term solution for this issue.

**M19/5724 DELEGATION OF AUTHORITY TO APPOINT APPROVED AND AUTHORISED OFFICERS FOR THE PURPOSES OF THE CRIMINAL PROCEDURE ACT 2004 (REC) (ATTACHMENT)**

The Council could choose not to delegate this appointment authority to the Chief Executive Officer but appoint persons to be authorised and approved officers for the purposes of the Criminal Procedure Act through Council resolution. This option would result in a resolution being submitted to the Council each time a new staff member commenced in a relevant role. Engagement in such low-level administrative tasks would deliver poor value for elected members' time.

**CONCLUSION**

Infringements under the Health (Asbestos) Regulations 1992 and the Building Regulations 2012 may only be issued by authorised officers or withdrawn by approved officers appointed under those regulations for the purposes of the *Criminal Procedure Act 2004*, section 6. These appointments are in addition to any appointments, authorisations or delegations that the officers may hold under other legislation.

Delegation to the CEO of the ongoing power to appoint authorised and approved officers under the Health (Asbestos) Regulations and the Building Regulations for the purposes of the Criminal Procedure Act 2004 would streamline existing functions and improve compliance. Knowledge that infringements may be issued will strengthen the effectiveness of education of the community.

This delegation is consistent with the existing delegations to the CEO of powers to appoint authorised persons under the Local Government Act, the Public Health Act and the Building Act.

**OFFICER RECOMMENDATION (5724)****APPROVAL**

1. That the Council delegates to the Chief Executive Officer the authority to:
  - a. Appoint persons or classes of persons to be authorised officers or approved officers for the purposes of the *Criminal Procedure Act 2004* Part 2 (section 6), in accordance with Regulation 15D(5) of the Health (Asbestos) Regulations 1992;
  - b. Appoint approved officers for the purposes of the *Criminal Procedure Act 2004* section 6(a) in accordance with Regulation 70(1) of the Building Regulations 2012;
  - c. Appoint authorised officers for the purposes of the *Criminal Procedure Act 2004* section 6(b) in accordance with Regulation 70(2) of the Building Regulations 2012,
2. That the Council notes that the above delegations are reflected in the attached instrument :  
[DA-123Appointment of Authorised and Approved Persons for the Purposes of the Criminal Procedure Act.](#)

**M19/5724 DELEGATION OF AUTHORITY TO APPOINT APPROVED AND AUTHORISED OFFICERS FOR THE PURPOSES OF THE CRIMINAL PROCEDURE ACT 2004 (REC) (ATTACHMENT)**

**Procedural Motion**

**COUNCIL RESOLUTION**

At 7:56pm Cr Pazolli moved, seconded Cr Kepert –

**That item M19/5724 Delegation of Authority To Appoint Approved And Authorised Officers For The Purposes Of The Criminal Procedure Act 2004 be deferred for a discussion at an Elected Member Information Session and the March 2020 Ordinary Meeting of Council.**

At 7:59pm the Mayor submitted the motion, which was declared

**CARRIED (7/6)**

<b>Vote Result Summary</b>	
Yes	7
No	6

<b>Vote Result Detailed</b>	
Cr Barber	Yes
Cr Barton	Yes
Cr Kepert	Yes
Cr Mair	Yes
Cr Pazolli	Yes
Cr Sandford	Yes
Mayor	Yes
Cr Fitzgerald	No
Cr Macphail	No
Cr Robartson	No
Cr Robins	No
Cr Wheatland	No
Cr Woodall	No

**M19/5723 - SUMMARY OF LEGAL ADVICE ON WITHDRAWAL OF DELEGATED AUTHORITY TO SUBMIT RESPONSIBLE AUTHORITY REPORTS TO JOINT DEVELOPMENT ASSESSMENT PANEL (REC) (ATTACHMENT)**

Ward	: All
Category	: Operational
Subject Index	: Delegated Authority 5.15P
Customer Index	: Planning Services
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: M19/5705 – Special Meeting of Electors Held 12 August 2019 – Motions – Ordinary Meeting of Council September 2019
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Louis Hitchcock Executive Manager Governance and Legal Services

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	<b>Executive</b>	<b><i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i></b>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**M19/5723 - SUMMARY OF LEGAL ADVICE ON WITHDRAWAL OF DELEGATED AUTHORITY TO PREPARE AND SUBMIT RESPONSIBLE AUTHORITY REPORTS TO JOINT DEVELOPMENT ASSESSMENT PANEL (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Council requested legal advice on a motion from the Special Meeting of Electors on 12 August 2019 that Council withdraw delegated authority to submit Responsible Authority Reports (RARs) to the Joint Development Assessment Panel (JDAP) and require all RARs to be submitted to Council for approval before being submitted to JDAP.
- The [5723 Legal Advice](#) concludes Council may withdraw this delegated authority, but that Council may not seek to influence the content of a RAR and may only provide comment via a resolution that is attached to the RAR when submitted, or by an approved deputation at the JDAP.
- If a RAR is not submitted in the required timeframe, the JDAP has the power to request separate technical advice from the City's planning officers or to determine an application without a RAR.

**BACKGROUND**

At the Special Meeting of Electors held on 12 August 2019, Motion 1(3) required that the City of Melville Council:

*“Immediately withdraws the delegated authority that authorises the City’s planners to submit Responsible Authority Reports (RARs) to the JDAP (without Council approval) and instructs the CEO to present all RARs to Council for final approval before being submitted to JDAP.”*

At the Ordinary Meeting of Council held on 17 September 2019, Council acknowledged the motion, and a motion was proposed:

*“That the Council supports that the delegated authority that authorises the City’s planners to submit Responsible Authority Reports (RARs) to the JDAP (without Council approval) not be withdrawn as this would be inconsistent with the provisions of the Planning and Development (Development Assessment Panels) Regulations 2011, as explained in the guidance provided by the State Development Assessment Panel Practice Notes 2018 (relating to Regulation 12).”*

Before this was debated, Council considered and approved a procedural motion:

*“That the matter be deferred to the November 2019 Ordinary Meeting of Council and request the CEO obtain legal advice on the validity of the withdrawal of the delegation and if Council is able to withdraw the delegation an indication of how the Council can provide an RAR report.”*

Legal advice was sought from Minter Ellison on 27 September 2019. The advice is summarised below.

**M19/5723 - SUMMARY OF LEGAL ADVICE ON WITHDRAWAL OF DELEGATED AUTHORITY TO SUBMIT RESPONSIBLE AUTHORITY REPORTS TO JOINT DEVELOPMENT ASSESSMENT PANEL (REC) (ATTACHMENT)****DETAIL**

The delegated authority to which the motion refers forms part of a more general delegation set out in the instrument of delegation DA-020, which provides authority to, among other matters:

*“make recommendations to the Western Australian Planning Commission, Department of Planning, Lands and Heritage Department of Parks and Wildlife (for Swan River Trust), Heritage Council, State Heritage Office, Joint Metro Central Development Assessment Panel and other government departments and instrumentalities on matters associated with the subdivision and/or development of land;”*

The delegation is further limited in accordance with an attached delegated authority matrix of which the relevant elements are:

- *Recommendations to government agencies (whether to (grant) approval or refuse) where no objection(s) which raise relevant planning matters have been received, and*
- *Recommendations to other government agencies (whether to (grant) approval or refuse) where objection(s) which raise relevant planning matters have been received.*

The advice provided by Minter Ellison is summarised as follows:

1. The Council may withdraw its delegation and require the CEO to present all Responsible Authority Reports (RARs) to the Council for consideration, comment and approval to submit to the JDAP.
2. The Council may not require a planning officer to make any modifications to the RAR. Should the Council seek to influence or amend the planning officer's professional advice then the following consequences may arise:
  - a. The JDAP may reject the RAR and determine the application without it.
  - b. The Minister for Planning may issue a direction requesting that the City's planning officers prepare an independent RAR that complies with the statutory framework;
  - c. If the JDAP accepted a Council-influenced RAR in error, the JDAP decision may be susceptible to legal challenge in the Supreme Court.
3. Should Council disagree with the planning officer's views, the proper process would be to:
  - a. Consider and pass a resolution commenting on the content and recommendations in the RAR prepared by the planning officer; and
  - b. Approve the submission of the RAR as prepared with the condition that the minutes of the meeting of Council containing Council's approved comments be attached to the RAR for consideration by the JDAP.
4. If the Council withdraws its delegated authority to submit a RAR to the JDAP, then the City must ensure that a Special Meeting of Council is held to authorise the submission of the RAR within the prescribed time period (being 48 or 78 days of the application being received).

**M19/5723 - SUMMARY OF LEGAL ADVICE ON WITHDRAWAL OF DELEGATED AUTHORITY TO PREPARE AND SUBMIT RESPONSIBLE AUTHORITY REPORTS TO JOINT DEVELOPMENT ASSESSMENT PANEL (REC) (ATTACHMENT)**

5. If the Council decides not to approve the submission of the RAR to the JDAP, or fails to approve the submission of the RAR within the JDAP's timeframe, the JDAP has the power to request separate technical advice from the City's planning officers or to determine the application without a RAR.
6. The statutory framework makes clear that the RAR is intended to be a technical report prepared by a person with planning expertise and that it is not a resolution of Council. Council may provide comment on a RAR, but may not prepare its own and may not seek to influence the professional advice of a City planning officer.

**STAKEHOLDER ENGAGEMENT**

Not applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

Minter Ellison has advised that the Planning and Development (Development Assessment) Panel Regulations 2011 (DAP Regulations) set out the process for the assessment and determination of applications by the JDAP.

Regulation 12(2) of the DAP Regulations states that a responsible authority (in this case, the local government responsible for enforcing the local planning scheme) must provide a report in the approved form to the JDAP with sufficient information for the JDAP to determine the application.

The Director General of the Department of Planning has issued practice notes in accordance with regulation 40(5) of the DAP Regulations with which each Dap must comply. Practice Note 5 specifically states that:

*"The RAR is to be provided by the responsible authority's planning officer."*

*"The RAR is not a resolution of the relevant local government's council, it is the professional opinion of the local government's planning officer who assessed the application. It is improper for Councillors of a local government to influence the planning officer's report in any way"*

Practice Note 5 provides that a local government Council may make a statement regarding an application either by attaching a Council Resolution to the RAR or via an approved deputation at the DAP meeting.

Under Regulation 84 of the Planning and Development (Local Planning Schemes) Regulations 2015, delegations made under Schedule 2, Part 11, Division 2 of those Regulations must be made by absolute majority decision and are subject to sections 5.45 and 5.46 of the *Local Government Act 1995* as though the delegation were a delegation under Part 5 Division 4 of that Act.

**M19/5723 - SUMMARY OF LEGAL ADVICE ON WITHDRAWAL OF DELEGATED AUTHORITY TO PREPARE AND SUBMIT RESPONSIBLE AUTHORITY REPORTS TO JOINT DEVELOPMENT ASSESSMENT PANEL (REC) (ATTACHMENT)****FINANCIAL IMPLICATIONS**

Not applicable.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Withdrawing the delegated authority will require Council to approve the submission of all RARs, although Council may not necessarily have concerns about all of them. This additional step in the process will increase the time pressure for the City to provide recommendations and increase the number of Special Meetings required to consider RARs. If Council is unable to consider the matter within the JDAP timeframes, there may be an increased risk that a JDAP will determine applications in the absence of a RAR from the City of Melville, although it may still request separate technical advice from the City's planning officers and/or approve a deputation from the Council.

**POLICY IMPLICATIONS**

Not applicable.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The following options may address the concerns raised at the Special Meeting of Electors while still complying with planning law:

Option 1:

Council resolves, by absolute majority decision, to amend the instrument of delegated authority DA-020 by adding the following limitation and condition:

- "The Chief Executive Officer may not make recommendations to the Joint Metro Central Development Assessment Panel without first seeking Council's comment on the application and the planning officer's recommendations in the Responsible Authority Report, and
- Should Council make a comment on the application or the planning officer's recommendations, then a copy of Council's resolution approving those comments must be attached to the RAR when it is submitted to the JDAP."

Option 2:

A) That the Council resolves to direct the Chief Executive Officer to put the following procedures in place:

1. The Council must be alerted to each development application to be determined by the JDAP as soon as it is received by the City, by means of circulating the details of the development application to all Elected Members, in order to facilitate the potential call up of the development application.

**M19/5723 - SUMMARY OF LEGAL ADVICE ON WITHDRAWAL OF DELEGATED AUTHORITY TO PREPARE AND SUBMIT RESPONSIBLE AUTHORITY REPORTS TO JOINT DEVELOPMENT ASSESSMENT PANEL (REC) (ATTACHMENT)**

2. Where a development application is called up, the City's officers are to prepare the RAR in accordance with the statutory framework and submit it to a Special Meeting of Council for comment in sufficient time to meet the requirements of the JDAP statutory time period for the application.
  3. Where a development application has been called up, the CEO may not submit the RAR to the JDAP until the Council has resolved that it be submitted, with dissenting comments from the Council attached if so resolved.
  4. If a development application to be determined by the JDAP is not called up, the RAR may be prepared and submitted under delegated authority by the CEO in accordance with DA-020.
- B) That Council resolves, by absolute majority decision, to amend the instrument of delegated authority DA-020 by adding the limitation:

"Should a development application be called up by Council, the Chief Executive Officer may not make recommendations to the Joint Metro Central Development Assessment Panel without first seeking Council's comment on the application and the planning officer's recommendations in the Responsible Authority Report, and attaching to the RAR the Council's comments as approved by Council."

**CONCLUSION**

As requested by the Council, the CEO has arranged for legal advice to be obtained on the validity of the withdrawal of the delegation, which is attached to and summarised in this report.

**M19/5723 - SUMMARY OF LEGAL ADVICE ON WITHDRAWAL OF DELEGATED AUTHORITY TO PREPARE AND SUBMIT RESPONSIBLE AUTHORITY REPORTS TO JOINT DEVELOPMENT ASSESSMENT PANEL (REC) (ATTACHMENT)****OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5723) APPROVAL**

At 8:01pm Cr Robartson moved, seconded Cr Woodall –

**That the Council:**

1. **Notes the attached [5723 Legal Advice](#) dated 14 November 2019, prepared by Minter Ellison.**
2. **That the Council resolves to direct the Chief Executive Officer to put the following procedures in place:**
  - 1) **The Council must be alerted to each development application to be determined by the JDAP as soon as it is received by the City, by means of circulating the details of the development application to all Elected Members, in order to facilitate the potential call up of the development application.**
  - 2) **Where a development application is called up, the City's officers are to prepare the RAR in accordance with the statutory framework and submit it to a Special Meeting of Council for comment in sufficient time to meet the requirements of the JDAP statutory time period for the application.**
  - 3) **Where a development application has been called up, the CEO may not submit the RAR to the JDAP until the Council has resolved that it be submitted, with dissenting comments from the Council attached if so resolved.**
  - 4) **If a development application to be determined by the JDAP is not called up, the RAR may be prepared and submitted under delegated authority by the CEO in accordance with DA-020.**
3. **That Council resolves, by absolute majority decision, to amend the instrument of delegated authority DA-020 by adding the limitation:**

**“Should a development application be called up by Council, the Chief Executive Officer may not make recommendations to the Joint Metro Central Development Assessment Panel without first seeking Council's comment on the application and the planning officer's recommendations in the Responsible Authority Report, and attaching to the RAR the Council's comments as approved by Council.”**

At 8:15pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (13/0)**

*At 8:08pm Cr Barber left the meeting and returned at 8:10pm.*

**M19/5000 – COMMON SEAL REGISTER (REC)**

Ward : All  
 Category : Operational  
 Subject Index : Legal Matters and Documentation  
 Customer Index : City of Melville  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Standard Item  
 Works Program : Not applicable  
 Funding : Not applicable  
 Responsible Officer : Bruce Taylor – Manager Governance and Property

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input checked="" type="checkbox"/>	Information	<b><i>For the Council/Committee to note.</i></b>

**KEY ISSUES / SUMMARY**

This report details the documents to which the City of Melville Common Seal has been applied for the period from 28 October 2019 up to and including 14 November 2019 for the Council's noting.

**M19/5000 – COMMON SEAL REGISTER (REC)**

**BACKGROUND**

Section 2.5 of the *Local Government Act 1995* states that a Local Government is a Body Corporate with perpetual succession and a common seal. A document is validly executed by a Body Corporate when the common seal of the Local Government is affixed to it and the Mayor and the Chief Executive Officer (CEO) attest the affixing of the seal.

**DETAIL**

<b>Register Reference</b>	<b>Parties</b>	<b>Description</b>	<b>ECM Reference</b>
CS2138	City of Melville and Finbar	3-5 Kintail Road & 906-912 Canning Highway Metro central Joint development. Shared vehicle and pedestrian lane, as well as public car parking bays are provided in each stage on the development - in order to secure public access to these spaces an Easement in gross is proposed.	5365292
CS2137	City of Melville and MNG Survey	Subdivision at Carawatha Park approved by Western Australian Planning Commission on one condition, a "notification, pursuant to section 70A of the <i>Transfer of Land Act 1893</i> " is to be placed on the certificate of title of the proposed lots.	DA-2018-1289

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

Not applicable.

**II. OTHER AGENCIES / CONSULTANTS**

Not applicable.

**M19/5000 – COMMON SEAL REGISTER (REC)****STATUTORY AND LEGAL IMPLICATIONS**

Section 2.5(2) of the *Local Government Act 1995* states:

*The local government is a body corporate with perpetual succession and a common seal.*

Section 9.49A (3) of the *Local Government Act 1995* states:

(3) *The common seal of the local government is to be affixed to a document in the presence of —*

- (a) *the mayor or president; and*
- (b) *the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.*

**FINANCIAL IMPLICATIONS**

There are no financial implications in this report other than that held in any contract advised above.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no strategic, risk or environmental management implications in this report.

**POLICY IMPLICATIONS**

There are no policy implications in this report.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**CONCLUSION**

This is a standard report for the Elected Members' information.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5000)****NOTING**

**That the Council notes the actions of His Worship the Mayor and the Chief Executive Officer in executing the documents listed under the Common Seal of the City of Melville from 28 October 2019 up to and including 14 November 2019.**

At 8:17pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (13/0)**

**C19/6166 – UPDATE OF FINANCIAL POLICES (REC) (ATTACHMENT)**

Ward	: All
Category	: Policy
Subject Index	: Corporate Policy
Customer Index	: City of Melville
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Item C18/5617 Policy Review – Corporate Services - Ordinary Meeting of the Council – 19 June 2018 Item C18/5653 Review of Council Policy CP-023 Procurement Policy
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Alan Ferris Director Corporate Services

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	<b>Legislative</b>	<b><i>Includes adopting local laws, town planning schemes &amp; policies.</i></b>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**C19/6166 – UPADTE OF FINANCIAL POLICIES (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

Council approval is sought for minor updates to the following financial policies.

- CP-009 Investment of Funds Policy - credit rating categories have been updated to reflect the long term ratings as defined by Standard and Poor's Australian Ratings.
- CP-023 Procurement Policy has been updated as the terms that reflect the use of Commonwealth and State contracts have been amended to reflect the wording in the local government regulations. They previously only mentioned the use of Common Use Arrangements (CUA's).
- CP-025 Accounting Policy – the capitalisation of assets threshold has been changed in line with the amendment to the Local Government Regulation 17A(5) to \$5,000.
- CP-104 Related Party Disclosures Policy has been amended with the addition of "Acting Officers" required under Key Management Personnel.

**BACKGROUND**

A two year review cycle remains in place to ensure all Council policies remain current. In the event that there are changes to Accounting Standards, Legislation or other relevant information that impacts on the policies, outside of the set review period, the policies are updated and presented to the Council for approval.

**DETAIL**

A summary of changes made to the policies is outlined below:

**CP-009 Investment of Funds Policy**

The credit rating categories have been updated to reflect the long term ratings as defined by Standard and Poor's Australian Ratings.

**CP-023 Procurement Policy**

The terms that reflect the use of commonwealth and state contracts have been amended to reflect the wording in the local government regulations. They previously only mentioned the use of CUA.

**CP-025 Accounting**

The capitalisation of assets threshold has been changed in line with the amendment to the Local Government Regulation 17A(5) to \$5,000.

**CP-104 Related Party Disclosures Policy**

The addition of "Acting Officers" under Key Management Personnel

**STAKEHOLDER ENGAGEMENT**

No public consultation or communication is applicable.

**C19/6166 – UPDATE OF FINANCIAL POLICIES (REC) (ATTACHMENT)****STATUTORY AND LEGAL IMPLICATIONS**

This review of policies has particularly included references to legislation to support the policy position. The policies are consistent with the current *Local Government Act 1995* and relevant Regulations.

**FINANCIAL IMPLICATIONS**

There are no financial implications for Council as a result of this report.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no strategic, risk or environmental management implications with this application.

**POLICY IMPLICATIONS**

There are no identified policy implications that have been identified in this update.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The Council has policies to provide direction to officers on the Council's expectation of how a variety of matters will be addressed. This direction provides a consistent approach to all persons who make similar applications to the City. Should the Council resolve to remove Council Policies, officers would not have the understanding of the Council's intent in the great variety of matters and circumstances with the potential that persons would receive different responses from the City on similar matters. By providing a consistent approach, people will have confidence in the City's application of judgement on matters and that decisions are applied against a structure.

**CONCLUSION**

The individual policies have been reviewed by senior officers and their amendments are consistent with the current provisions of the *Local Government Act 1995* and Regulations.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6166) APPROVAL**

**That the Council approves the four updated policies reviewed by the Director Corporate Services as contained in the following attachments**

[CP-009 Investment of Funds Policy](#)

[CP-023 Procurement Policy](#)

[CP-025 Accounting](#)

[CP-104 Related Party Disclosures Policy](#)

At 8:17pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (13/0)**

**C19/6000 - INVESTMENT STATEMENTS FOR OCTOBER 2019 (REC)**

Ward	: All
Category	: Operational
Subject Index	: Financial Statements and Investments
Customer Index	: Not applicable
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Standard Item
Works Programme	: Not applicable
Funding	: Not applicable
Responsible Officer	: Sam Silva – Acting Manager Financial Services

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
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<input checked="" type="checkbox"/>	Information	<b><i>For the Council/Committee to note.</i></b>

**KEY ISSUES / SUMMARY**

This report presents the investment statements for the period ending 31 October 2019 for the Council's information and noting.

**C19/6000 - INVESTMENT STATEMENTS FOR 31 OCTOBER 2019 (REC)**

**BACKGROUND**

The City has cash holdings as a result of timing differences between the collection of revenue and its expenditure. Whilst these funds are held by the City they are invested in appropriately rated and liquid investments.

The investment of cash holdings is undertaken in accordance with Council Policy CP-009 - Investment of Funds, with the objective of maximising returns whilst maintaining low levels of credit risk exposure.

**DETAIL**

The following statement details the investments held by the City as of 31 October 2019.

<b>CITY OF MELVILLE STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 31 OCTOBER 2019</b>		
<b>SUMMARY BY FUND</b>		
Municipal		\$16,010,924
Reserve		\$195,434,583
Trust		\$372,048
Citizen Relief		\$219,651
<b>TOTAL</b>		<b>\$212,037,205</b>
<b>SUMMARY BY INVESTMENT TYPE</b>		
11AM		\$5,241,560
31Days at Call		\$6,000,000
60Days at Call		\$2,000,000
90Days at Call		\$16,600,000
Term Deposit		\$182,020,474
Units (Local Govt Hse)		\$175,171
<b>TOTAL</b>		<b>\$212,037,205</b>
<b>SUMMARY BY CREDIT RATING</b>		
AAA Category	AAA	
AA Category (AA+ to AA-)	AA-	\$132,862,033
A Category (A+ to A-)	A+	\$43,500,000
	A	
	A-	\$2,000,000
BBB+ Category	BBB+	\$33,500,001
Units (Local Government House)		\$175,171
<b>TOTAL</b>		<b>\$212,037,205</b>

**C19/6000 - INVESTMENT STATEMENTS FOR OCTOBER 2019 (REC)**

Exposure to an individual institution is limited according to Council policy and in October 2019 the investments were within the acceptable limits.

Investment with financial institutions						
Institution	Credit Rating	Credit Rating Category	Funds held at period end	Actual %	Limit Per Policy	
ANZ	AA-	AA Category	\$ 1,000,000	0.47%	30.00%	✓
AMP	BBB+	BBB+ Category	\$ 5,500,001	2.59%	25.00%	✓
Bankwest	AA-	AA Category	\$ 10,500,000	4.95%	30.00%	✓
Bank of Queensland	BBB+	BBB+ Category	\$ 25,000,000	11.79%	15.00%	✓
ING Bank	A-	A Category	\$ 2,000,000	0.94%	25.00%	✓
Bendigo & Adelaide	BBB+	BBB+ Category	\$ 3,000,000	1.41%	15.00%	✓
CBA	AA-	AA Category	\$ 6,500,000	3.07%	30.00%	✓
Macquarie	A	A Category	\$ 1,000,000	0.47%	25.00%	✓
NAB	AA-	AA Category	\$ 51,020,473	24.06%	30.00%	✓
St George	AA-	AA Category	\$ -	0.00%	30.00%	✓
Suncorp	A+	A Category	\$ 41,500,000	19.57%	25.00%	✓
Westpac	AA-	AA Category	\$ 64,841,560	30.58%	30.00%	✗
Units in Local Govt House	NA	NA	\$ 175,171	0.08%	100.00%	✓
<b>TOTAL</b>			<b>\$ 212,037,205</b>	<b>100%</b>		

\*Standard & Poor's ratings. Source: Policy No. CP-009: Investment of Funds

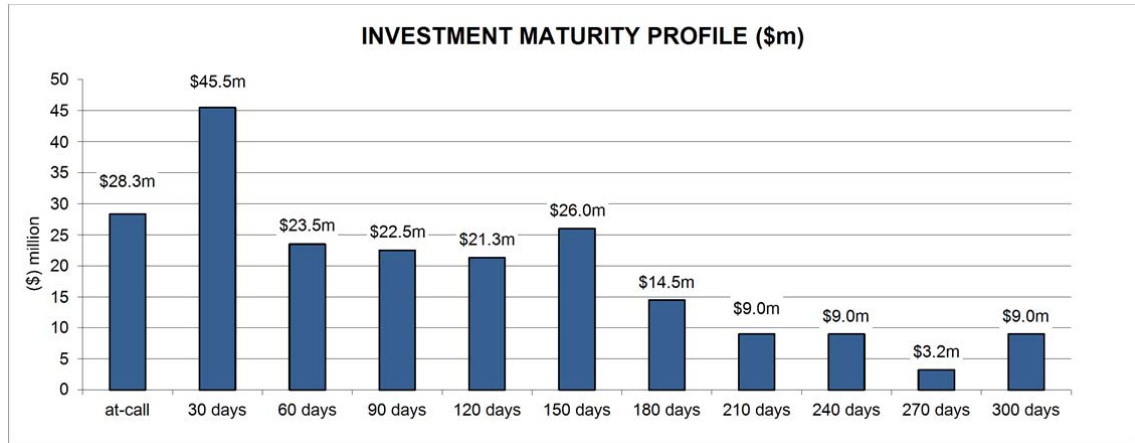
The City's investments were invested within the limits allowed within each category rating for October 2019 except Westpac Bank which exceeded the investment policy guideline by 0.58% in October. The City has a higher than expected investment balance and accepted a favourable investment quote from Westpac Bank which resulted in the exceeding of the policy limit by \$1.2M. This will be corrected in November.

Maximum Percentage of Average Investment Portfolio Balance				
Long Term Rating	Funds held at period end \$	Actual %	Limit Per Policy	
AAA Category	\$ -	0%	100%	✓
AA Category (AA+ to AA-)	\$ 132,862,033	63%	80%	✓
A Category (A+ to A-)	\$ 45,500,000	21%	50%	✓
BBB+ Category	\$ 33,500,001	16%	25%	✓
Units in Local Govt House	\$ 175,171	0%	100%	✓
<b>TOTAL</b>	<b>\$ 212,037,205</b>	<b>100%</b>		

\*Standard & Poor's ratings. Source: Policy No. CP-009: Investment of Funds

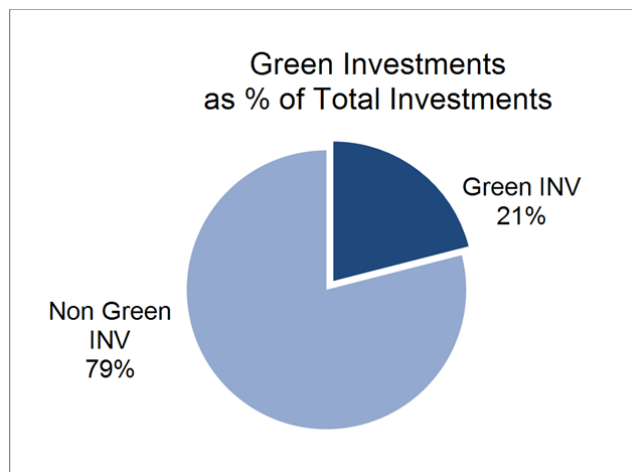
**C19/6000 - INVESTMENT STATEMENTS FOR OCTOBER 2019 (REC)**

The below graph summarises the maturity profile of the City’s investments at market value as at 31 October 2019. The immediacy of the demand for funds depends on the particular Fund or Reserve Account(s) of the City. The maturity profile provided in the table above meets the liquidity requirements of the Council policy.



“Green investments” are authorised investment products made in authorised institutions that respect the environment by not investing in fossil fuel industries.

The total investment in authorised institutions that do not lend to industries engaged in the exploration for, or production of, fossil fuels, as at 31 October 2019 was \$44,500,000 or 21% of total investment holdings being in non-fossil fuels institutions, compared to \$42,500,000 (21%) in September 2019. The total investments holding for October and September were \$212,037,205 and \$205,037,205 respectively.



**C19/6000 - INVESTMENT STATEMENTS FOR OCTOBER 2019 (REC)****STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

This report is available to the public on the City's web-site.

**II. OTHER AGENCIES / CONSULTANTS**

A wide range of suitably credit rated Authorised Deposit-taking Institutions (ADI's) were engaged with during the course of the month in respect to the placement and renewal of investments.

**STATUTORY AND LEGAL IMPLICATIONS**

The following legislation is relevant to this report:

- *Local Government (Financial Management) Regulations 1996* Regulation 19 – Management of Investments
- *Trustee Act 1962* (Part 3)

Authorised Deposit-taking Institutions are authorised under the *Banking Act 1959* and are subject to Prudential Standards oversight by the Australian Prudential Regulation Authority (APRA).

Effective from 13 May 2017 the *Local Government (Financial Management) Regulations 1996* were amended (regulation 19C) to allow local governments to deposit funds for a fixed term of three years or less. The regulation previously only allowed for deposits of 12 months or less. Deposits of greater than one year may, depending on the shape of the yield curve, enable the City to achieve better investment returns.

**FINANCIAL IMPLICATIONS**

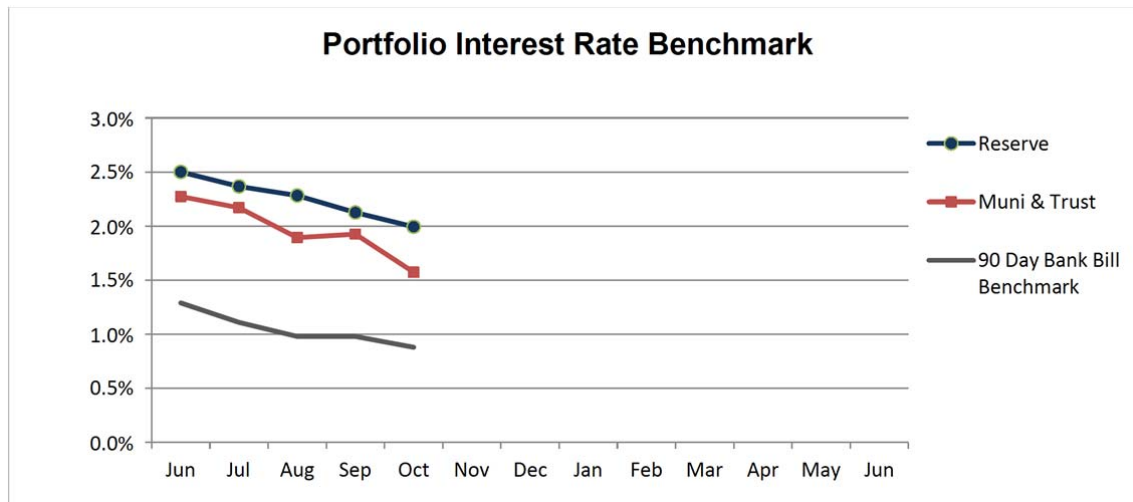
For the period ending 31 October 2019:

- Investment earnings on Municipal and Trust Funds were \$171,620 against a year to date budget of \$248,333 representing a negative variance of \$ 76,713. The lower than budgeted interest is the result of the lower interest rates being achieved and a reduced balance in the account.

The budgeted weighted average interest rate was 2.2%. The actual weighted average interest rate for Municipal and Trust Fund investments as at 31 October 2019 was 1.57% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.88%.

- Investment earnings on Reserve accounts were \$1,254,436 against a year to date budget of \$1,033,333 representing a positive variance of \$ 221,103. The variance is a result of a higher than expected account balance mainly as a result of delays in some of the City planned capital projects. Whilst the City also budgeted the interest based on the weighted average interest rate of 2.2% the increased balance of the account has produced the positive variance. The weighted average interest rate for Reserve account investments as at 31 October 2019 was 1.99% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.88%.

**C19/6000 - INVESTMENT STATEMENTS FOR OCTOBER 2019 (REC)**



**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

**Strategic**

The interest earned on invested funds assists in addressing the following key priority area identified in The City of Melville Corporate Business Plan 2016-2020.

Priority Number One – “Restricted current revenue base and increasing/changing service demands impacts on rates”.

**Risk**

The Council’s Investment of Funds Policy CP-009 was drafted so as to minimise credit risk through investing in highly rated securities and diversification. The Policy also incorporates mechanisms that protect the City’s investments from undue volatility risk as well as the risk to reputation as a result of investments that may be perceived as unsuitable by the Community.

**Environmental**

When investing the City’s funds, a deliberative preference will be made in favour of authorised institutions that respect the environment by not investing in fossil fuel industries. This preference will however, only be exercised after the foremost investment considerations of credit rating, risk diversification and interest rate return are fully satisfied.

**POLICY IMPLICATIONS**

Council Policy CP-009 – Investment of Funds provides guidelines with respect to the investment of the City of Melville (the City) funds by defining levels of risk considered prudent for public monies. Liquidity requirements are determined to ensure the funds are available as and when required and take account of appropriate benchmarks for rates of return commensurate with the low levels of risk and liquidity requirements. The types of investments that the City has the power to invest in is limited by prescriptive legislative provisions governed by the *Local Government Act 1995*, *Local Government (Financial Management) Regulations 1996* and Part III of the *Trustees Act 1962*.

**C19/6000 - INVESTMENT STATEMENTS FOR OCTOBER 2019 (REC)****ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable as this report only presents information for noting.

**CONCLUSION**

The City's investment portfolio is invested in highly secure investments with a low level of risk yielding a weighted average rate of return of 1.57% to 1.99% which exceeds the benchmark three month bank bill swap (BBSW) reference rate of 0.88%.

21% of the City's investment portfolio is invested in authorised deposit taking institutions that do not lend to industries engaged in the exploration for, or production of, fossil fuels. This compared to 21% in September 2019.

Future investment earnings will be determined by the cash flows of the City and movements in interest rates on term deposits.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6000)                      NOTING**

**That the Council notes the Investment Report for the period ending 31 October 2019.**

At 8:17pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (13/0)**

**C19/6001 – SCHEDULE OF ACCOUNTS PAID FOR OCTOBER 2019 (REC)**  
**(ATTACHMENT)**

Ward	: All
Category	: Operational
Subject Index	: Financial Statement and Investments
Customer Index	: Not applicable
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Standard Item
Works Programme	: Not Applicable
Funding	: Annual Budget
Responsible Officer	: Sam Silva – Acting Manager Financial Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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<input checked="" type="checkbox"/>	Information	<b><i>For the Council/Committee to note.</i></b>

**KEY ISSUES / SUMMARY**

This report presents the details of payments made under delegated authority to suppliers for the period of October 2019 and recommends that the Schedule of Accounts Paid be noted.

**C19/6001 – SCHEDULE OF ACCOUNTS PAID FOR OCTOBER 2019 (REC)**  
**(ATTACHMENT)**

**BACKGROUND**

Delegated Authority DA-035 has been granted to the Chief Executive Officer to make payments from the Municipal and Trust Funds. This authority has then been on-delegated to the Director Corporate Services. In accordance with Regulation 13.2 and 13.3 of the *Local Government (Financial Management) Regulations 1996*, where this power has been delegated, a list of payments for each month is to be compiled and presented to the Council. The list is to show each payment, payee name, amount and date of payment and sufficient information to identify the transaction.

**DETAIL**

The Schedule of Accounts Paid for October including Payment Register numbers, Cheques: 730-733, Electronic Funds Transfers batches: 605-610, Trust Payments, Card Payments and Payroll was distributed to the Elected Members of the Council on 29 November 2019.

**Summary Payments for the Period:**

Direct Creditor Payments ( <i>excl. Payroll and Card Payments</i> )	\$7,138,264
Payroll	\$5,271,780
Card Payments	\$64,640
Investments	\$12,000,000
Trust Fund	\$0
<b>Total</b>	<b>\$24,474,684</b>

Details of the payments are shown in attachment [6001 October 2019](#).

Any payment over and above \$25,000 has been highlighted under the Payment Amount column in the attachment to this statement named 'Listing of Payments made under Delegated Authority'.

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

Not applicable.

**II. OTHER AGENCIES / CONSULTANTS**

**STATUTORY AND LEGAL IMPLICATIONS**

This report meets the requirements of the *Local Government (Financial Management) Regulations 1996* Part 2: General financial management (s.6.10) regulations 11, 12 & 13.

**C19/6001 – SCHEDULE OF ACCOUNTS PAID FOR OCTOBER 2019 (REC)  
(ATTACHMENT)****FINANCIAL IMPLICATIONS**

Expenditures were provided for in the adopted Budget as amended by any subsequent Budget reviews and amendments.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no identifiable strategic, risk and environmental management implications.

**POLICY IMPLICATIONS**

Procurement of Products and Services is conducted in accordance with Council Policy CP-023 and Systems Procedure 019 Purchasing and Procurement.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable as this report presents information for noting only.

**CONCLUSION****Summary of All Payments for the Period:**

Municipal Fund	\$24,474,684
Trust Fund	\$0
<b>Total Payments</b>	<b>\$24,474,684</b>

The report and the attached Schedule of Accounts Paid are presented for the Council's information.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6001)****NOTING**

**That the Council notes the Schedule of Accounts paid for the period October 2019 as approved by the Director Corporate Services in accordance with delegated authority DA-035, and detailed in attachment [6001 October 2019](#).**

At 8:17pm the Mayor submitted the motion, which was declared

**CARRIED EN BLOC (13/0)**

**C19/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR OCTOBER 2019 (AMREC)  
(ATTACHMENTS)**

Ward	: All
Category	: Operational
Subject Index	: Financial Reporting - Statements of Financial Activity
Customer Index	: Not applicable
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Standard Item
Works Programme	: Not applicable
Funding	: Not applicable
Responsible Officer	: Sam Silva – Acting Manager Financial Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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<input checked="" type="checkbox"/>	<b>Executive</b>	<b><i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i></b>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
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<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**KEY ISSUES / SUMMARY**

<p>This report presents:</p> <ul style="list-style-type: none"> <li>• The Statements of Financial Activity by Program, Sub-Program and Nature and Type, for the period ending 31 October 2019 and recommends that they be noted by the Council.</li> <li>• The variances for the month of October 2019 and recommends that they be noted by the Council.</li> <li>• The Budget amendments required for the month of October 2019 and recommends that they be adopted by Absolute Majority decision of the Council.</li> </ul>
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**C19/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR OCTOBER 2019 (AMREC)  
(ATTACHMENTS)**
**BACKGROUND**

The Statements of Financial Activity for the period ending 31 October 2019 have been prepared and tabled in accordance with the *Local Government (Financial Management) Regulations 1996*.

**DETAIL**

The attached reports have been prepared in compliance with the requirements of the legislation and Council policy. The three, monthly reports that are presented are the:-

1. Rate Setting Statement by Program, which provides details on the Program classifications,
2. Rate Setting Statement by Sub-Program, which provides further details on the Program classifications and,
3. Statement of Financial Activity by Nature and Type, which provides details on the various categories of income and expenditure.

**Variances**

EXTRACT OF RATE SETTING STATEMENT FOR VARIANCE OVER \$50,000 for the Period 1 October 2019 to 31 October 2019							
	October Actual \$	YTD Rev. Budget \$	YTD Actual \$	Variance \$	Variance %	Annual Budget \$	Annual Rev. Budget \$
<b>OPERATING ACTIVITIES</b>							
<b>Revenue from operating activities (excluding rates and non-operating grant, subsidies and contributions)</b>							
General Purpose Funding	578,523	2,459,227	2,651,836	192,609	8%	11,320,811	8,082,694
Law, Order, Public Safety	94,023	2,509,198	2,580,471	71,273	3%	2,549,172	2,549,172
Recreation and Culture	750,652	3,079,367	3,140,558	61,191	2%	8,755,894	8,757,894
Economic Services	333,987	4,860,733	4,954,197	93,464	2%	3,038,466	6,276,583
Other Property and Services	138,700	383,327	262,586	(120,741)	-31%	321,201	1,285,350
	<b>2,262,084</b>	<b>16,852,500</b>	<b>17,203,248</b>	<b>350,748</b>		<b>32,199,974</b>	<b>33,568,503</b>
<b>Expenditure from operating activities</b>							
Governance	(462,595)	(1,865,996)	(1,730,619)	135,377	-7%	(6,152,018)	(7,295,829)
Law, Order, Public Safety	(443,515)	(1,423,377)	(1,372,833)	50,544	-4%	(4,080,799)	(4,089,708)
Education & Welfare	(282,250)	(1,005,327)	(936,517)	68,810	-7%	(3,067,314)	(3,040,939)
Community Amenities	(2,587,548)	(9,993,458)	(9,474,677)	518,781	-5%	(26,222,531)	(27,123,453)
Recreation and Culture	(3,639,157)	(12,309,439)	(11,659,022)	650,417	-5%	(36,049,663)	(35,953,127)
Transport	(1,662,958)	(5,752,307)	(5,499,404)	252,903	-4%	(17,962,135)	(17,962,135)
Other Property and Services	(1,396,533)	(4,464,131)	(4,134,200)	329,931	-7%	(12,673,457)	(11,905,196)
	<b>(11,635,818)</b>	<b>(40,537,756)</b>	<b>(38,539,211)</b>	<b>1,998,545</b>		<b>(114,996,552)</b>	<b>(115,602,819)</b>
<b>Investing Activities</b>							
Proceeds from Disposal of Assets	11,041	139,800	84,033	(55,767)	-40%	435,500	914,700
Purchase of Furniture & Equipment	(173,055)	(438,229)	(304,751)	133,478	-30%	(1,427,145)	(2,381,441)
Purchase of Plant & Equipment	(148,601)	(976,419)	(689,836)	286,583	-29%	(1,811,477)	(3,516,811)
Purchase of Land & Buildings	(267,556)	(1,379,588)	(1,219,520)	160,068	-12%	(55,935,948)	(26,351,204)
Purchase of Infrastructure Assets	(1,319,466)	(3,635,913)	(3,298,009)	337,904	-9%	(31,028,602)	(29,715,354)

**C19/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR OCTOBER 2019 (AMREC)  
(ATTACHMENTS)**

A more detailed summary of variances and comments based on the Rate Setting Statement by Sub-Program is provided in attachments [6002C Sub Program October 2019](#) and [6002H October 2019](#).

**Revenue**

\$89.361 million in Rates was raised as at 31 October 2019 compared to a year to date budget of \$88.994 million. There is a positive variance of \$366,789 (0.41%) when compared to year to date actual. This is due to growth in the rate base (mainly a residential development on Kishorn Road in Mt Pleasant) subsequent to budget setting.

**Money Expended in an Emergency and Unbudgeted Expenditure**

Not applicable for October 2019.

**Budget Amendments**

Details of Budget Amendments requested for the month of October 2019 are shown in attachment [6002J October 2019](#). There were seven budget amendments, greater than \$50,000, processed in October 2019:

- \$98,436 – Transfer budgets from Point Walter Concert to Perth Festival.
- \$50,000 – Transfer budget for Pop Up Library to correct Responsible Officer.
- \$47,158,888 – Budget amendments of \$ 33,716,888 and \$ 13,442,000 to reflect the reduction of the funds to be used from the Land and Property Reserve for the New Library Cultural Centre project. The impact on the budget is a net reduction of \$20,274,888.
- \$100,000 – Transfer from Community Facilities Reserve to Willagee Library project to fund expanded scope of works which would include preliminaries, demolition, storm water drainage, signage and landscaping.
- \$70,000 – Transfer of carry forward funds for Bert Jeffery Amenities Building from Responsible Officer 310 (Healthy Melville Coordinator) to the capital works project.
- \$2,500,000 – Remove budget for John Connell Remediation Works that was budgeted to be funded from the Refuse Facilities Reserve as this project will not commence this financial year.
- \$52,261 - Transfer of identified savings in Building Services employment budgets to Director Corporate Services.

Rates, Refuse, Fire and Emergency Service Authority and Underground Power payments totalling \$11,178,126 were collected over the course of the month. Rates collection progress for the month of October is 1.3% below the target of 70.2%. This represents a dollar value of \$1,267,507. As at 31 October 68.9% of the 2019-2020 rates, including prior year arrears had been collected compared with 69.5% collected for the same time last year. Rates collection for 2019-2020 excluding prior year rate arrears is 72.60%.

Total sundry debtor balances decreased by \$304,954 over the course of the month from \$1,213,136 to \$908,182 in October. The 90+ day's debtor balance increased by \$55,479 from \$274,403 to \$329,882.

**C19/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR OCTOBER 2019 (AMREC)**  
**(ATTACHMENTS)**

**Granting of concession or writing off debts owed to the City**

Delegation DA-032 empowers the Chief Executive Officer (CEO) to grant concessions and write off monies owing to the City to a limit of \$10,000 for any one item. The CEO has partially on-delegated this to the Director Corporate Services to write off debts or grant concessions to a value of \$5,000.

There were no debts written off for the month of October 2019.

**Fees and Charges**

Hire fees for the City's facilities and property include fees for commercial businesses and community groups. Officers are finding an increased demand from small, start-up businesses wishing to hire the City's facilities and properties for market activities and other activities that provide a community benefit. Such activities are generally free (or a low fee is charged to cover costs) for the community to attend, however these hirers currently are required to pay the City's commercial hire fee which makes it prohibitive.

Additionally it has been identified that the current hire fees of parks and reserves for events or casual reserve hire can create a significant difference in the cost to hire an area depending on if the booking is classified as an event booking or a casual hire.

The proposed changes will allow the City to better support business/social enterprise groups to provide affordable activities for the community to participate in and resolve the inequity of fees charged for event bookings or casual hirers.

The proposed fee amendments, if approved, will be advertised by way of public notice on 19 December 2019, and would apply from 2 January 2020.

The following attachments form part of the Attachments to the Agenda.

<b>DESCRIPTION</b>	<b>LINK</b>
Statement of Financial Activity By Nature and Type – October 2019	<a href="#">6002A_Nature_Type_October_2019</a>
Rate Setting Statement by Program – October 2019	<a href="#">6002B_Program_October_2019</a>
Rate Setting Statement by Sub-Program – October 2019	<a href="#">6002C_Sub_Program_October_2019</a>
Representation of Net Working Capital – October 2019	<a href="#">6002E_October_2019</a>
Reconciliation of Net Working Capital – October 2019	<a href="#">6002F_October_2019</a>
Notes on Rate Setting Statement reporting on variances of 10% or \$50,000 whichever is greater – October 2019	<a href="#">6002H_October_2019</a>
Details of Budget Amendments requested – October 2019	<a href="#">6002J_October_2019</a>
Summary of Rates Debtors – October 2019	<a href="#">6002L_October_2019</a>
Graph Showing Rates Collections – October 2019	<a href="#">6002M_October_2019</a>
Summary of General Debtors aged 90 Days Old or Greater – October 2019	<a href="#">6002N_October_2019</a>
2019-2020 Fees and Charges Amendments	<a href="#">6002O_October_2019</a>

**C19/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR OCTOBER 2019 (AMREC)  
(ATTACHMENTS)****STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

Not applicable.

**II. OTHER AGENCIES / CONSULTANTS**

Not applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

*Local Government Act 1995* Division 3 – Reporting on Activities and Finance Section 6.4 – Financial Report.

*Local Government (Financial Management) Regulation 1996* Part 4 – Financial Reports Regulation 34 requires that:

**34. Financial activity statement report — s. 6.4**

(1) A local government is to prepare each month a statement of financial activity reporting on the revenue and expenditure, as set out in the annual budget under regulation 22(1)(d), for that month in the following detail —

- (a) annual budget estimates, taking into account any expenditure incurred for an additional purpose under section 6.8(1)(b) or (c);
- (b) budget estimates to the end of the month to which the statement relates;
- (c) actual amounts of expenditure, revenue and income to the end of the month to which the statement relates;
- (d) material variances between the comparable amounts referred to in paragraphs (b) and (c); and
- (e) the net current assets at the end of the month to which the statement relates.

(2) Each statement of financial activity is to be accompanied by documents containing —

- (a) an explanation of the composition of the net current assets of the month to which the statement relates, less committed assets and restricted assets;
- (b) an explanation of each of the material variances referred to in subregulation (1)(d); and
- (c) such other supporting information as is considered relevant by the local government.

(3) The information in a statement of financial activity may be shown —

- (a) according to nature and type classification; or
- (b) by program; or
- (c) by business unit.

(4) A statement of financial activity, and the accompanying documents referred to in subregulation (2), are to be —

- (a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
- (b) recorded in the minutes of the meeting at which it is presented.

**C19/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR OCTOBER 2019 (AMREC)  
(ATTACHMENTS)**

*(5) Each financial year, a local government is to adopt a percentage or value, calculated in accordance with the AAS, to be used in statements of financial activity for reporting material variances.*

The variance adopted by the Council is 10% or \$50,000 whichever is greater.

*Local Government Act 1995 Division 4 – General Financial Provisions Section 6.12; Power to defer, grant discounts, waive or write off debts.*

*Local Government Act 1995 Part 6 Financial management Division 5 Financing local government activities*

**6.16. Imposition of fees and charges**

*(3) Fees and charges are to be imposed when adopting the annual budget but may be —  
(a) imposed\* during a financial year; and  
(b) amended\* from time to time during a financial year.*

*\* Absolute majority required.*

**6.19. Local government to give notice of fees and charges**

*If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —*

- (a) its intention to do so; and*
- (b) the date from which it is proposed the fees or charges will be imposed.*

**FINANCIAL IMPLICATIONS****Variiances**

Variiances are detailed and explained in attachment [6002H October 2019](#) (Notes on Statement of Variiances in excess of \$50,000 by Sub-Program).

**Fees and Charges**

The proposed changes to fees and charges will not have a material impact on the 2019-2020 budget position.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no identifiable strategic, risks or environmental management implications arising from this report.

**POLICY IMPLICATIONS**

The format of the Statements of Financial Activity as presented to the Council and the reporting of significant variances is undertaken in accordance with the Council's Accounting Policy CP-025.

**C19/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR OCTOBER 2019 (AMREC)  
(ATTACHMENTS)**

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable

**CONCLUSION**

The attached financial reports reflect a positive financial position of the City of Melville as at 31 October 2019.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6002)  
NOTING and ABSOLUTE MAJORITY**

At 8:16pm Cr Robartson moved, seconded Cr Pazolli –

**That the Council:**

1. **Notes the Rate Setting Statement and Statements of Financial Activity for the month ending 31 October 2019 as detailed in the following attachments:**

DESCRIPTION	LINK
Statement of Financial Activity By Nature and Type – October 2019	<a href="#">6002A Nature Type October 2019</a>
Rate Setting Statement by Program – October 2019	<a href="#">6002B Program October 2019</a>
Rate Setting Statement by Sub-Program – October 2019	<a href="#">6002C Sub Program October 2019</a>
Representation of Net Working Capital – October 2019	<a href="#">6002E October 2019</a>
Reconciliation of Net Working Capital – October 2019	<a href="#">6002F October 2019</a>
Notes on Rate Setting Statement reporting on variances of 10% or \$50,000 whichever is greater – October 2019	<a href="#">6002H October 2019</a>
Details of Budget Amendments requested – October 2019	<a href="#">6002J October 2019</a>
Summary of Rates Debtors – October 2019	<a href="#">6002L October 2019</a>
Graph Showing Rates Collections – October 2019	<a href="#">6002M October 2019</a>
Summary of General Debtors aged 90 Days Old or Greater – October 2019	<a href="#">6002N October 2019</a>
2019-2020 Fees and Charges Amendments	<a href="#">6002O October 2019</a>

2. **By Absolute Majority Decision adopts the budget amendments, as detailed in the attached Budget Amendment Reports for October 2019 [6002J October 2019](#).**
3. **By Absolute Majority Decision adopts the Fees and Charges amendments, as detailed in the attachment Fees and Charges Amendments [6002O October 2019](#).**
4. **Notes that the Fees and Charges amendments detailed in attachment [6002O October 2019](#) will be applicable from 2 January 2020 following a public notice to be published 19 December 2019.**

At 8:17pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (13/0)**

**LATE ITEM M19/5712 - CITY OF MELVILLE COMMUNITY ANNUAL REPORT 2018-2019**  
**(AMREC) (ATTACHMENT)**

Ward	: All
Category	: Operational
Subject Index	: City of Melville Annual Report
Customer Index	: Not Applicable
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: M19/5712 – City of Melville Community Annual Report 2018-2019 - Ordinary Meeting of Council 19 November 2019. M19/5712 - City of Melville Community Annual Report 2018-2019 - Financial Management, Audit, Risk and Compliance Committee held 2 December 2019.
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officers	: Kylie Johnson Executive Manager Organisational Development

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	<b>Executive</b>	<b><i>the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i></b>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**LATE ITEM M19/5712 - CITY OF MELVILLE COMMUNITY ANNUAL REPORT 2018-2019  
(AMREC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- This item was presented to the November 2019 Ordinary Meeting of Council and was deferred for consideration to the December 2019 Council Meeting as the Annual Financial Report had not been received at that date.
- The 2018-2019 Annual Financial Report and the *Office of the Auditor General's Audit Findings Report* were considered and noted at the 2 December 2019 - Financial Management, Audit, Risk and Compliance Committee Meeting.
- This report now presents the finalised City of Melville Community Annual Report 2018-2019, including Parts A and B for the Council's acceptance by absolute majority.
- The text and design component of the Community Annual Report 2018-2019 Part A, excluding the financial data, was provided to the Council through the Elected Member Bulletin (EMB) in October 2019.
- An extract of the audited Financial Report has been incorporated in the finalised Community Annual Report 2018-2019 Part A. The Community Annual Report 2018-2019 Part A together with the full audited Annual Financial Report – Part B includes all the information required by the *Local Government Act 1995* and other relevant legislation.
- In accordance with the *Local Government Act 1995* section 5.54, the Community Annual Report including parts A and B is to be accepted by absolute majority decision no later than 31 December after the close of the financial year.

**BACKGROUND**

In accordance with Section 5.53(1) of the *Local Government Act 1995* (the Act), a local government is required to prepare an Annual Report for each financial year. Section 5.54 of the Act requires that the Annual Report be accepted by the local government no later than 31 December after that financial year, and that the decision is to be by absolute majority decision.

Section 5.27 of the Act specifies that a General Meeting of Electors is to be held within fifty-six (56) days after the local government accepts the Annual Report for the previous financial year. The Annual Report is required to be prepared and printed in time for that meeting.

The format of this year's Annual Report again consists of two parts;

- part A which features a full text summary and unaudited extracts from the Annual Financial Report; and
- part B the Audited Annual Financial Report, which together comprise the City's Annual Report.

**LATE ITEM M19/5712 - CITY OF MELVILLE COMMUNITY ANNUAL REPORT 2018-2019  
(AMREC) (ATTACHMENT)****DETAIL**

The 2018-2019 Community Annual Report has been prepared and meets the requirements of the Act. It is designed to report against *The City of Melville Corporate Business Plan 2016-2020*. It also references and reinforces the importance of the *Strategic Community Plan 2016-2026*, which aligns with the Department of Local Government, Sport and Cultural Industries Integrated Planning Framework.

Section 5.53 of the Act requires the Annual Report to contain the following:

- a report from the Mayor;
- a report from the CEO;
- an overview of the plan for the future including major initiatives that are proposed to commence or to continue in the next financial year;
- the financial report for the financial year;
- such information as may be prescribed in relation to the payments made to employees;
- the auditor's report for the financial year;
- a matter on which a report must be made under section 29(2) of the *Disability Services Act 1993*;
- details of entries made under section 5.121 regarding complaints against Council Members;
- the number of complaints recorded in the register of complaints; and
- how the recorded complaints were dealt with; and any other details that the regulations may require.

The *Local Government (Administration) Regulations 1996* also requires the following information to be included in the Annual Report:

- the number of employees of the local government entitled to an annual salary of \$100,000 or more;
- the number of those employees with an annual salary entitlement that falls within each band of \$10,000 over \$100,000
- if a modification is made during a financial year to a local government's strategic community plan;
- if a significant modification is made during a financial year to a local government's corporate business plan.

The text of this Annual Report was developed from information gathered from all areas of the organisation and various corporate documents. This text was reviewed by the Chief Executive Officer and Executive Leadership Team. The Governance Coordinator also undertakes an audit of the text against the specific legislative requirements and confirms relevant requirements had been addressed.

The text and design component of the 2018-2019 Community Annual Report, excluding the financial data, was provided to Council through the Elected Members Bulletin, for early review in late October 2019.

**LATE ITEM M19/5712 - CITY OF MELVILLE COMMUNITY ANNUAL REPORT 2018-2019  
(AMREC) (ATTACHMENT)**

Electors will be made aware that the full version of the Community Annual Report consists of two parts:

- part A containing all of the textual information and the extracts from the Annual Financial Report which will be printed and provided in hard copy in limited numbers and available at the AGM and on request, and on the City's website; and
- part B the independently audited Annual Financial Report will not be professionally printed but will be made available in hard copy on request and also published on the City's website.

Part B of the Community Annual Report, was audited and reviewed by the Financial Management, Audit, Risk and Compliance Committee on 2 December 2019. The Financial Extract included in Part A of the Community Annual Report is taken from the audited Annual Financial Report and used to present a summary of what are considered to be the key aspects of the audited financial information. In order to save on costs the financial report extract in Part A is not separately audited and this is stated clearly in the report.

At the Financial Management, Audit, Risk and Compliance Committee it was resolved:

**That the Financial Management, Audit, Risk and Compliance Committee recommends that the Council:**

- 1 notes the Office of the Auditor General's Audit Findings Report; and**
- 2 notes the City of Melville 2018-2019 Annual Financial Report.**

The Council is required to, by absolute majority decision, accept the complete version of Community Annual Report which includes Parts A and B [5712 Annual Report 2018-2019](#). This is to be done by 31 December and prior to the General Meeting of Electors.

**STAKEHOLDER ENGAGEMENT**

In accordance with section 5.55 of the Act the Chief Executive Officer (CEO) is to give local public notice of the availability of the Annual Report as soon as practicable after the report has been accepted by the local government. The notice will include comment that the Full Financial Report is available on request.

**I. COMMUNITY**

No external public consultation has been carried out as the Annual Report is a report on the business activities of the City of Melville.

**II. OTHER AGENCIES / CONSULTANTS**

No consultation with other agencies/consultants has been carried out.

**LATE ITEM M19/5712 - CITY OF MELVILLE COMMUNITY ANNUAL REPORT 2018-2019  
(AMREC) (ATTACHMENT)**

**STATUTORY AND LEGAL IMPLICATIONS**

Section 5.27 of the Act specifies that a general meeting of the electors is to be held on a day selected by the local government but not more than 56 days after the local government accepts the Annual Report for the previous financial year.

Section 5.53 of the Act specifies requirements for information to be included in the Annual Report as noted within the detail of this report.

Regulations 19B and 19CA of the *Local Government (Administration) Regulations 1996* require additional information to be included in the Annual Report.

Section 5.54 of the Act specifies that the Annual Report for the financial year is to be accepted by the Local Government no later than 31 December after that financial year.

Section 5.55 of the Act specifies that the Chief Executive Officer is to publish the Annual Report on the local governments official website within 14 days after the report has been accepted by the local government.

**FINANCIAL IMPLICATIONS**

Funds have been provided in the 2019-2020 budget to enable graphic design, internal printing, promotion and distribution of Part A of the Annual Report. As per the previous years, minimal hard copy Annual Reports will be published, and this year will be printed internally. More environmentally responsible distribution methods such as through CD and access via the City of Melville website will be utilised.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

<b>Risk Statement</b>	<b>Level of Risk</b>	<b>Risk Mitigation Strategy</b>
Not publishing an Annual Report in accordance with all relevant legal requirements and accounting standards would result in non-compliance with required legislative and regulatory requirements.	Moderate consequences which are likely, resulting in a <b>High</b> level of risk	Ensure the Annual Report conforms to all requirements through assessment by the Governance Coordinator prior to going to the Ordinary Meeting of Council in November 2018.

**POLICY IMPLICATIONS**

There are no policy implications for the Council to consider as part of this report.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

There are no alternate options as the production and acceptance of the Annual Report is a legislative requirement.

**LATE ITEM M19/5712 - CITY OF MELVILLE COMMUNITY ANNUAL REPORT 2018-2019  
(AMREC) (ATTACHMENT)****CONCLUSION**

The text of this Annual Report is a succinct and accurate reflection of the activities undertaken by the City of Melville in the 2018-2019 financial year, and has been prepared in accordance with legislative and regulatory requirements.

The full Annual Financial Report has been finalised and certified by the independent external auditors and presented to the Financial Management, Audit, Risk and Compliance Committee and Council. The abridged Financial Extract has been integrated into the Community Annual Report design, along with further explanatory comment to enhance the financial information presented to the community. The full Community Annual Report is being presented in this report for the Council's acceptance by absolute majority decision.

Following the Council's acceptance, this document will be edited appropriately and made available for all stakeholders in various formats, including CD, the City's website and hard copy.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5712)  
ABSOLUTE MAJORITY**

At 8:17pm Cr Wheatland moved, seconded Cr Macphail

**That the Council, by Absolute Majority Decision, accepts the City of Melville 2018-2019 Community Annual Report which includes Parts A and B.  
[5712 Annual Report 2018-2019](#)**

At 8:17pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (13/0)**

**15. EN BLOC ITEMS**

At 8:17pm Cr Robins moved, seconded Cr Wheatland –

**That the recommendations for items C19/6171, CD19/8122, M19/5000, C49/6166, C19/6000 and C19/6001 be carried En Bloc.**

At 8:17pm the Mayor submitted the motion, which was declared  
**CARRIED UNANIMOUSLY (13/0)**

**16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****16.1 Cr Kepert - Submission to the WA Legislative Council Select Committee into Local Government**

At 8:20pm Cr Kepert moved, seconded Cr Pazolli –

**MOTION****The Council:**

1. Notes that a submission dated 19th September 2019 was made to WA Legislative Council's Select Committee into Local Government by "City of Melville Administration", without the approval of council.
2. Rejects that submission.
3. Notes its concern that such a submission was made on behalf of the City of Melville, without the authorisation of the Council.
4. Directs the CEO to:
  - a. Not make any further comment on the Local Government Enquiry as the CEO of Melville, except to communicate any position which might be adopted by the Council.
  - b. Write to the Select Committee into Local Government noting that;
    - i. The submission was not authorised by the City of Melville;
    - ii. The City of Melville does not endorse the submission, and rejects its content;
    - iii. Insofar as the submission might be taken to be the position of the City of Melville, the committee disregard that submission and its content; and
    - iv. The CEO has been directed to not make any further comment to the Select Committee into Local Government as the CEO of Melville, except to communicate any position which might be adopted by the Council.
  - c. Issue a notice to all City of Melville employees advising that a submission was made to the WA Legislative Council in their name and without the authorisation of the Council and that this submission does not reflect the position of the City of Melville. This notice should remind employees of their obligation to ensure that they take care to not represent their private views as views of the City of Melville, especially when they are senior employees of the City. It should make clear that while employees are within their rights to engage with Parliament as part of the democratic process in their personal capacity, it is not at all appropriate for groups of City employees to put joint submissions purporting to set out 'the City's' positions to a Parliamentary body.

**16.1 Cr Kepert - Submission to the WA Legislative Council Select Committee into Local Government**

**Procedural Motion**

At 8:21pm Cr Wheatland moved, seconded Cr Macphail –

**That the motion be deferred for consideration at 18 February 2020 Ordinary meeting of Council.**

At 8:27pm the Mayor submitted the motion, which was declared

**LOST (3/10)**

<b>Vote Result Summary</b>	
Yes	3
No	10

<b>Vote Result Detailed</b>	
Cr Macphail	Yes
Cr Wheatland	Yes
Cr Woodall	Yes
Cr Barber	No
Cr Barton	No
Cr Fitzgerald	No
Cr Kepert	No
Cr Mair	No
Cr Pazolli	No
Cr Robartson	No
Cr Robins	No
Cr Sandford	No
Mayor	No

**16.1 Cr Kepert - Submission to the WA Legislative Council Select Committee into Local Government****MOTION**

At 8:20pm Cr Kepert moved, seconded Cr Pazolli –

**The Council:**

1. **Notes that a submission dated 19th September 2019 was made to WA Legislative Council's Select Committee into Local Government by "City of Melville Administration", without the approval of council.**
2. **Rejects that submission.**
3. **Notes its concern that such a submission was made on behalf of the City of Melville, without the authorisation of the Council.**
4. **Directs the CEO to:**
  - a. **Not make any further comment on the Local Government Enquiry as the CEO of Melville, except to communicate any position which might be adopted by the Council.**
  - b. **Write to the Select Committee into Local Government noting that;**
    - i. **The submission was not authorised by the City of Melville;**
    - ii. **The City of Melville does not endorse the submission, and rejects its content;**
    - iii. **Insofar as the submission might be taken to be the position of the City of Melville, the committee disregard that submission and its content; and**
    - iv. **The CEO has been directed to not make any further comment to the Select Committee into Local Government as the CEO of Melville, except to communicate any position which might be adopted by the Council.**
  - c. **Issue a notice to all City of Melville employees advising that a submission was made to the WA Legislative Council in their name and without the authorisation of the Council and that this submission does not reflect the position of the City of Melville. This notice should remind employees of their obligation to ensure that they take care to not represent their private views as views of the City of Melville, especially when they are senior employees of the City. It should make clear that while employees are within their rights to engage with Parliament as part of the democratic process in their personal capacity, it is not at all appropriate for groups of City employees to put joint submissions purporting to set out 'the City's' positions to a Parliamentary body.**

At 8:31pm Cr Kepert withdrew his motion "Submission to the WA Legislative Council Select Committee Into Local Government."

## 16.2 Cr Kepert - Recommendations to the Local Government Standards Panel

At 8:32pm Cr Kepert moved, seconded Cr Pazolli –

### MOTION

The Council:

1. Recognises that the existing complaints system administered by the Local Government Standards Panel represents a governance risk to the City of Melville and to the provision of local governance in Western Australia.
2. Recognises the Local Government Standards Panel:
  - a. Can make findings against Elected Members based on multiple complaints being filed.
  - b. Accepts what is written at face value.
  - c. Can make findings against Elected Members without evidence.
  - d. Claims to operate beyond its stated directive and investigate matters.
  - e. Can determine that parties can claim that another completely unrelated party can “suffer detriment”.
3. Recommends the Director General of the Department of Local Government Sports and Cultural Industries authorise an independent review of the LGSP with the following terms of reference:
  - a. Non-transparency of processes.
  - b. Inconsistency in processes and findings.
  - c. The denial of natural justice.
  - d. Findings being made against Councillors without evidence.
  - e. Findings being made against Councillors based on probability.
  - f. Findings being made against Councillors based on multiple complainants.
  - g. Findings being made against Councillors based on non-public documents as precedents.
  - h. The competency of panellists in the use of social media and information technology.
  - i. Potential bias in decision making.
  - j. Any other area deemed appropriate.
4. Recommends the Department of Local Government Sports and Cultural Industries facilitate training for Councillors covering:
  - a. The processes of the LGSP.
  - b. Interpretations of Regulation 7 of the *Local Government (Rules of Conduct) Regulations 2007*.
  - c. Access to legal advice.
5. Directs the CEO to write to the Minister for Local Government, the Department of Local Government Sports and Cultural Industries and the Local Government Standards Panel notifying them of this motion.
6. Directs the CEO to provide a full report to Council on all complaints lodged by City of Melville officers against City of Melville Councillors in the past 8 years at an EMIS to be held in December 2019.

## 16.2 Cr Kepert - Recommendations to the Local Government Standards Panel

At 8:32pm Cr Wheatland left the meeting and returned at 8:34pm.

At 8:32pm Mr Tieleman left the meeting and returned at 8:34pm.

### COUNCIL RESOLUTION

At 8:43pm Cr Kepert moved, seconded Cr Mair –

**That Cr Kepert be granted a further 5 minutes to speak on this matter.**

At 8:43pm the Mayor submitted the motion, which was declared

**CARRIED (8/5)**

Vote Result Summary	
Yes	8
No	5

Vote Result Detailed	
Cr Barber	Yes
Cr Barton	Yes
Cr Fitzgerald	Yes
Cr Kepert	Yes
Cr Mair	Yes
Cr Pazolli	Yes
Cr Sandford	Yes
Mayor	Yes
Cr Macphail	No
Cr Robartson	No
Cr Robins	No
Cr Wheatland	No
Cr Woodall	No

### MOTION

At 8:32pm Cr Kepert moved, seconded Cr Pazolli –

#### The Council:

1. Recognises that the existing complaints system administered by the Local Government Standards Panel represents a governance risk to the City of Melville and to the provision of local governance in Western Australia.
2. Recognises the Local Government Standards Panel:
  - a. Can make findings against Elected Members based on multiple complaints being filed.
  - b. Accepts what is written at face value.
  - c. Can make findings against Elected Members without evidence.
  - d. Claims to operate beyond its stated directive and investigate matters.
  - e. Can determine that parties can claim that another completely unrelated party can “suffer detriment”.

**16.2 Cr Kepert - Recommendations to the Local Government Standards Panel**

3. Recommends the Director General of the Department of Local Government Sports and Cultural Industries authorise an independent review of the LGSP with the following terms of reference:
  - a. Non-transparency of processes.
  - b. Inconsistency in processes and findings.
  - c. The denial of natural justice.
  - d. Findings being made against Councillors without evidence.
  - e. Findings being made against Councillors based on probability.
  - f. Findings being made against Councillors based on multiple complainants.
  - g. Findings being made against Councillors based on non-public documents as precedents.
  - h. The competency of panellists in the use of social media and information technology.
  - i. Potential bias in decision making.
  - j. Any other area deemed appropriate.
  
4. Recommends the Department of Local Government Sports and Cultural Industries facilitate training for Councillors covering:
  - a. The processes of the LGSP.
  - b. Interpretations of Regulation 7 of the *Local Government (Rules of Conduct) Regulations 2007*.
  - c. Access to legal advice.
  
5. Directs the CEO to write to the Minister for Local Government, the Department of Local Government Sports and Cultural Industries and the Local Government Standards Panel notifying them of this motion.
  
6. Directs the CEO to provide a full report to Council on all complaints lodged by City of Melville officers against City of Melville Councillors in the past 8 years at an EMIS to be held in December 2019.

At 8:57pm the Mayor submitted the motion, which was declared

**LOST (6/7)**

Vote Result Summary	
Yes	6
No	7

Vote Result Detailed	
Cr Barber	Yes
Cr Barton	Yes
Cr Kepert	Yes
Cr Mair	Yes
Cr Pazolli	Yes
Mayor	Yes
Cr Fitzgerald	No
Cr Macphail	No
Cr Robartson	No
Cr Robins	No
Cr Sandford	No
Cr Wheatland	No
Cr Woodall	No

At 8:56pm Cr Kepert left the meeting and returned at 8:59pm.

**16.3 Cr Barton – Planning Process and Decision Making Policy LPP 1.1**

**MOTION**

At 8:58pm Cr Barton moved, seconded Cr Pazolli –

**That Local Planning Policy 1.1 be amended to stipulate that any Development Application whose approval requires variation in the deemed-to-comply standards of the R-Codes be referred to the Development Advisory Unit for determination and if, following advertising, as a result of such variation there are objections that cannot be resolved by consultation, that the Development Application be considered by full Council.**

**Procedural Motion**

**COUNCIL RESOLUTION**

At 9:16pm Cr Woodall moved, seconded Cr Robartson –

**Item 16.3 Motions with Notice Planning Process and Decision Making Policy LPP 1.1 be deferred for a discussion at an Elected Member Information Session in February and presented to the March 2020 Ordinary Meeting of Council.**

At 9:19pm the Mayor submitted the motion, which was declared

**CARRIED (8/5)**

<b>Vote Result Summary</b>	
Yes	8
No	5

<b>Vote Result Detailed</b>	
Cr Fitzgerald	Yes
Cr Macphail	Yes
Cr Mair	Yes
Cr Robartson	Yes
Cr Sandford	Yes
Cr Wheatland	Yes
Cr Woodall	Yes
Mayor	Yes
Cr Barber	No
Cr Barton	No
Cr Kepert	No
Cr Pazolli	No
Cr Robins	No

**Reasons for the Motion as provided by Cr Barton**

1. The proposed changes are in line with the first two Objectives of Policy LPP 1.1 (to promote a consistent approach by the City in the assessment and public advertising of development applications, and to facilitate community input into the decision making process.
2. As residential densities increase, there is a corresponding increase in the likelihood of neighbours being affected adversely by nearby developments.
3. Communication between neighbours is now less common than in the past, and builders/developers may not have an incentive to consult.

**16.3 Cr Barton – Planning Process and Decision Making Policy LPP 1.1**

4. The R-codes process includes the principle of wider neighbour consultation if incorporated in the local planning policy: *“In some schemes, [neighbour] consultation may be required irrespective of compliance of the proposal”* and *“A proposal that meets deemed-to-comply provisions of the R-Codes Volume 1 would not require neighbour consultation unless required by the scheme and/or a local planning policy”*. (R-Codes Explanatory Guidelines page 10)
5. Proponents often do not advise or consult affected neighbours, although they are expected to do so (*“Proponents should consider the likely impacts of their proposal on neighbouring properties and residents. .... It is usually more productive .... to advise neighbours of development proposals as far in advance as possible and, where necessary, negotiate outcomes that are acceptable, before a formal application is lodged”* - R-Codes Explanatory Guidelines page 11).
6. Increased workload for Officers in notifying neighbours and processing objections should be offset by the reduction in time spent mediating and resolving affected-neighbour issues during or after the construction.
7. There should be a reduction in Officer workload in identifying for each DA the need for particular neighbours to be consulted (R-Codes Explanatory Guidelines page 9: *“In those instances where a proposal has the potential to adversely affect the amenity of a neighbouring property, for example by overlooking or overshadowing, the decision-maker can advise which neighbours may need to be consulted and the advertising process to be followed, including the design elements or other matters for which neighbour comment is being sought”*)
8. This is particularly relevant in those areas of the City where neighbour amenity includes views, and although our Local Planning Policies do not specifically include protection of views, the Officers may include this to minimise neighbour conflict (*“Obtaining and keeping views is a significant issue, particularly where a locality’s housing values place a premium on an outlook or featured landscape views. .... a proponent should take into account the desirability of protecting those views enjoyed by neighbours.... the decision-maker may consider the development of local planning policies or local development plans which target the protection of views”* - R-Codes Explanatory Guidelines page 22).
9. Early notification of affected neighbours should reduce the workload for Elected Members, as this puts the responsibility on affected neighbours to become involved early in the process, and if they have objections that cannot be resolved with the proponent to watch for the DAU Recommendation and only then approach the Ward Elected Member.
10. Early notification of affected neighbours should reduce the likelihood of disputes between neighbours and of complaints to the City.

*At 9:13pm Cr Pazolli left the meeting and returned at 9:14pm.*

**16.4 Cr Woodall – Free Parking for Totally and Permanently Incapacitated (TPI) Veterans**

At 9:20pm Cr Woodall moved, seconded Cr Pazolli –

**That the Council:**

- 1) Supports the provision of free parking permits to City of Melville residents and ratepayers who have a valid Department of Veterans Affairs Gold Card – Totally and Permanently Incapacitated (TPI);**
- 2) Directs the Chief Executive Officer to:**
  - a. amend the Schedule of Fees and Charges to provide for the free parking permits referred to in (1) above; and**
  - b. write to relevant State and Federal Members of Parliament requesting that the ACROD system be expanded so that it clearly applies to all TPI Veterans.**

At 9:22pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (13/0)**

**Reasons for the Motion as provided by Cr Woodall**

1. The City of Melville currently provides free parking for all ACROD permit holders in recognition of the difficulty they may face in accessing and using ticket machines.
2. The deputation and discussion at the Agenda Briefing Forum on 26 November revealed a potential discrepancy between the eligibility criteria for ACROD permits and eligibility for the TPI gold cards held by veterans who are totally and permanently incapacitated (TPI Veterans).
3. Specifically, ACROD permits appear to be issued to persons who have a severe walking restriction. TPI Veterans may however have other forms of disability unrelated to walking, such as mental or other physical incapacity.
4. Given that some TPI Veterans may be ineligible for ACROD permits, and in recognition of the injuries they have suffered in service to our nation, it is appropriate that free parking be extended to them.
5. State and Federal Members of Parliament should be requested to extend the ACROD scheme to cover all TPI Veterans, thereby ensure uniformity across local governments.

**16.5 Cr Mair – Mt Pleasant Bowling Club Review**

Item brought forward  
See page 16

**16.6 Cr Kepert – Membership of the Local Government Elected Members Association (LGEMA)**

In introducing the motion, Cr Kepert requested an amendment to point 2 of the motion, by including the following words “*where litigation is finalised or unlikely to proceed.*”

**MOTION**

At 9:22pm Cr Kepert moved, seconded Cr Fitzgerald –

**That:**

1. In accordance with section 5.98 (4) of the Local Government Act 1995, Council approves the reimbursement of annual membership fees to the Local Government Elected Members Association (Inc) for each Elected Member of the City of Melville. The reimbursement is only afforded to sitting Elected Members and not afforded to previous Elected Members.
2. Council instructs the CEO to share legal advice obtained on matters common to all local governments with LGEMA where litigation is finalised or unlikely to proceed. The legal advice should be de-identified and should not refer to the particular local government, and should clearly state the issue on which legal advice was obtained.

**Amendment**

At 9:33pm Cr Robartson moved seconded Cr Macphail - .

**That the first sentence of point 1 of the motion be amended to read**

***“ ... the Local Government Elected Members Association (Inc) for Elected Members of the City of Melville who may wish to become a member of LGEMA. The ...”***

At 9:36pm the Mayor submitted the motion, which was declared

**CARRIED (10/3)**

**16.6 Cr Kepert – Membership of the Local Government Elected Members Association (LGEMA)**

Vote Result Summary	
Yes	10
No	3

Vote Result Detailed	
Cr Barber	Yes
Cr Barton	Yes
Cr Fitzgerald	Yes
Cr Macphail	Yes
Cr Mair	Yes
Cr Robartson	Yes
Cr Robins	Yes
Cr Sandford	Yes
Cr Wheatland	Yes
Cr Woodall	Yes
Cr Kepert	No
Cr Pazolli	No
Mayor	No

*At 9:23pm Cr Woodall left the meeting and returned at 9:26pm.*

*At 9:25pm Mr Ferris left the meeting and returned at 9:28pm.*

**Substantive Motion as Amended**

At 9:22pm Cr Kepert moved, seconded Cr Fitzgerald –

**That:**

1. In accordance with section 5.98 (4) of the Local Government Act 1995, Council approves the reimbursement of annual membership fees to the Local Government Elected Members Association (Inc) for Elected Members of the City of Melville who may wish to become a member of LGEMA. The reimbursement is only afforded to sitting Elected Members and not afforded to previous Elected Members.
2. Council instructs the CEO to share legal advice obtained on matters common to all local governments with LGEMA where litigation is finalised or unlikely to proceed. The legal advice should be de-identified and should not refer to the particular local government, and should clearly state the issue on which legal advice was obtained.

**16.6 Cr Kepert – Membership of the Local Government Elected Members Association (LGEMA)**

**Amendment**

At 9:43pm Cr Woodall moved, seconded Cr Robartson –

**That the second paragraph of the motion be deleted.**

At 9:51pm the Mayor submitted the motion, which was declared

**LOST (6/7)**

Vote Result Summary	
Yes	6
No	7

Vote Result Detailed	
Cr Macphail	Yes
Cr Robartson	Yes
Cr Robins	Yes
Cr Wheatland	Yes
Cr Woodall	Yes
Mayor	Yes
Cr Barber	No
Cr Barton	No
Cr Fitzgerald	No
Cr Kepert	No
Cr Mair	No
Cr Pazolli	No
Cr Sandford	No

**Substantive Motion as Amended**

At 9:22pm Cr Kepert moved, seconded Cr Fitzgerald –

**That:**

- 1. In accordance with section 5.98 (4) of the Local Government Act 1995, Council approves the reimbursement of annual membership fees to the Local Government Elected Members Association (Inc) for Elected Members of the City of Melville who may wish to become a member of LGEMA. The reimbursement is only afforded to sitting Elected Members and not afforded to previous Elected Members.**
- 2. Council instructs the CEO to share legal advice obtained on matters common to all local governments with LGEMA where litigation is finalised or unlikely to proceed. The legal advice should be de-identified and should not refer to the particular local government, and should clearly state the issue on which legal advice was obtained.**

At 9:54pm the Mayor submitted the motion, which was declared

**CARRIED (10/3)**

**16.6 Cr Kepert – Membership of the Local Government Elected Members Association (LGEMA)**

<b>Vote Result Summary</b>	
Yes	10
No	3

<b>Vote Result Detailed</b>	
Cr Barber	Yes
Cr Barton	Yes
Cr Fitzgerald	Yes
Cr Kepert	Yes
Cr Macphail	Yes
Cr Mair	Yes
Cr Pazolli	Yes
Cr Sandford	Yes
Cr Wheatland	Yes
Mayor	Yes
Cr Robartson	No
Cr Robins	No
Cr Woodall	No

**Reasons for the Motion as provided by Cr Kepert**

The recently-formed Local Government Elected Members Association (WA) Inc. (LGEMA) was incorporated on the 7<sup>th</sup> of August 2019 and created to support Elected Members of Local Governments in Western Australia.

LGEMA is dedicated to supporting Elected Members achieving the best possible community outcomes on behalf of their constituents and to streamline the work of Elected Members to ensure effective use of their time.

LGEMA membership is open to current and former Elected Members with the purposes of pooling skills and knowledge; providing resources, mentoring and networking to all local government Elected Members throughout WA; assisting Elected Members to achieve the best outcomes, guided by the principles of openness, accountability, transparency and sustainability.

LGEMA will share legal advice provided to it by local governments on issues that are common to all local governments, which was a recommendation of a Departmental Inquiry into the City of Joondalup in 2005.

**17. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL**Disclosures of Interest

Member	Cr Sandford
Type of Interest	Interest Under the Code
Nature of Interest	Staff Member who parks at Hulme Court
Request	Stay, discuss and vote
Decision	Stay, discuss and vote

Member	Cr Wheatland
Type of Interest	Proximity Interest
Nature of Interest	Work at 1/9 Carr Place Myaree
Request	Stay, discuss and vote
Decision	Stay, discuss and vote

**17.1 Wheel Clamping****COUNCIL RESOLUTION**

At 9:54pm Cr Mair moved, seconded Cr Robartson –

**That Cr Fitzgerald be permitted to present to the Council a Motion Without Notice relating to Wheel Clamping**

At 9:54pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (13/0)**

At 9:57pm Cr Fitzgerald moved, seconded Cr Pazolli –

**That the Council:**

1. reiterates that it has not authorised any person to engage in wheel clamping in the City under its local parking law.
2. opposes the use of wheel clamping for alleged parking violations.
3. directs the CEO to:
  - a. identify and report to council what changes, if any, are required to the Parking Local Law or other City laws and regulations to ensure:
    1. that wheel clamping by private entities is prohibited in the City of Melville.
    2. that signs which purport to create contracts or licences under which wheel clamping is authorised are prohibited in the City of Melville.
  - b. and if no such changes are required, or if the purposes in 3. a. 1. and 2. above can be effected in part without changes, cause them to be effected.

At 9:58pm the Mayor submitted the motion, which was declared

**CARRIED UNANIMOUSLY (13/0)**

## **17.1 Wheel Clamping**

### **Reasons for the motion as provided by Cr Fitzgerald**

Wheel clamping is the practice of securing a device to the wheel of a parked vehicle to prevent its being moved. Some private car park operators have taken to affixing, or contracting others to affix, wheel clamps as a means of enforcing purported fines, fees or penalties which they assert are owed as a consequence of people parking on privately controlled parking spaces. There is no legislative or local law authorisation for this practice. It is not possible to authorise fines or penalties by contract. Indeed, wheel clamping is likely to be the tort – that is a civil wrong – of trespass to goods.

The unauthorised affixing of wheel clamps is unnecessary. Operators of private car parks have other mechanisms of enforcement available to them, including controlling access to the parking bays. The practice of wheel clamping creates considerable confusion around parking laws. Among other things, it gives rise to the perception that the City has endorsed or authorised the practice. This is a significant risk to the City's reputation. Further, extensive wheel clamping has the capacity to dissuade customers from certain areas, and thereby harm local businesses.

In light of this risk, the confusion wheel clamping entails and the undesirability of wheel clamping generally, this motion clarifies that the City does not authorise the practice. It further directs the CEO to prepare a report advising council on what, if any, changes to the parking local law, city policies and/or city procedures are required to prohibit the practice.

In particular, it might be relevant to that report to consider whether:

- Section 4.2 (3) of the Parking Local Law must be amended to ensure that the permission which might be given in s 4.2 (2) must be subject to any conditions not prohibited by the City.
- Section 7.2 is sufficiently broad to require all parking signs to be affixed only with the City's permission, and would permit the City to refuse permission to signs which purported to authorise wheel clamping, or requires amendment to achieve that purpose.
- Section 7.7 is sufficiently broad to prohibit wheel clamping on the basis that a person affixing a wheel clamp is impersonating an authorised person, or requires amendment to achieve that purpose.
- Section 7.7 now or if amended ought to be a specifically prescribed offence in Schedule 2, and if so what a proportionate penalty for that offence should be.

At 9:54pm Cr Mair withdrew her Motion Without Notice below:

### **17.2 Deferment of Shirley Strickland Reserve Concept Plan**

#### **MOTION**

**That the Council requests that the CEO defers any further action on Shirley Strickland Reserve Concept Plan until**

- 1. a business case for the multifunction rooms has been presented to Elected Members for discussion at an Elected Member Information Session.**
- 2. further discussions with the sporting clubs regarding increasing their function area footprint for the purposes of hiring out the facility to other users whether it be by the clubs themselves or by the Council and a review of the sporting club's requirements to operate effectively out of the facility to ensure their longevity of use.**
- 3. the concept plans be represented to an Ordinary Meeting of Council.**

Disclosures of Interest

Member	Cr Mair
Type of Interest	Impartiality Interest
Nature of Interest	May become company Director of a company that owns property in the CBACP area
Request	Leave
Decision	Leave

At 10:00pm Cr Mair having declared an interest left the meeting.

**17.3 Immediate Commencement of Canning Bridge Activity Centre Plan Full Review**

**COUNCIL RESOLUTION**

At 10:00pm Cr Kepert moved, seconded Cr Sandford –

**That Cr Pazolli be permitted to present to the Council a Motion Without Notice relating to Immediate Commencement of Canning Bridge Activity Centre Plan Full Review**

At 10:01pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (8/4)**

<b>Vote Result Summary</b>	
Yes	8
No	4

<b>Vote Result Detailed</b>	
Cr Barber	Yes
Cr Barton	Yes
Cr Fitzgerald	Yes
Cr Kepert	Yes
Cr Pazolli	Yes
Cr Sandford	Yes
Cr Woodall	Yes
Mayor	Yes
Cr Macphail	No
Cr Robartson	No
Cr Robins	No
Cr Wheatland	No

**17.3 Immediate Commencement of Canning Bridge Activity Centre Plan Full Review**

**COUNCIL RESOLUTION**

At 10:01pm Cr Pazolli moved, seconded Cr Kepert–

**That the Council requests the Chief Executive Officer:**

1. **To engage the services of a professional Planning Consultant from open market suppliers with expertise in local government, community engagement and public policy development by no later than 25 February 2020, to prepare a Draft Local Planning Policy relating to Bonus Building Heights in the Canning Bridge Activity Centre Plan for Council's consideration under the *Planning and Development (Local Planning Schemes) Regulations 2015*, addressing the points below:.**
  - a) **Clarifying the information to be submitted with development applications seeking bonus height;**
  - b) **Defining the correlation between community benefit and bonus height for new developments in the M10 and M15 zones; and**
  - c) **Introducing corresponding provisions to guide the exercise of discretion when assessing and determining development applications seeking bonus height.**
  
2. **Requires the Draft Local Planning Policy described in 1. above to be presented to the April 2020 Ordinary Council Meeting.**

At 10:21pm the Mayor submitted the motion, which was declared

**CARRIED (7/5)**

<b>Vote Result Summary</b>	
Yes	7
No	5

<b>Vote Result Detailed</b>	
Cr Barber	Yes
Cr Barton	Yes
Cr Fitzgerald	Yes
Cr Kepert	Yes
Cr Pazolli	Yes
Cr Sandford	Yes
Mayor	Yes
Cr Macphail	No
Cr Robartson	No
Cr Robins	No
Cr Wheatland	No
Cr Woodall	No

**17.3 Immediate Commencement of Canning Bridge Activity Centre Plan Full Review****Reasons for the Motion as provided by Cr Pazolli**

1. Whilst the Council approved a motion at the November OMC to immediately commence the full review of the Canning Bridge Activity Centre Plan (CBACP), it is assessed that there is still the need to have a Local Planning Policy that specifically addresses the methodology to be applied in assessing the discretion for the correlation of community benefits in return for bonus heights with respect to the current Canning Bridge Activity Centre Plan. The need for such a Local Planning Policy was foreshadowed in the Reasons section of the November OMC CBACP Full Review motion.
2. It is hoped that this Local Planning Policy can be drafted in a much shorter time frame than it might take for the full review of the CBACP. To achieve this ambitious deadline it is expected that it will require the City to commission external resources to assist the Planning Officers and Council

*At 10:03pm Cr Wheatland left the meeting and returned at 10:04pm.*

*At 10:04pm Mr Taylor left the meeting and returned at 10:06pm.*

*At 10:12pm Cr Robartson left the meeting and returned 10:13pm.*

*At 10:22pm Cr Mair returned to the meeting.*

**18. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED**

Nil.

**19. CLOSURE**

There being no further business to discuss, Mayor Honourable George Gear declared the meeting closed at 10:22pm.