



**MINUTES**

**OF THE**

**ORDINARY MEETING OF COUNCIL**

**HELD ON**

**TUESDAY 16 APRIL 2013**

**AT 6.30PM IN THE COUNCIL CHAMBERS**

**MELVILLE CIVIC CENTRE**

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# CONTENTS PAGE

	<b>Item Description</b>	<b>Page Number</b>
<b>ITEMS FROM GOVERNANCE COMMITTEE 3 APRIL 2013</b>		
<b>C13/5267</b>	Policy Review – Elected Members Allowances, Claims for Expenses and Conference Attendance	129
<b>C13/5270</b>	Policy Review – Civic and Ceremonial Functions	135
<b>M13/5289</b>	City of Melville – Chief Executive Officer Performance Review	139
<b>URBAN PLANNING</b>		
<b>P13/3380</b>	Three Storey Mixed Use Development at Lot 1 (31F) Ardross Street, Applecross	26
<b>P13/3381</b>	Reconsideration of a Change of Use of Lot 36 (1) Shea Grove, Leeming from 'Residential' to 'Residential' and 'Consulting Room' and Alterations to the Existing Building	10
<b>P13/3382</b>	Change of Use from 'Office' to 'Medical Centre' at Lot 1 (884) Canning Highway, Applecross	40
<b>P13/3378</b>	Adoption of Provision of Public Art in Development Proposals Policy	82
<b>P13/3379</b>	Final Adoption of Council Policy CP – 45: Exhibition / Display Homes	86
<b>P13/3374</b>	Proposed Kite Surfing School at Melville Beach, Applecross	50
<b>P13/3375</b>	Proposed Kite Surfing School at Melville Beach Applecross, Attadale Foreshore and Point Walter	65
<b>TECHNICAL SERVICES</b>		
<b>T13/3383</b>	Re-Development of Carawatha Primary School	90
<b>COMMUNITY DEVELOPMENT</b>		
Nil		
<b>MANAGEMENT SERVICES</b>		
Nil		
<b>CORPORATE SERVICES</b>		
<b>C13/5000</b>	Common Seal Register	104
<b>C13/6000</b>	Investment Statements February 2013	107
<b>C13/6001</b>	Schedule of Accounts February 2013	119
<b>C13/6002</b>	Financial Statements February 2013	123
<b>LATE AND CONFIDENTIAL ITEM</b>		
<b>C13/6057</b>	Blue Gum Collateralised Debt Obligation – Recovery of Losses	143

**MINUTES OF THE ORDINARY MEETING OF THE COUNCIL HELD IN THE COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE, 10 ALMONDBURY ROAD, BOORAGOON, COMMENCING AT 6.30PM ON TUESDAY, 16 APRIL 2013.**

**1. OFFICIAL OPENING**

The Presiding Member welcomed those in attendance to the meeting and declared the meeting open at 6:30pm. Mr J Clark, Governance & Compliance Program Manager, read aloud the Disclaimer that is on the front page of these Minutes and then the Deputy Mayor Cr Duncan Macphail, 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 Standing Orders to ensure the efficient, effective and orderly decision making within this forum.

**2. PRESENT**

Deputy Mayor Cr D Macphail

**COUNCILLORS**

Cr A Nicholson  
Cr R Willis, Cr C Robartson  
Cr N Pazolli, Cr P Reidy  
Cr J Barton, Cr S Taylor-Rees  
Cr R Hill, Cr R Kinnell  
Cr N Foxton, Cr M Reynolds

**WARD**

City  
Bull Creek/Leeming  
Applecross/Mount Pleasant  
Bicton/Attadale  
Palmyra/Melville/Willagee  
University

**3. IN ATTENDANCE**

Dr S Silcox	Chief Executive Officer
Mr M Tieleman	Director Corporate Services
Ms C Young	Director Community Development
Mr J Christie	Director Technical Services
Mr S Cope	Director Urban Planning
Ms A Templeton (left 8.52pm)	A/Manager Statutory Planning
Mr B Taylor	Manager Information, Technology & Support
Mr J Clark	Governance & Compliance Program Manager
Ms J Paparella	Minute Secretary

At the commencement of the meeting there were 27 members of the public and one member from the Press in the Public Gallery.

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

Nil

**4.2 APPROVED LEAVE OF ABSENCE**

His Worship the Mayor R Aubrey

**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.**

Nil

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

Nil

**6. QUESTION TIME****6.1 Mr L Delahaunty, Leeming**

*"In response to advice from the City of Melville and some anonymous circulars distributed to residents of the neighbourhood surrounding John Connell Reserve and the Melville Glades Golf Club; I have undertaken some research of available information and have listed the following questions which need to be answered in order for one to comprehend why the City is undertaking this master planning exercise in the way it is."*

Question 1

*When did the project commence and why was it decided to incorporate the Melville Glades Golf Club leased reserve in the Master planning exercise at all?*

Response

Investigations relating to the current master planning exercise commenced in 2011. The study focuses on the two adjoining reserves (Reserve 24826 and Reserve 28600). The two adjoining reserves present a logical strategic study area and feature different opportunities and constraints with respect to current improvements, land use and contamination.

Question 2

*Is there a public document which clearly outlines the aims and objectives of the Master Planning Project? Does the plan identify the outcomes sought by the Council as opposed to those sought by the Golf Club?*

Response

The general objectives for the project are outlined on the "facts sheet" available on the City's web site. The project objectives relate to the achievement of outcomes for the community as opposed to identifying outcomes sought by the Golf Club.

Question 3

*Have any base principles been established which clearly underlines the ground rules which govern the Master Planning Exercise? Do these principles outline what can and can't be considered due to legal and policy issues established by the State or Council, and what commitments have been made by all the stakeholders on how funding of the proposed development will be met?*

Response

The report presented to the Special Council meeting on 3 April 2013 provides an overview of the "ground rules" relating to the master planning project. The report recognises significant environmental factors, costs and State Government approvals which will have a bearing on whether or not the master plan will proceed and/or in what form. In terms of funding, the master planning exercise has not sought commitments from stakeholders. It is intended that the cost of any proposed works will be funded by returns from the project.

**6. QUESTION TIME (Continued)**Question 4

*Does the City have any legal requirements which make it responsible for the making good of the John Connell Reserve following the completion of the landfill activities? If so what does this involve and are there funds set aside for these commitments?*

Response

The City's obligations with respect to removing contamination from former landfill sites are defined by Contaminated Sites Act of 2003. The City's Refuse Facility Reserve Account may be used for the rehabilitation of former tip sites. It is noted that funds in this account are not considered sufficient to meet the potential costs associated with rehabilitation of John Connell Reserve.

Question 5

*Why is there an amount of \$10m included as a liability to rectify contamination problems identified on this site, in the financial analysis of the concept designs? Are details available on what type of work these funds would be allocated for?*

Response

The City has undertaken preliminary soil testing and regular ground water testing of John Connell Reserve. The amount of \$10 million is an estimation of the costs associated in removing material from John Connell Reserve in the event that the Department of Environment and Conservation require the City to remediate the site.

The site is not considered to pose a risk to the community in its current form and no request for remediation has been received from the Department of Environment and Conservation. The City however must be cognisant of the status of John Connell Reserve and the potential financial impact this could have upon the community if the City were required to rehabilitate the reserve in the future.

Question 6

*The City appointed Cardno Consultants to undertake the Master Planning and Community Engagement Strategy. Can the final report and supporting documentation be made available to the public to allow open and accountable assessment of their findings and recommendations?*

Response

The outcome from the Special Council Meeting on 3 April 2013 provides for further consultation on three concepts for the study area. To assist and inform the community in providing feedback, it is intended that each of the identified concepts will be circulated with further supporting information explaining the features, benefits and challenges of each concept. If considered advantageous to the engagement process, Council may direct that the full technical report be made available.

**6. QUESTION TIME (Continued)**Question 7

*Can the City please make available details of the adopted Community Engagement Strategy and information on how it has gone about consulting with the local community?*

Response

The Community Engagement Strategy for the first stage of engagement will be placed on the City's web site. Development of the Community Engagement Strategy for the second phase of consultation is currently being progressed with the involvement of a community panel that will assist the City in developing a consultation methodology that helps to engage all of the community.

Question 8

*Can the City please advise what annual fees and rates the Melville Glades Golf Club pay for their exclusive rights to reserve 28600?*

Response

For the 2012-2013 year the Melville Glades Golf Club is invoiced a lease fee of \$23,265.75. In terms of rates, the granting of a concession is considered annually during the budget process. In the past a concession of 100% has been granted, having regard to, amongst other things, the lease fee paid.

Question 9

*If the golf course is repositioned to take some land on the John Connell Reserve will this reduce public access to the recreation reserve 24826?*

Response

Large portions of Reserve 24826 are currently unusable and restricted in access. Concepts being examined aim at improving the usability of the land and improving access.

It is not possible to ascertain the final open space provisions within this area as there are 3 alternate Concepts that may or may not be initiated. Before the matter is again considered by the Council, information in respect to open space provision and other key information will be collated.

**6. QUESTION TIME (Continued)**Question 10

*Does the fact that the John Connell is classified as a contaminated site place restrictions on the form of activities which can be planned for that reserve? If so can the City supply details of this information?*

Response

Preliminary investigations have confirmed a level of contamination under John Connell reserve. Restrictions on the ability to plan for different uses of the land are directly related to the level of rehabilitation and the difficulties that would be encountered in construction methodologies. Complete rehabilitation would enable a wider range of development to take place on the land. Partial rehabilitation would allow consideration of uses such as recreation activities.

Question 11

*The recent report to a special meeting of the Council held 3 April 2013 talks about an independent financial analysis undertaken by LMW Hegneys on the concept designs without supplying any detail. Can this report be released to the public to allow open and accountable assessment of the findings and help clarify who will be responsible to fund the infrastructure costs of the concept proposals?*

Response

The report to Council on 3 April 2013 provides an overview of the financial analysis undertaken with respect to the different concept plans. This analysis was informed in part by work completed by LMW Hegneys. As mentioned in response to question 6 above, the consultation phase on the three concepts will be supported through the inclusion of additional information outlining the merits, opportunities, costs and challenges presented by each of the concepts. Further consideration of the concepts by the Council will also be subject to a separate audit process examining project costings, feasibility and risks.

Question 12

*Is it correct that the inclusion of residential components in the concept designs rests entirely on the ability of the State Government to agree to grant the City freehold title to the land involved or all of reserve 28600? This compensation is in return for the rezoning of Ken Hurst Park to Bush Forever use? If so can the community be advised how the City sees it has a right for such compensation and why it has seen fit to have it awarded to reserve 28600?*

**6. QUESTION TIME (Continued)**Response

The Master Planning project is dependent upon State Government support and the granting of a range of State Government approvals. Granting of freehold title to portions of the existing reserves, where required, is central to the success of the project.

There are various avenues available to seek this granting of freehold title. One approach being explored relates to a potential compensation claim resulting from the State Government's reservation and rezoning of freehold land owned by the City at Ken Hurst Park.

Transferring the value of this freehold site to other reserves, possibly but not necessarily portions of Reserves 28600 and 24826, represents a non adversarial approach to resolving the compensation issue at Ken Hurst Park.

The issue of compensation associated with Ken Hurst Park whilst critical to the City and its community, is not the only means available by which the City can acquire freehold land within an endorsed final concept for Reserve 28600.

Question 13

*Would such a grant of compensation mean the cancelation of a "C" class recreation reserve and a reduction of public open space available in the Leeming area?*

Response

Depending on which concept, if any, is progressed, it is expected that portions of the existing reserves would be cancelled. New areas of open space are identified in the concepts and overall the amount of useable and accessible open space in the locality is expected to increase.

Question 14

*Is it correct that a recent report released by the State Government entitled "Metropolitan Local Government Review" suggests all of this land under consideration should be transferred to the City of Canning in the near future?*

Response

Option B of the October 2012, Metropolitan Local Government Review suggests including the land under consideration within an enlarged City of Canning. Option A of this report retains the land within a modified City of Melville.

## 7. AWARDS AND PRESENTATIONS

### Australian Business Excellence Silver Award

The City of Melville has used the Australian Business Excellence Framework as a “Best Practice” guidebook, and as a tool for the organisation to identify opportunities for improvement and to benchmark against other organisations.

In late 2012, the City was assessed for the Business Excellence Awards and was successfully awarded silver status.

Mr David Sikorski of SAI Global presented the Australian Business Excellence Silver Award to the Deputy Mayor.

## 8. CONFIRMATION OF MINUTES

### 8.1 ORDINARY MEETING OF COUNCIL – 19 MARCH 2013 [Min 19 March 2013](#)

#### COUNCIL RESOLUTION

At 6.39pm Cr Willis moved, seconded Cr Barton -

**That the Minutes of the Ordinary Meeting of Council held on Tuesday, 19 March 2013, be confirmed as a true and accurate record.**

At 6.39pm the Deputy Mayor submitted the motion, which was declared  
**CARRIED (12/0)**

### 8.2 NOTES OF AGENDA BRIEFING FORUM – 9 APRIL 2013 [Notes 9 April 2013](#)

#### COUNCIL RESOLUTION

At 6.40pm Cr Reidy moved, seconded Cr Hill -

**That the Notes of the Agenda Briefing Forum held on Tuesday, 9 April 2013, be received.**

At 6.40pm the Deputy Mayor submitted the motion, which was declared  
**CARRIED (12/0)**

### 8.3 SPECIAL MEETING OF COUNCIL – 3 APRIL 2013 [Min SMC 3 April 2013](#)

#### COUNCIL RESOLUTION

At 6.40pm Cr Robartson moved, seconded Cr Kinnell -

**That the Minutes of the Special Meeting of Council held on Wednesday, 3 April 2013, be confirmed as a true and accurate record.**

At 6.40pm the Deputy Mayor submitted the motion, which was declared  
**CARRIED (12/0)**

**8.4 GOVERNANCE COMMITTEE MEETING – 3 APRIL 2013****COUNCIL RESOLUTION**

At 6.41pm Cr Hill moved, seconded Cr Robartson -

**That the Minutes of the Governance Committee held on Wednesday, 3 April 2013 be noted.**

**NB:**

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

At 6.41pm the Deputy Mayor submitted the motion, which was declared  
**CARRIED (12/0)**

**9. DECLARATIONS OF INTEREST****9.1 FINANCIAL INTERESTS**

Nil

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

M12/5289 - Dr S Silcox – Interest under the Code of Conduct

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

- Deputy Mayor Cr D Macphail
- Cr P Reidy
- Cr R Willis
- Cr N Pazolli

At 6.42pm Cr Barton moved, seconded Cr Reynolds -

**That the application for new leave of absence submitted by Cr Macphail, Cr Reidy, Cr Willis and Cr Pazolli on 16 April 2013 be granted.**

At 6.42pm the Deputy Mayor submitted the motion which was declared  
**CARRIED (12/0)**

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

- **C13/6057 - Blue Gum Collateralised Debt Obligation – Recovery of Losses**

The matter is confidential in accordance with Section 5.23 (d) of the Local Government Act 1995, legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting.

**12. PETITIONS**

Nil

**13. REPORTS OF THE CHIEF EXECUTIVE OFFICER**

At 6.43 pm the Deputy Mayor requested that Items P13/3381, P13/3380, P13/3382, P13/3374 and P13/3375 be brought forward for discussion.

**13.1 REPORTS OF THE CHIEF EXECUTIVE OFFICER**

The Presiding Member is to advise Elected Members that when dealing with the following Reports they act in their Quasi-Judicial capacity which means that they are performing functions which involve the exercise of discretion and require the decision making process be conducted in a Judicial Manner. The judicial character arises from the obligation to abide by the principles of natural justice and requires the application of the relevant facts to the appropriate statutory regime.

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

Ward	: Bull Creek/Leeming
Category	: Operational
Application Number	: DA-2012-715/A
Property	: Lot 36 (1) Shea Grove, Leeming
Proposal	: Reconsideration of a Change of Use from ‘Residential’ to ‘Residential’ and ‘Consulting Room’ and for Alterations to the Existing Building.
Applicant	: Archetype Design Studio Pty Ltd
Owner	: Swami Krupa Pty Ltd
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: P12/3341 Ordinary Meeting of Council 16 October 2012
Responsible Officer	: Peter Prendergast Manager Statutory Planning

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

**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 checked="" type="checkbox"/>	Quasi-Judicial	<b><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></b>
<input type="checkbox"/>	Information	<i>For the Council to note.</i>

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- On 16 October 2012, Council refused an application for Planning Approval for a change of use of Lot 36 (1) Shea Grove, Leeming from ‘Residential’ to ‘Consulting Room’ on the basis that it would not be consistent with orderly and proper planning, the amenity of the area and State Planning Policy.
- The Applicant subsequently applied to the State Administrative Tribunal (SAT) for a review of this decision.
- Mediation sessions facilitated by the SAT have since followed. These mediations have resulted in the preparation of a revised design proposal which is the subject of this report.
- The SAT has now ordered the City to reconsider its previous decision in accordance with Section 31 of the *State Administrative Tribunal Act 2004* on the basis of the revised design proposal.
- The revised design involves the conversion of the existing dwelling into two tenancies. One to contain a two bedroom dwelling and the other a Consulting Room.
- The amended proposal has been the subject of further advertising to all property owners and the lead petitioner who previously submitted on the previous plans. 29 submissions have been received.
- In addition, and as part of the applicant's submission in support of the revised Section 31 application, the Applicant has provided the details of two petitions containing a total of 121 signatures in support of the development.
- The amended plans are considered to have addressed a number of the concerns raised by submitters as part of the original proposal.
- Overall, the proposal is considered to be acceptable in the proposed location and consistent with the requirements of Community Planning Scheme No. 5.
- The application is recommended for approval subject to conditions.



**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

**BACKGROUND**

On 16 October 2012, Council refused an application for Planning Approval for a change of use of the existing dwelling at Lot 36 (1) Shea Grove, Leeming from ‘Residential’ to ‘Consulting Room’ on the basis that it would not be consistent with orderly and proper planning, the amenity of the area and State Planning Policy.

This proposal included provision for two consultants and one staff member and involved the conversion of the entire dwelling for the Consulting Room use.

Following the refusal, the Applicant applied to the SAT for a review of this decision. Mediation sessions facilitated by the SAT have since followed and Council has been represented by City staff as well as the Mayor, Cr Robartson and Cr Willis. A representative from the community, Mr Schrieber has also attended the mediation sessions.

The mediation sessions have resulted in the preparation of a revised design proposal which is the subject of this report.

The SAT has now ordered the City to reconsider its previous decision in accordance with Section 31 of the *State Administrative Tribunal Act 2004* on the basis of the revised design proposal.

**Scheme Provisions**

MRS Zoning	: Urban
CPS 5 Zoning	: Living Area (L1 – Leeming)
R-Code	: R20
Use Type	: Residential and Consulting Room
Use Class	: Residential – P - permitted Consulting Room – S – discretionary use not permitted unless Council exercises discretion and grants approval after advertising in accordance with Clause 7.5(d)

**Site Details**

Lot Area	: 1,049m <sup>2</sup>
Street Tree(s)	: Removal of some smaller vegetation proposed. See ‘Comment’ section below.
Street Furniture (drainage pits etc)	: None applicable
Site Details	: See aerial photo above

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

**DETAIL**

The proposal satisfies all of the relevant development requirements of CPS5, the Residential Design Codes and Council policies.

**PUBLIC CONSULTATION/COMMUNICATION**

A petition with 108 signatures and 33 submissions all in opposition to the proposal were made during the initial advertising period relating to the previous proposal.

The lead petitioner and the 33 property owners who previously made a submission have all been advised of the amended proposal and were given a further 14 day period to make further submissions.

29 submissions have been received during this period, all in objection to the proposal.

For reasons of brevity, the table below provides a summary of the issues raised rather than an analysis of the 29 individual submissions.

<b>Issue Number</b>	<b>Summary of Issue</b>	<b>Support/ Objection</b>	<b>Comments</b>	<b>Action (Condition/ Uphold/ Not Uphold)</b>
1.	Lack of transparency within the SAT process. The amended plans should have been sent out with the advertising letter.	Objection	<p>The SAT mediation process is confidential and is not prescribed by the City. Accordingly, the concerns regarding the transparency of the SAT process are acknowledged. However, it is noted that in this instance, the SAT allowed a community representative to be party to the SAT mediation process.</p> <p>The Applicant did not consent to the release of the amended plans. Therefore due to copyright restrictions the City was unable to post the plans.</p>	Not Uphold

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

2	The conditions of operation were not included within the advertised information.	Objection	Conditions of approval are set by Council at the Council meeting. Recommended conditions are put forward to Council by Officers as part of the reporting process. To advertise recommended conditions of approval would be misleading as they may be changed by Council.	Not Uphold
3	Traffic along Westminster Road is very heavy during peak times and the added traffic and on-street parking generated by the proposal will have an implication on road safety and congestion. The area is well frequented by children given the proximity to two schools.	Objection	As outlined below in the ‘Comment’ section of the report, Westminster Road is operating below capacity for its designation and the access and parking arrangements satisfy the relevant Australian Standards.	Not Uphold
4	The proposal is not a ‘home business’ or a ‘home occupation’ as the residence can be tenanted out independent of the business.	Objection	Approval is not sought for a ‘Home Business’ or ‘Home Occupation’, rather two tenancies, one containing a residence and the other a consulting room.	Not Uphold

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

5	The property owner will not be staying on the premises. What is to stop him from selling one of the tenancies off?	Objection	Land tenure is not a material planning consideration. The subject site is of adequate size to allow for a two lot subdivision. Were this to occur, one or both of the properties could be sold without impediment. Notwithstanding this, the conditions of any planning approval granted would still apply.	Not Uphold
6	The proposal results in a commercial creep into the residential area.	Objection	The City of Melville Community Planning Scheme No. 5 allows the operation of Consulting Rooms within the Living Area Precinct; accordingly, Consulting Rooms are not required to be located solely within commercial precincts.	Not Uphold
7	There are already five urologists located at St John of God Hospital in Murdoch and another on Farrington Road. There are also a number of suitable properties in Farrington Road, Calley Drive and well as Murdoch for Consulting Rooms.	Objection	The Applicant is one of the five consultants at St John of God hospital.  The City must consider the application on its merits in relation to the subject site only. The availability of other premises in the locality is not a material consideration in respect of the current proposal.	No Uphold

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

8	Orderly and proper planning has not been considered. The proposal does not satisfy the Objectives of CPS5. The proposal provides a regional service and should be located within a commercial area.	Objection	As outlined below in ‘Policy Implications’ the small scale nature of the proposal is not considered to undermine the integrity of State Planning Policy.	Not Uphold
9	Approval of this proposal will put pressure on the City of Melville to approve future proposals for similar professions within the area.	Objection	Proposals for similar land use activities in this area will be considered on their individual merit as and when such applications are submitted.	Not Uphold
10	The proposal will result in a negative impact upon the amenity of the residential area by virtue of its associated signage, lighting, parking and driveways.	Objection	The residential integrity of the Shea Grove frontage is retained intact. The consulting room element of the use is designed at a domestic scale to complement the character of the area.  The proposed signage is limited in its scale, and the parking area will be screened by a boundary fence.	Not Uphold
11	The proposed Consulting Room would not generate any noise outside of the hours of operation as it will be unoccupied. This will adversely affect the residential amenity of the area.	Objection	As there will also be a residence on the property, general noise associated with residential occupation will still occur from this site.	Not Uphold

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

12	Will the Consulting Room be restricted only for the use of the Applicant or could they also be leased to other consultants? This would lead to an increased use of the premises.	Objection	Conditions of approval are recommended to limit the use of the Consulting Room to no more than one consultant and support staff member at any one time. This will not restrict the use of the premises to only the Applicant; however the impact as a result of the Applicant or any other consultant operating from the premises will be the same. A condition restricting the hours of operation is also recommended.	Not Uphold
13	The proposal will not provide passive surveillance.	Objection	The amended proposal involves a residential dwelling fronting Shea Grove which will allow passive surveillance. Passive surveillance would also occur from the general activities associated with the Consulting Room use.	Not Uphold
14	The business could be expanded in the future by increasing the floor area or the number of staff.	Objection	Should the application be approved, this will be on the basis of the submitted plans and in accordance with the conditions of approval. Any increase to the floor area or number of staff would require further approval from the City of Melville.	Not Uphold

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

15	Medical facilities are often targeted for burglaries and have a higher incidence of anti-social behaviour such as street drinking, loitering and graffiti.	Objection	These concerns are not material planning considerations in respect of this proposal.	Not Uphold
16	The commercial element will have an impact upon property prices.	Objection	Property value is not a material planning consideration.	Not Uphold

In addition to the above, the Applicant two petitions in support of the application containing a total of 121 signatures, have been submitted to the City.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Consultation with other agencies / consultants is not required in this case.

**STATUTORY AND LEGAL IMPLICATIONS**

The application is currently under appeal to the SAT. Council's resolution on this proposal will determine the future course of this application at SAT. Should the Council recommend refusal of the proposal, the Application for Review will likely proceed to a full hearing at SAT.

**FINANCIAL IMPLICATIONS**

Should Council refuse the application and it proceeds to a full hearing at the SAT, the Council will need to engage the services of planning consultants to represent the City's interests. This will incur the payment of relevant consultant fees.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)****POLICY IMPLICATIONS**

The question has been raised in respect of the extent to which, if any, the proposed development would undermine the intent of State Planning Policy 4.2: Activity Centres for Perth and Peel (SPP4.2), in that Murdoch is identified within the Policy as a Specialised Activity Centre within which health, education and research activities should be concentrated.

It is considered that the small scale nature of the consulting room use proposed is such that the development cannot be seen to undermine the integrity of either SPP4.2, or the Murdoch Activity Centre.

There are no other policy implications relevant to this application.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Council could refuse to grant consent to the revised proposal on the grounds that the mediated plans are not consistent with proper and orderly planning and will have an adverse impact upon the amenity of the area. However, this course of action is not recommended for the reasons detailed in support of the application. Should the application be refused, the matter is likely to be the subject of a full hearing at SAT for review and subsequent determination by SAT.

It must be noted that the plans that are the subject of the current Section 31 reconsideration may not be those that proceed to a full hearing of the SAT, as the Applicant may request that the matter be determined on the basis of the original plans.

**COMMENT**

Planning approval is sought to convert the existing Single House at Lot 39 (1) Shea Grove into one, two bedroom Grouped Dwelling and a Consulting Room.

The proposed dwelling is to be contained within the western portion of the existing building adjacent to Shea Grove. The dwelling is to contain two bedrooms, kitchen, dining and lounge areas, as well as two bathrooms and a laundry. A dedicated outdoor garden/living area is included, as are car parking bays in accordance with R Code requirements. Access to the residence will be solely from Shea Grove, thereby safeguarding the integrity of Shea Grove as a wholly residential street.

The proposed Consulting Room is to be contained within the eastern portion of the existing building and is to contain one consulting room, a kitchenette, reception / administration area, waiting room and bathroom facilities. The access to the Consulting Room is via the Westminster Road frontage, as are the five car parking bays proposed within the southern portion of the property which are to service both the staff and patients of the practice.

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

A Consulting Room is defined within CPS5 as:

*“Land or buildings, other than a hospital, used by not more than two health consultants and one staff member, for the investigation or treatment of human injuries or ailments, and for general patient care.”*

In this instance it is proposed to establish the Consulting Room as a Urology practice to be staffed by one consultant and one staff member at any one time. Only pre and post operative patient interviews will occur on the site, no medical procedures will be performed.

It is proposed to operate the practice between 9am and 5pm, Monday to Friday. Attendance is via appointment only. Consultations will be between 30 and 40 minutes in length for new patients and between 15 and 20 minutes for follow up visits.

#### Land Use

Residential is a ‘P’ – permitted use within the Living Area Precinct.

A Consulting Room is an ‘S’ use which means that it’s approval is at the discretion of the Council, following advertising in accordance with CPS5.

The Statement of Intent for the Living Area Precinct states:

*‘primarily residential but may include home occupations, corner shops, parks, religious, recreational and educational activities, provided they are designed in a residential style and are not developed to such an intensity that they disturb the Precinct. All non-residential uses shall be advertised in accordance with Clause 7.5.’*

The Consulting Room as now proposed, is effectively a scaled down version of the original proposal. This scaling down of the use addresses a number of the issues raised in the submissions received on the original proposal, including concerns relating to the building being vacated outside business hours, and the impact that the introduction of a non residential use would have on the residential character of the locality.

In particular, the development as now proposed retains the wholly residential character and function of Shea Grove, as all access to the proposed consulting room is proposed to be taken from Westminster Road, leaving Shea Grove as the dedicated residential interface for the proposed remodelled residence.

In view of this, the potential adverse impacts, as cited by concerned local residents and referred to above, are mitigated, and the development as now proposed is considered acceptable in land use terms.

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

Traffic and Parking Considerations

The subject property is located on the corner of Shea Grove and Westminster Road, Leeming.

The proposed development satisfies the on-site parking requirements outlined by the R-Codes (in respect of the residential component), and Council Policy CP-079: Car Parking (Non-Residential) (in respect of the consulting room use).

In respect of the capacity of Westminster Road to accommodate the additional traffic generated by the proposal, it is noted that Westminster Road is classed as a Local Distributor Road on the City’s Functional Road Hierarchy. The most recent traffic volume count for Westminster Road (2007) was between 2,000 and 2,500 vehicles per day, which is less than the 3,000 to 6,000 vehicles per day range considered acceptable for a Local Distributor road. As such, the additional traffic generated by the development as proposed can be accommodated.

Signage

A sign is proposed to be located on the boundary fence along Westminster Road, adjacent to the entry. The sign is 0.7m<sup>2</sup> in area and complies with the requirements within both CPS5 and the draft Outdoor Advertisements and Signage policy.

Front and Secondary Street Fencing

A visually permeable fence is proposed along the Westminster Road boundary of the property; however the fencing along the truncation and Shea Grove boundary is proposed to be solid to 1.8m in height.

As the primary outdoor living area for the proposed residence will be located adjacent to Shea Grove, it is considered that the portion of solid fencing to the north of the existing car port is acceptable in order to provide privacy to the backyard area consistent with performance criteria in Cl. 6.2.5 of the R Codes. Notwithstanding, it is considered that the remainder of the boundary fencing along the Westminster Road frontage and the truncation should be visually permeable to enhance the surveillance of the property and to be consistent with the residential character of the area.

Street Trees

The proposed development will result in the removal of two existing small verge trees along Westminster Road, to make way for a new vehicle crossover. The removal of these street trees is considered to be acceptable subject to the provision of replacement trees in accordance with the Council’s Street Tree Policy CP-029, and given other trees within the verge are proposed for retention.

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**Precedent

The approval of the proposed development would not result in the surrounding area becoming ‘mixed use’ and would not open the flood gates to the area becoming inundated with non-residential uses. Where consent for non-residential uses such as Consulting Rooms are sought within predominantly residential areas such as this, those applications will be assessed on their merit taking into account the location of the subject site and any other characteristics of the area.

Amenity

The proposed development has been assessed in accordance with the amenity provisions of Clause 7.8 of CPS5 and those of Council Policy CP-067: Amenity, and is considered to be acceptable in this context.

**CONCLUSION**

It is considered that the development as now proposed addresses a number of the key concerns as expressed by submitters’ and as reflected in the previous decision of the Council. As such, the proposed development is recommended for approval.

**OFFICER RECOMMENDATION (3381)****APPROVAL**

**A That the Council resolve to approve the Change of Use from ‘Residential’ to ‘Residential’ and ‘Consulting Room’ with additions to the existing building pursuant to Section 31 of the *State Administrative Tribunal Act 2004* at Lot 36 (1) Shea Grove, Leeming subject to the following conditions:**

- 1 No more than one consultant and one support staff member are to operate from the premises at any one time.**
- 2 The Consulting Room shall not operate outside the hours of 9am to 5pm, Monday to Saturday.**
- 3 Prior to the commencement of the development, a revised plan for the provision of front fencing shall be submitted to and approved in writing by the Manager Statutory Planning on behalf of the City. The revised plan shall detail the provision of front and secondary street fencing at a maximum height of 1.8 metres from any adjoining natural ground level. Fencing proposed to be erected along the site boundary to Westminster Road, including the area of the corner truncation, must be visually permeable above 1.2m as per the City’s Residential Development Policy CP-078.**
- 4 A 1.8m clearance between the proposed Westminster Road crossover and the existing street tree within the Westminster Road verge is to be provided to the satisfaction of the Manager Statutory Planning.**

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

- 5 Prior to the initial occupation of the development, the two street trees within the proposed crossover off Westminster Road shall be removed and replaced with four trees in accordance with Street Tree Policy CP-029 to the satisfaction of the Manager Statutory Planning. All costs associated with this are to be borne by the Applicant.
- 6 Prior to the initial occupation of the development, lighting is to be provided to the Westminster Road car parking area and the exterior entrance to the Consulting Room in accordance with Australian Standard AS 1158.3.1 (Cat. P). All external lighting is to be hooded and orientated so that the light source does not detract from visual and/or residential amenity to the satisfaction of the Manager Statutory Planning.
- 7 Prior to the initial occupation of the development, the five parking bays, manoeuvring area, crossover and points of ingress and egress shall be provided for the proposed Consulting Room in accordance with the approved plans to the satisfaction of the Manager Statutory Planning. The bays shall thereafter be retained in perpetuity.
- 8 Prior to the initial occupation of the development, all unused crossovers are to be removed and the kerbing and verge reinstated at the Applicant's cost to the satisfaction of the Manager Statutory Planning.
- 9 Prior to commencement of the development, a detailed landscaping and reticulation plan for the subject site shall be submitted to and approved in writing by the Manager Statutory Planning. The landscaping plan is to include details of (but not limited to):
  - (a) The location, number and type of proposed trees and shrubs including size and planting density;
  - (b) Any lawns to be established;
  - (c) Any existing vegetation and/or landscaped areas to be retained; and
  - (d) Any verge treatmentsThe approved landscaping and reticulation plan shall be fully implemented within the first available planting season after the initial occupation of the development and maintained thereafter to the satisfaction of the Manager Statutory Planning. Any species which fail to establish within the first two planting seasons following implementation shall be replaced in accordance with the City's requirements.
- 10 All stormwater generated on site is to be retained on site.

**Advice Notes**

- 1 Signage associated with the Consulting Room is limited to one sign, affixed to the front fence and no greater than 0.7m<sup>2</sup> in size.

**P13/3381 – RECONSIDERATION OF A CHANGE OF USE OF LOT 36 (1) SHEA GROVE, LEEMING FROM ‘RESIDENTIAL’ TO ‘RESIDENTIAL’ AND ‘CONSULTING ROOM’ AND ALTERATIONS TO THE EXISTING BUILDING (REC) (ATTACHMENT)**

**REJECT AND REPLACE**

At 7.06pm Cr Robartson moved, seconded Cr Willis -

**That the State Administrative Tribunal be advised that the City of Melville reiterates its discretionary decision of the Ordinary Meeting of the Council Item P12/3341 held on 16 October 2012, that the application for Planning Approval for change of use of Lot 36 (1) Shea Grove, Leeming from “Residential” to “Consulting Room” be refused.**

At 7.06pm the Deputy Mayor submitted the motion, which was declared

**CARRIED (12/0)**

Reasons for Refusal

Due to the highly specialised nature of the practice, the proposal does not satisfy Clause 7.8(c) of Community Planning Scheme No. 5 as it will detract from the character and amenity of the surrounding residential area.

**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

Ward : Applecross/Mt Pleasant  
 Category : Operational  
 Application Number : DA-2013-256  
 Property : Lot 1 (31F) Ardross Street, Applecross  
 Proposal : Three Storey Mixed-use Development  
 Applicant : Trainer Trust 2  
 Owner : Ms Maxine Trainer  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : P11/3226 - Ordinary Meeting of Council 19 July 2011  
 Responsible Officer : Peter Prendergast  
 Manager Statutory Planning

**AUTHORITY / DISCRETION**

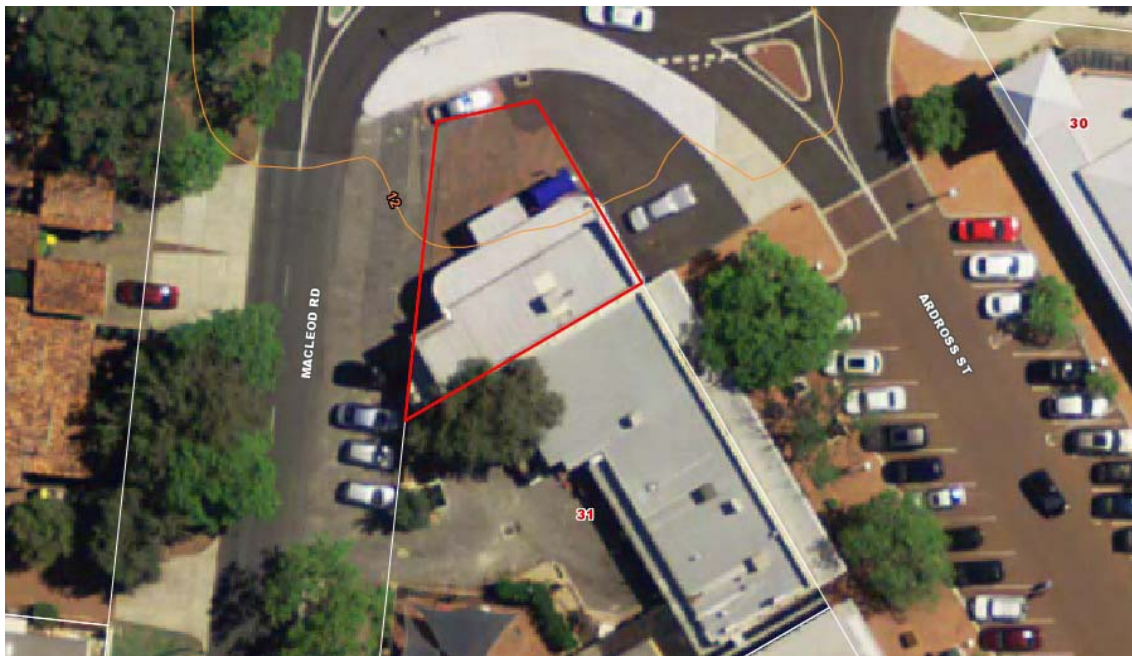
**DEFINITION**

<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 checked="" type="checkbox"/>	Quasi-Judicial	<b><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 (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i></b>
<input type="checkbox"/>	Information	<i>For the Council to note.</i>

**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Planning approval is sought to construct a three storey mixed use building at Lot 1 (31F) Ardross Street, Applecross.
- This application effectively represents an amendment to the previously approved, three storey mixed use development which was considered by the Council on 19 July 2011.
- As the previous approval expires in July 2013, and it is unlikely that the development will be substantially commenced prior to this time, a new application has been submitted for the consideration of Council.
- The proposed plans are consistent with the previous approval, with the exception of the relocation of the front entrance to Ardross Street and some internal modifications which result in an increase to the plot ratio.
- The proposed amendments are considered acceptable and consistent with the objectives of Community Planning Scheme No. 5 (CPS5), the Residential Design Codes (R-Codes) and Council Policies.
- The approval of this application requires a Special Majority decision of Council with respect to plot ratio and an Absolute Majority decision of Council relating to the car parking variation.
- The application is recommended for approval subject to conditions.



**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)****BACKGROUND**

The application site has been the subject of a number of development proposals in recent years, including:

- August 1997 – Café / Shop / Office development
- October 1999 – Medical Centre
- June 2000 – Shop
- October 2009 – Office / Shop / Restaurant
- July 2011 – Shop / Office / Residential

*July 2011 approval*

The most recent approval was determined by Council at its Meeting held 19 July 2011. The development included:

- A Shop and an Office tenancy on the ground floor level, as well as four on-site parking bays and a public toilet.
- An Office tenancy on the first floor.
- A Residential apartment on the second floor.

This approved development included a plot ratio of 1.2 (296m<sup>2</sup>) and a shortfall of three on-site commercial car parking bays which was proposed to be off-set via the provision of three verge bays within the MacLeod Road reserve.

**Scheme Provisions**

MRS Zoning	:	Urban
CPS 5 Zoning	:	Community Centre Precinct
R-Code	:	R40
Use Type	:	Office, Shop and Residential
Use Class	:	Office – P Shop – P Residential - D

**Site Details**

Lot Area	:	235m <sup>2</sup>
Street Tree(s)	:	Not applicable
Street Furniture (drainage pits etc)	:	Not applicable
Site Details	:	Refer to photo

[3380 Site and Elevation Plans 31F Ardross St Applecross](#)

**DETAIL**

The proposal satisfies all of the relevant provisions of CPS5, the R-Codes and Council Policies with the exception of those matters listed below:

**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

**CPS5 and Policy Requirements**

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation
Plot Ratio	0.3 (70.5m <sup>2</sup> )	1.476 (347.8m <sup>2</sup> )	Requires assessment against amenity provisions of Clause 7.8 of CPS5.	Special Majority decision of Council
Landscaping	10%	Nil	Requires assessment against amenity provisions of Clause 7.8 of CPS5.	Absolute Majority decision of Council
Car Parking	6.54 bays (Shop / Office)	4 bays	Requires assessment against amenity provisions of Clause 7.8 of CPS5.	Absolute Majority decision of Council

**R-Code Requirements**

Development Requirement	Acceptable Development	Proposed	Comments	Delegation to approve variation
Front Setback	4m	0.802m	Requires assessment using Performance Criteria	MSP
Secondary Street Setback	3m	Nil	Requires assessment using Performance Criteria	MSP
Rear Setback	1.4m	Nil	Requires assessment using Performance Criteria	MSP
Outdoor Living Areas	10m <sup>2</sup>	7.7m <sup>2</sup>	Requires assessment using Performance Criteria	MSP

**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

Notwithstanding the revised Non Residential Car Parking Policy, the variation to the levels of car parking provision remain identical to those that were previously accepted at the time of the previous planning approval.

In addition, the proposed development is, subject to the imposition of a condition, consistent with the requirements of the draft Non-Residential Development and Provision of Public Art in Development Proposals policy.

In essence, the proposed development represents a simple amendment to the development as previously approved in July 2011, in view of which, commentary in this report will be restricted to the points of difference now proposed.

**PUBLIC CONSULTATION/COMMUNICATION**

As the application proposes an increase to the plot ratio previously approved by Council, consultation was undertaken in accordance with the requirements of CPS5. No submissions were received.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

None applicable in this case.

**STATUTORY AND LEGAL IMPLICATIONS**

Should the City of Melville refuse the application for Planning Approval, the applicant will have the right to have the decision reviewed in accordance with Part 14 of the *Planning and Development Act 2005*.

**FINANCIAL IMPLICATIONS**

None applicable in respect of this application.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)****POLICY IMPLICATIONS**

Since the previous grant of planning approval in July 2011, Council Policy: CP-079 Car Parking (Non Residential) has been revised, updated, and re-adopted for use by the Council. In addition, two draft planning policies (Non-Residential Development and Provision of Public Art in Development Proposals) have been adopted for the purposes of advertising.

The revision to Council Policy CP-079: Car Parking (Non-Residential) has not altered the car parking requirements against which the proposal has been assessed. As such, the scale of the car parking variation sought is identical to that which was accepted at the time of the previous decision in July 2011.

In respect of the draft Non-Residential Development and Provision of Public Art in Development Proposals policies, the proposed development has been assessed against the draft provisions of these policies. It is concluded that the development as proposed is in accordance with the objectives of those policies.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

This application requires a Special Majority decision of the Council with respect to the proposed plot ratio and an Absolute Majority decision relating the car parking and landscaping variation. It is noted that these variations have been accepted by Council previously to a greater or lesser extent, as evidenced by the grant of planning consent in July 2011.

Council could refuse the application on the basis that the proposal does not satisfy the CPS5 requirements and is contrary to the orderly and proper planning of the locality. However, this course of action is not recommended, particularly due to the similarity of the proposed plans to those previously approved in June 2011.

Should the application be refused, the Applicant will have a right of appeal to the State Administrative Tribunal.

**COMMENT**

Planning approval is sought to construct a three storey mixed use building at Lot 1 (31F) Ardross Street, Applecross.

This application effectively comprises an amendment to the previously approved three storey mixed use development which was considered by Council on 19 July 2011. The main amendments to the plans include:

- The relocation of the main entry door from Macleod Road as was proposed, to Ardross Street.
- Internal modifications which have resulted in an increase in commercial floor space.

**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

The proposed internal modifications do not impact upon the overall design or height of the building, nor the proposed mix of uses. The public toilet which was included as part of the initial approval, is also retained with the revisions now proposed. This Public Convenience will address a recognised need for the provision of toilets for the use of the public in this location.

As the July 2011 approval expires in July 2013 and it is unlikely that the development will be substantially commenced prior to this time, a new application has been submitted for the consideration of the Council.

As stated above, since the grant of the previous approval, there has been no fundamental change to the planning framework within which planning decisions are taken. The introduction of two new draft Council Policies that have been introduced have no bearing on the development as now proposed, provided a contribution to the provision of public art is made. A condition of planning approval to that effect is proposed.

The proposed internal modifications result in an increase to the plot ratio which was previously approved by Council. The previous development had a plot ratio of 1.259 (296m<sup>2</sup>), which is proposed to be increased by 51.8m<sup>2</sup> to 1.476 (347.8m<sup>2</sup>). The CPS5 plot ratio requirement is 0.3.

The increased plot ratio is as a result of the extension of the first and second floors into a void area over the garage.

The proposed increased plot ratio is supported for the following reasons:

- The increased plot ratio is internal to the site and does not result in any additional building bulk impact upon the adjoining properties or surrounding area.
- The increased plot ratio will not significantly impact upon the previously approved design, which was supported by the Architectural and Urban Design Advisory Panel.
- The unique size and shape of the subject site has given rise to previous Council decisions to support variations to plot ratio.
- The proposal represents an opportunity to improve the Applecross Village Centre with respect to the built form, the procurement of public art and the provision of a public toilet.
- The proposal will deliver a solid built form on a prominent corner that will assist in defining the northern entrance of the village centre.

In respect of the proposed landscaping variation, the development as previously approved in July 2011 was similarly characterised by a lack of landscaping within the lot boundary. This lack of provision was however compensated via the provision of a raised planter bed within the pedestrian area to the front of the property. As the lot is located in close proximity to the intersection of Ardross Street with Macleod and Kintail Roads, it is the previously expressed opinion of Technical Services Officers that further tree and shrub planting within the road reserve including pedestrian areas, be restricted in the interests of road safety.

The raised planter bed is also proposed to be retained as part of the current revised proposal, and on that basis, and given the significant community benefit that will result from the provision of Public Toilets, it is considered that the stance previously adopted by the Council in support of the variation to Councils landscaping requirements should be reaffirmed.

**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**Amenity

The proposed development has been assessed in accordance with the amenity provisions outlined by Clause 7.8 of CPS5 and Council Policy CP-067: Amenity. It is concluded that the details of the proposal are acceptable in this context, notwithstanding the variations sought.

**CONCLUSION**

The amendments to the approved scheme are accommodated without prejudice to the decision previously taken in June 2011, and without prejudice to the built form outcome that is anticipated once the development is complete. As such, it is recommended that conditional planning consent should be granted.

**OFFICER RECOMMENDATION (3380)****SPECIAL MAJORITY APPROVAL**

At 7.08pm Cr Reidy moved, seconded Cr Pazolli -

**That the application for a three storey mixed use development at Lot 1 (31F) Ardross Street, Applecross be approved by a Special Majority of the Council pursuant to Clause 4.3 of Community Planning Scheme No. 5 subject to the following conditions:**

1. **Prior to the commencement of the development, a scheme for the provision of Public Art shall be submitted to and approved in writing by the Manager Statutory Planning. The Public Art shall be provided in accordance with the City of Melville Provision of Art in Development Proposals policy to the satisfaction of the Manager Statutory Planning. Alternatively, the public art contribution may be satisfied by a cash-in-lieu at the same rate, made prior to the commencement of the development.**
2. **Prior to the commencement of the development, the applicant is to enter into a legal agreement with the City of Melville with respect to the provision of a raised planter and/or any public art located within the road reserve and their ongoing future maintenance. The completion of this legal agreement should take place prior to the initial occupation of the development, to the satisfaction of the Manager Statutory Planning.**
3. **Prior to commencement of building works, the applicant is to provide and maintain a \$20 million dollar public liability insurance policy ('the Policy') with a reputable public insurance office to be approved by the City to ensure the City is covered for all claims under the Policy in respect of loss, damage or injury occurring to all structures contained within the road reserve in connection with the proposed development. The Policy shall cover the City for all claims (but without limiting the generality of the foregoing) for loss or damage to property not owned by the Applicant and also for any loss or damage to property not under the physical or legal control of the Applicant and in respect of all claims relating to contractual liability and such other risks as the City might reasonably nominate at the time of entry into such Policy.**

**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

4. Prior to the occupation of the building hereby approved, crash tested bollards, or another suitable alternative treatment, must be installed at the kerb on the south-western corner of the round-a-bout at the intersection of Kintail Road, Ardross Street and MacLeod Road, the details of which shall be submitted to and approved in writing by the Manager Statutory Planning in consultation with the Director Technical Services, prior to the commencement of development. Once installed, the bollards shall be retained in perpetuity to the satisfaction of the Manager Statutory Planning.
5. On site car parking bays must be clearly marked and made available for use prior to the occupation of the building.
6. Prior to the initial occupation of the building, a Disabled parking bay must be provided and clearly marked out in accordance with AS2890.6. The bay shall be retained thereafter, in perpetuity, to the satisfaction of the Manager Statutory Planning.
7. Prior to the initial occupation of the building, a kerb ramp is to be provided from the disabled bay to the footpath.
8. Prior to the initial occupation of the building all unused crossover(s) are to be removed and the kerbing and verge reinstated at the applicant/owner's full expense, to the satisfaction of the Manager Statutory Planning.
9. All stormwater and drainage run off to be contained on site.
10. Prior to the commencement of the development, a detailed landscaping and reticulation plan shall be submitted to and approved in writing by the City. The landscaping plan is to include details for the landscaping proposed within the raised planter bed, and the bicycle parking area directly in-front of the subject site, as marked in 'RED' on the attached approved plans. The approved landscaping and reticulation plan shall be implemented prior to initial occupation, and maintained thereafter to the satisfaction of the Manager Statutory Planning.
11. Prior to commencement of the development, a preliminary investigation for soil and groundwater contamination must be completed in accordance with Department of Environment and Conservation guidelines and submitted to the City of Melville. Should contamination be identified, the owner of the property must report the site to the Department of Environment and Conservation.
12. Lighting is to be provided to all car parking areas and the exterior entrances to all buildings in accordance with Australian Standard AS 1158.3.1 (Cat. P) Prior to the occupation of the building to the satisfaction of the Manager Statutory Planning. All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or abutting residences.
13. Prior to the commencement of development, a signage strategy shall be submitted to and approved in writing by the Manager Statutory Planning. The strategy shall demonstrate how the future signage requirements for all uses are to be accommodated. Once approved, the signage strategy will inform the future assessment of applications for signage on the development.

**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)****ADVICE NOTES**

1. With regard to Condition 2, legal agreement/s may entail the registering of an Easement in Gross on the Certificate of Title to the benefit of the City of Melville to allow unlimited use of, and management of the portion of land comprising the public toilet. The easement in gross is to be provided in favour of the City of Melville and all costs for the registration and preparation of documentation is to be paid by the applicant.
2. With regard to Condition 3, the applicant shall advise the City of any changes to the Policy or any cancellation of the policy and, the City shall not be liable for any payments whatsoever (including any excesses on claims) with respect to any policy held.
3. Any roof mounted or freestanding plant or equipment such as plumbing pipes are to be located and/or screened so as not to be visible from the surrounding street(s) to the satisfaction of the Manager Statutory Planning.
4. The premises is to be provided with a refuse storage area which:
  - a. Is provided with a tap and connected to an adequate supply of water;
  - b. Is of sufficient size to accommodate all receptacles used on the premises but in any event having a floor area not less than a size approved by the City's Coordinator of Health Services;
  - c. Constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the City's Coordinator of Health Services;
  - d. Having walls not less than 1.5 metres in height and having an access way of not less than one metre in width and fitted with a self closing gate;
  - e. Containing a smooth and impervious floor –
    - I. Of not less than 75 millimetres in thickness; and
    - II. Which is evenly graded to an approved liquid refuse disposal system; and
  - f. Which is easily accessible to allow for the removal of the receptacles.

The refuse storage area is to incorporate a recycling facility or at least to be provided with a recycling receptacle of a sufficient size to contain the recyclable materials from the premises.

5. Noise from air conditioning units must comply with the *Environmental Protection (Noise) Regulations 1997*. In this regard, the owner may wish to refer to the document titled, "An installers guide to Air Conditioner Noise" available on the Department of Environment and Conservation's website to ensure air conditioning units are located such that they will not cause a noise nuisance to nearby properties.

**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

The *Environmental Protection (Noise) Regulations 1997* must be complied with at all times. These regulations stipulate allowable noise levels which if breached constitute unreasonable noise for the purposes of the *Environmental Protection Act 1986*. These regulations can be obtained from [www.slp.wa.gov.au](http://www.slp.wa.gov.au)

6. A separate application for Planning Approval and Signs Licence is required for all signage.

Amendment

At 7.11pm Cr Reidy, with agreement from the seconder, Cr Pazolli, agreed to incorporate the following amendment into the recommendation.

***That Condition 2 of the Officer Recommendation be amended as follows -***

***That the words “self-cleaning public toilet,” be inserted after the words “the provision of a”.***

Reason for Amendment

The condition has been amended to include reference to the proposed public toilet.

Reference to the proposed public toilet needs to be included within the legal agreement to ensure that it is provided as part of the development and is maintained on an ongoing basis.

**COUNCIL RESOLUTION (3380)****SPECIAL MAJORITY APPROVAL**

At 7.11pm the Deputy Mayor submitted the substantive motion as amended –

***That the application for a three storey mixed use development at Lot 1 (31F) Ardross Street, Applecross be approved by a Special Majority of the Council pursuant to Clause 4.3 of Community Planning Scheme No. 5 subject to the following conditions:***

1. ***Prior to the commencement of the development, a scheme for the provision of Public Art shall be submitted to and approved in writing by the Manager Statutory Planning. The Public Art shall be provided in accordance with the City of Melville Provision of Art in Development Proposals policy to the satisfaction of the Manager Statutory Planning. Alternatively, the public art contribution may be satisfied by a cash-in-lieu at the same rate, made prior to the commencement of the development.***

**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPLECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

2. Prior to the commencement of the development, the applicant is to enter into a legal agreement with the City of Melville with respect to the provision of a *self-cleaning public toilet*, raised planter and/or any public art located within the road reserve and their ongoing future maintenance. The completion of this legal agreement should take place prior to the initial occupation of the development, to the satisfaction of the Manager Statutory Planning.
3. Prior to commencement of building works, the applicant is to provide and maintain a \$20 million dollar public liability insurance policy ('the Policy') with a reputable public insurance office to be approved by the City to ensure the City is covered for all claims under the Policy in respect of loss, damage or injury occurring to all structures contained within the road reserve in connection with the proposed development. The Policy shall cover the City for all claims (but without limiting the generality of the foregoing) for loss or damage to property not owned by the Applicant and also for any loss or damage to property not under the physical or legal control of the Applicant and in respect of all claims relating to contractual liability and such other risks as the City might reasonably nominate at the time of entry into such Policy.
4. Prior to the occupation of the building hereby approved, crash tested bollards, or another suitable alternative treatment, must be installed at the kerb on the south-western corner of the round-a-bout at the intersection of Kintail Road, Ardross Street and MacLeod Road, the details of which shall be submitted to and approved in writing by the Manager Statutory Planning in consultation with the Director Technical Services, prior to the commencement of development. Once installed, the bollards shall be retained in perpetuity to the satisfaction of the Manager Statutory Planning.
5. On site car parking bays must be clearly marked and made available for use prior to the occupation of the building.
6. Prior to the initial occupation of the building, a Disabled parking bay must be provided and clearly marked out in accordance with AS2890.6. The bay shall be retained thereafter, in perpetuity, to the satisfaction of the Manager Statutory Planning.
7. Prior to the initial occupation of the building, a kerb ramp is to be provided from the disabled bay to the footpath.
8. Prior to the initial occupation of the building all unused crossover(s) are to be removed and the kerbing and verge reinstated at the applicant/owner's full expense, to the satisfaction of the Manager Statutory Planning.
9. All stormwater and drainage run off to be contained on site.

**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

10. Prior to the commencement of the development, a detailed landscaping and reticulation plan shall be submitted to and approved in writing by the City. The landscaping plan is to include details for the landscaping proposed within the raised planter bed, and the bicycle parking area directly in-front of the subject site, as marked in 'RED' on the attached approved plans. The approved landscaping and reticulation plan shall be implemented prior to initial occupation, and maintained thereafter to the satisfaction of the Manager Statutory Planning.
11. Prior to commencement of the development, a preliminary investigation for soil and groundwater contamination must be completed in accordance with Department of Environment and Conservation guidelines and submitted to the City of Melville. Should contamination be identified, the owner of the property must report the site to the Department of Environment and Conservation.
12. Lighting is to be provided to all car parking areas and the exterior entrances to all buildings in accordance with Australian Standard AS 1158.3.1 (Cat. P) Prior to the occupation of the building to the satisfaction of the Manager Statutory Planning. All external lighting to be hooded and oriented so that the light source is not directly visible to the travelling public or abutting residences.
13. Prior to the commencement of development, a signage strategy shall be submitted to and approved in writing by the Manager Statutory Planning. The strategy shall demonstrate how the future signage requirements for all uses are to be accommodated. Once approved, the signage strategy will inform the future assessment of applications for signage on the development.

**ADVICE NOTES**

1. With regard to Condition 2, legal agreement/s may entail the registering of an Easement in Gross on the Certificate of Title to the benefit of the City of Melville to allow unlimited use of, and management of the portion of land comprising the public toilet. The easement in gross is to be provided in favour of the City of Melville and all costs for the registration and preparation of documentation is to be paid by the applicant.
2. With regard to Condition 3, the applicant shall advise the City of any changes to the Policy or any cancellation of the policy and, the City shall not be liable for any payments whatsoever (including any excesses on claims) with respect to any policy held.
3. Any roof mounted or freestanding plant or equipment such as plumbing pipes are to be located and/or screened so as not to be visible from the surrounding street(s) to the satisfaction of the Manager Statutory Planning.

**P13/3380 – THREE STOREY MIXED USE DEVELOPMENT AT LOT 1 (31F) ARDROSS STREET, APPECROSS (SMREC) (CONFIDENTIAL ATTACHMENT)**

4. The premises is to be provided with a refuse storage area which:
- a. Is provided with a tap and connected to an adequate supply of water;
  - b. Is of sufficient size to accommodate all receptacles used on the premises but in any event having a floor area not less than a size approved by the City's Coordinator of Health Services;
  - c. Constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness approved by the City's Coordinator of Health Services;
  - d. Having walls not less than 1.5 metres in height and having an access way of not less than one metre in width and fitted with a self closing gate;
  - e. Containing a smooth and impervious floor –
    - I. Of not less than 75 millimetres in thickness; and
    - II. Which is evenly graded to an approved liquid refuse disposal system; and
  - f. Which is easily accessible to allow for the removal of the receptacles.

The refuse storage area is to incorporate a recycling facility or at least to be provided with a recycling receptacle of a sufficient size to contain the recyclable materials from the premises.

5. Noise from air conditioning units must comply with the *Environmental Protection (Noise) Regulations 1997*. In this regard, the owner may wish to refer to the document titled, "An installers guide to Air Conditioner Noise" available on the Department of Environment and Conservation's website to ensure air conditioning units are located such that they will not cause a noise nuisance to nearby properties.

The *Environmental Protection (Noise) Regulations 1997* must be complied with at all times. These regulations stipulate allowable noise levels which if breached constitute unreasonable noise for the purposes of the *Environmental Protection Act 1986*. These regulations can be obtained from [www.slp.wa.gov.au](http://www.slp.wa.gov.au)

6. A separate application for Planning Approval and Signs Licence is required for all signage.

At 7.11pm the Deputy Mayor declared the motion -

**CARRIED BY SPECIAL MAJORITY (12/0)**

**P13/3382 - CHANGE OF USE FROM 'OFFICE' TO 'MEDICAL CENTRE' AT LOT 1 (884)  
CANNING HIGHWAY, APPLECROSS (AMREC) (ATTACHMENT)**

Ward	:	Applecross/Mt Pleasant
Category	:	Operational
Application Number	:	DA-2013-103
Property	:	Lot 1 (884) Canning Highway, Applecross
Proposal	:	Change of Use from 'Office' to 'Medical Centre'
Applicant	:	Private Horizons Planning Solutions
Owner	:	Madgwick Nominees Pty Ltd
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	P11/3268 Ordinary Meeting of Council 15 November 2011
Responsible Officer	:	Peter Prendergast Manager Statutory Planning

**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 checked="" type="checkbox"/>	Quasi-Judicial	<b><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 (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i></b>
<input type="checkbox"/>	Information	<i>For the Council to note.</i>

**P13/3382 - CHANGE OF USE FROM 'OFFICE' TO 'MEDICAL CENTRE' AT LOT 1 (884) CANNING HIGHWAY, APPLECROSS (AMREC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Planning approval is sought to change the approved use of Lot 1 (884) Canning Highway, Applecross from 'Office' to 'Medical Centre'.
- The subject lot contains four separate tenancies, which at present or previously consisted of RH Property and Questos (being real estate 'office' uses), and Hans Café and Ditto Café (being 'café / restaurant' uses). This application specifically relates to the tenancy which was previously occupied by Questos and is currently vacant on the corner of Sleat Road and Canning Highway.
- A 'Medical Centre' is a 'P' use within the 'District Centre' Precinct and as such is a permitted use.
- The proposal satisfies all of the development requirements contained within Community Planning Scheme No. 5 (CPS5) and Council Policies with the exception of car parking. A total of 11 on-site car parking bays are provided for the use of all four of the tenancies on the subject site. The proposed Medical Centre use requires 17 bays.
- The proposed car parking shortfall was advertised to the adjoining property owners in accordance with CPS5. Ten submissions were received, all in support of the application.
- The proposed shortfall is considered acceptable in this case given the opportunities for informal reciprocal car parking, the proximity of the site to public car parking facilities, and the availability of high frequency public transport routes which exist immediately adjacent to the site.
- The approval of this application requires an Absolute Majority decision of Council relating to the car parking variation.
- The application is recommended for approval subject to conditions.



**P13/3382 - CHANGE OF USE FROM 'OFFICE' TO 'MEDICAL CENTRE' AT LOT 1 (884) CANNING HIGHWAY, APPLECROSS (AMREC) (ATTACHMENT)**

**BACKGROUND**

At the Ordinary Meeting of Council on 15 November 2011, planning approval was granted for a change of use of the subject tenancy from 'Office' to a 'Use Not Listed (Small Bar)' subject to conditions.

This application involved a shortfall in on-site car parking bays as follows:

- Weekdays – 10.9 (11) bays
- Evenings and weekends – 24.43 (25) bays

**Scheme Provisions**

MRS Zoning : Urban  
 CPS 5 Zoning : District Centre  
 R-Code : Not Applicable  
 Use Type : Medical Centre  
 Use Class : 'P' Permitted

**Site Details**

Lot Area : 1,011.78sqm  
 Street Tree(s) : Not Applicable  
 Street Furniture (drainage pits etc) : Not Applicable  
 Site Details : Refer to Photo Above

[3382 Site and Floor Plans Lot 1 \(884\) Canning Highway Applecross](#)

**DETAIL**

The proposal satisfies all of the relevant provisions of CPS5 and Council Policies with the exception of those matters listed below:

**CPS5 and Policy Requirements**

Development Requirement	Required/ Allowed	Provided	Comments	Delegation to approve variation
Car Parking	17 bays	11 bays are provided for the use of all four of the tenancies at 884 Canning Highway	Requires assessment against amenity provisions of Clause 7.8 of CPS5 and CP-079 - Non Residential Parking Policy.	Manager Statutory Planning (MSP)

**P13/3382 - CHANGE OF USE FROM 'OFFICE' TO 'MEDICAL CENTRE' AT LOT 1 (884)  
CANNING HIGHWAY, APPLECROSS (AMREC) (ATTACHMENT)**

**PUBLIC CONSULTATION/COMMUNICATION**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Variation to car parking standards  
 Support/Object: Ten submissions in support

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Uphold/Not Uphold)
1.	The medical centre would interface well with other uses	Support	There is a mix of uses within the surrounding area which complement each other. It is considered that patients of the Medical Centre will likely also patronize other businesses within the area.	Uphold
2.	The dentist will be complementary to our existing restaurant tenant and parking will not conflict between the two businesses.	Support	The proposed hours of operation for the dentist would differ to the peak demand times for the existing restaurant/café uses.	Uphold
3.	As a gym, most of our clientele arrive before and after normal trading hours and a significant portion of our clients use alternative modes of transport.	Support	The proposed hours of operation for the dentist would differ to the gym's peak operating times.	Uphold
4.	No objection to the parking variation	Support	Noted	Uphold
5.	As a retailer, weekends are our busiest trading period; therefore the car parking associated with the proposed dentist would not be detrimental as the car park is relatively clear and free in the weekends.	Support	The proposed Dental Use will operate on Saturday mornings, but overall there will be car parking bays free at the weekend given a number of uses do not operate at those times.	Uphold

**P13/3382 - CHANGE OF USE FROM 'OFFICE' TO 'MEDICAL CENTRE' AT LOT 1 (884)  
CANNING HIGHWAY, APPLECROSS (AMREC) (ATTACHMENT)**

6.	<p>The restaurant's lunchtime and afternoon trade is predominantly from surrounding businesses within Canning Bridge. These people mostly walk or car pool to the premises.</p> <p>No customers have raised concerns about parking to date.</p> <p>The busiest time for the restaurant is during evening periods when people mostly travel via car to the premises.</p>	Support	<p>As outlined in the submission, it is unlikely that the proposed car parking shortfall will have an impact upon the operation of the existing restaurant given that the restaurant does not result in a large parking demand during the day and the Medical Centre will be closed at night.</p>	Uphold
7.	<p>No objection in principle. The majority of customers to the café are from surrounding businesses who walk to the café.</p>	Support	<p>The submitter's premises predominantly services people who live and work within the area and does not generate a large car parking demand.</p>	Uphold
8.	<p>A medical use will be a complimentary use within the Canning Bridge commercial precinct.</p> <p>As an office, the submitter's business has a low parking load from clients visiting the business. The submitter leases nine car bays off-site to cater for staff parking. No concerns or issues with the car parking requirement for the medical centre.</p>	Support	Noted	Uphold

**P13/3382 - CHANGE OF USE FROM 'OFFICE' TO 'MEDICAL CENTRE' AT LOT 1 (884)  
CANNING HIGHWAY, APPLECROSS (AMREC) (ATTACHMENT)**

9.	No objection in principle to the medical centre. On the grounds that their restaurant operates predominantly at night and is busiest at weekends. During standard business hours car parking is generally available.  Since opening in 2011 issues with car parking have not been experienced.	Support	The proposed Medical Centre will operate predominantly at times when the submitter's business is closed.	Uphold
10.	No objection to the change of use.	Support	Noted	Uphold

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

The previous change of use application determined in November 2011 was referred to Main Roads WA and the Department of Transport for comment due to the subject site abutting a Category 2 'Primary Regional Roads' Reservation.

Under the applicable Western Australian Planning Commission's instrument of delegation (DEL 2011/02), there is no requirement to obtain further comment from these departments. The comments previously provided by these departments are outlined below.

Agency	Summary of Submission	Support / Objection	Officer's Comment	Action (Uphold / Not Uphold)
Main Roads WA	The proposed change of use is acceptable to Main Roads	Support	Noted	Uphold
Department of Transport	The Department of Transport has no objection to the proposal provided the Local Government is to ensure that the number of car parking bays complies with their TPS requirements.	Support	Noted	Uphold

**P13/3382 - CHANGE OF USE FROM 'OFFICE' TO 'MEDICAL CENTRE' AT LOT 1 (884)  
CANNING HIGHWAY, APPLECROSS (AMREC) (ATTACHMENT)****STATUTORY AND LEGAL IMPLICATIONS**

Should the City of Melville refuse the application for Planning Approval, the applicant will have the right to have the decision reviewed in accordance with Part 14 of the *Planning and Development Act 2005*.

**FINANCIAL IMPLICATIONS**

There are no financial implications for Council to consider as part of this application.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are not considered to be any risk or environmental management implications associated with this application.

In terms of strategic considerations the City is currently preparing an activity centres parking strategy which will consider options to appropriately manage car parking in activity centres such as Canning Bridge. Further updates on the progress of the parking strategy will be presented to Council in the coming months.

**POLICY IMPLICATIONS**Policy CP-079 – Car Parking (Non-Residential)

Policy CP-079 – Car Parking (Non-Residential), which exists to control the provision of non-residential car parking throughout the City of Melville, is of relevance in the consideration of this proposal.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Approval of this proposal requires an Absolute Majority decision of the Council. Council may refuse the application or recommend that the number of consultants be reduced. However, in this instance, it is recommended that the proposal be approved on the grounds that it will not result in any significant impacts upon the surrounding area.

**COMMENTS**

As outlined above, a change of use from 'Office' to 'Medical Centre' is proposed for the corner tenancy of 884 Canning Highway, Applecross.

A Medical Centre is defined within CPS5 as follows:

*"Means premises for more than two health consultants and ancillary services and may include chemists, pathologists, radiologists, paramedics and the like."*

**P13/3382 - CHANGE OF USE FROM 'OFFICE' TO 'MEDICAL CENTRE' AT LOT 1 (884)  
CANNING HIGHWAY, APPLECROSS (AMREC) (ATTACHMENT)**

In this instance, the proposed Medical Centre is for a dental practice which will employ three Dental Practitioners, three Dental Nurses and two Receptionists at any one time.

The proposed hours of operation are as follows:

Monday to Friday	8.30am to 5.30pm
Saturday	8.30pm to 1.30pm

Land Use

The subject site is located within the 'District Centre' Precinct. Under the provisions of CPS5, a 'Medical Centre' is a 'P' - permitted use and therefore is deemed an acceptable use within the Precinct.

Car Parking

The subject site contains 11 car parking bays which are shared between the four separate tenancies contained within the site.

At present, the other three tenancies occupied by RH Property, Hans Café and Ditto Café require 5, 9.5 and 6 on-site car parking bays respectively under the City's Car Parking (Non-Residential) policy (total of 20.5 car parking bays).

Under this policy, the proposed Medical Centre requires three bays per practitioner and one bay per staff member. As three Dental Practitioners and a total of eight staff are proposed, the proposed Medical Centre requires 17 car parking bays.

The proposed change of use would result in the total on-site car parking requirements for all four of the tenancies on the subject site being 37.5 (38), however only 11 bays are provided, resulting in an on-site shortfall of 26.5 (27) bays.

The shortfall is supported for the following reasons:

- The owners of the subject site have a long-standing informal reciprocal car parking arrangement in place with the owners of 886 and 888 Canning Highway. This arrangement allows clients visiting businesses at any of the three properties to utilise any of the parking bays across the three sites. This arrangement works particularly well given the current mix of uses which exist over the three properties, due to their differing hours of operation and busy periods. It is considered that the proposed Medical Centre will not upset this balance given it is similar to the previous Office use in terms of its hours of operation.
- The on-site car parking within the area is already being adequately self-managed through signage and policing. The owners of 884, 886 and 888 Canning Highway, along with the owners of 890 Canning Highway and 43 Kishorn Road employ a parking attendant to prevent all day parking by people catching public transport in to the Perth Central Business District or people working at other businesses within the Canning Bridge Precinct.

**P13/3382 - CHANGE OF USE FROM 'OFFICE' TO 'MEDICAL CENTRE' AT LOT 1 (884)  
CANNING HIGHWAY, APPLECROSS (AMREC) (ATTACHMENT)**

- As outlined within the submission table above, RH Property which operates from one of the four tenancies within 884 Canning Highway leases nine parking bays off-site for the parking needs of its staff. This assists in reducing the demand upon the on-site car parking bays.
- If the existing approved use as an Office were to be reinstated, that would result in an ongoing shortfall of 15 bays.
- The proposed Medical Centre use could be complementary to other businesses within the area. Patients of the dentist may also utilise other services or shops whilst visiting the area. Furthermore, patients may work or reside within the area and may use other methods of transport to the site.
- Within 200m of the subject site, there are 126 public car parking bays (marked bays within the road reserve and in paid parking stations). Council Rangers have confirmed that the use of this on-street parking takes place without issue.
- The subject site is located within 50m of a high frequency bus stop and approximately 950m of the Canning Bridge train station.

**Amenity**

The proposed development has been assessed in accordance with the amenity provisions of Clause 7.8 of CPS5 and those of policy CP-067 'Amenity'. It is concluded that the proposed change of use will enhance, rather than detract, from amenity levels, and the proposed development is supported on that basis.

**CONCLUSION**

It is considered that the proposed change of use to Medical Centre will not result in any significant adverse impacts upon the surrounding area. The proposal is therefore recommended for planning approval on that basis.

**P13/3382 - CHANGE OF USE FROM 'OFFICE' TO 'MEDICAL CENTRE' AT LOT 1 (884)  
CANNING HIGHWAY, APPLECROSS (AMREC) (ATTACHMENT)**

At 7.13pm Cr Foxtan left the meeting.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3382)****ABSOLUTE MAJORITY**

At 7.13pm Cr Pazolli moved, seconded Cr Robartson -

**A) By Absolute Majority that the application for the change of use from 'Office' to 'Medical Centre' at Lot 1 (884) Canning Highway, Applecross be approved subject to the following conditions:**

- 1. The hours of operation of the Medical Centre are limited to:**

<b>Monday to Friday</b>	<b>8.30am to 5.30pm</b>
<b>Saturday</b>	<b>8.30am to 1.30pm</b>
- 2. No more than three practitioners and five support staff members are to occupy the premises at any one time.**
- 3. Prior to the initial occupation of the development, a rubbish storage area is to be constructed and maintained in perpetuity to the satisfaction of the Manager Statutory Planning.**

**ADVICE NOTES**

- 1. The rubbish storage area as required by Condition (3) is to satisfy the following:**
    - (a) be screened from the street;**
    - (b) is provided with a tap and connected to an adequate supply of water;**
    - (c) is of sufficient size to accommodate all receptacles used on the premises;**
    - (d) constructed of brick, concrete, corrugated compressed fibre cement sheet or other material of suitable thickness;**
    - (e) having walls not less than 1.5 metres in height and having an access way of not less than 1 metre in width and fitted with a self closing gate;**
    - (f) containing a smooth and impervious floor -**
      - (i) of not less than 75 millimetres in thickness; and**
      - (ii) provided with an adequate liquid refuse disposal system.**
  - 2. A separate application for Planning Approval and a Sign Licence may be required for any future signage.**
- B) That the persons who made submissions on the proposal be notified in writing of A) above.**

At 7.15pm Cr Foxtan returned to the meeting.

At 7.18pm the Deputy Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (12/0)**

The Presiding Member advised Elected Members that the Meeting is now moving out of the Quasi-Judicial phase.

**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPLECROSS  
(REC) (ATTACHMENT)**

Ward : Applecross/Mt Pleasant  
 Category : Operational  
 Application Number : DA-2013-60  
 Property : Melville Beach  
 Proposal : Kite Surfing school  
 Applicant : Soulkite (Kerry Enright)  
 Owner : State of Western Australia  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Item P13/3374 – Proposed Kite Surfing School at Melville Beach Road, Applecross – Ordinary Meeting of Council 19 March 2013  
 Responsible Officer : Peter Prendergast  
 Manager Statutory Planning

**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 to note.</i>

**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPECROSS  
(REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- The Swan River Trust (SRT) seeks the City's comments in relation to a Kite Surfing School which is proposed to operate from the northern end of Melville Beach Road, Applecross.
- This item was presented to the Ordinary meeting of the Council held 19 March 2013, at which, as a result of a procedural motion put forward by CR Taylor Rees, it was resolved to defer consideration of the matter to the April 2013 Ordinary Meeting of the Council.
- The matter was deferred pending consideration of the need for a City wide Kite Surfing Management Plan, and to enable interested 3<sup>rd</sup> party groups to consider the implications of the proposal, affording them the opportunity to make a deputation to the Council at an Agenda Briefing Forum.
- It is proposed to operate classes where up to two instructors teach a maximum of two clients each at any one time.
- Planning approval from the City is not required, as the activity is being undertaken within a Metropolitan Region Scheme Reserve over which the City has no jurisdiction in planning terms. However, a licence and permit is required for the activity from the SRT under the *Swan and Canning Rivers Management Act 2006* and the associated Regulations.
- Kite Surfing is a popular sport on the Melville Beach foreshore area due to favourable prevailing winds. It is also a desired location for learning as the water is shallow, there is no water traffic and there is a waveless environment.
- It is recognised that there are however, some physical constraints at play which can be seen to prejudice safety levels for reserve users in the vicinity of Melville Beach Road, particularly the narrow width of the reserve at the point where Kite Surfing activity is so popular, which can make landing, and to a lesser extent take off, difficult.
- Notwithstanding these constraints, and given the popularity of the Melville Beach area for wind surfing activities over numerous years, it is recognised that kite surfing activities will continue to take place as private kite surfers exercise their right to recreate within the River Foreshore reserve. Furthermore, the activities associated with a tuition school will be carefully managed so as to minimise risks to students and other users of the foreshore and local residents, and in that way the activities associated with this proposal are effectively more managed.
- In view of this, and despite the physical constraints identified, it is recommended that the City lend its support for the proposed Kite Surfing Tuition taking place at Melville Beach, and advise the SRT accordingly on the basis of a 12 month licence.



**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPECROSS  
(REC) (ATTACHMENT)****Scheme Provisions**

MRS Zoning/Reservation	:	'Parks and Recreation' Reserve
CPS 5 Zoning/Reservation	:	Not applicable
R-Code	:	Not applicable
Use Type	:	Recreation
Use Class	:	Not applicable

**Site Details**

Lot Area	:	Not applicable
Retention of Existing Vegetation	:	Not applicable
Street Tree(s)	:	Not applicable
Street Furniture (drainage pits etc)	:	Not applicable
Site Details	:	Refer to photo above

**DETAIL**

An application for approval to offer kite surfing tuition from the river foreshore at the northern end of Melville Beach Road, has been received by the SRT, which has in turn been referred to the City for comment.

**PUBLIC CONSULTATION/COMMUNICATION**

There is no formal requirement for the City to enter into consultation with any third parties in respect of the proposal, although in this case, given the proximity of the proposed facility relative to residential properties along Melville Beach Road, consultation has been entered into.

**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPLECROSS  
(REC) (ATTACHMENT)**

Eight submissions were received during the consultation period; two in support, one neutral and four in objection.

<b>Submission Number</b>	<b>Summary of Submission</b>	<b>Support/Objection</b>	<b>Officer's Comment</b>	<b>Action (Condition/Uphold/Not Uphold)</b>
1	Recommend parking along Melville Beach Road be formalised and marked.	Neutral	The City is aware that parking occurs in this location, however there are no current plans to formalise it or mark bays within the road reserve.	Not Uphold
2	Kite surfers add colour to the area.	Support	Activities associated with a tuition school will be carefully managed so as to minimise risks to students and other users of the foreshore and local residents.	Uphold

**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPECROSS  
(REC) (ATTACHMENT)**

3	Due to the proximity of the foreshore to the road and private properties, kite surfing in this location poses a safety concern.	Objection	Noted although recognised that this concern is levelled towards the general Kite Surfing activities that take place in this location, as opposed to the more supervised and managed activity proposed by this licence application.	Not upheld due to mitigating factors
4	Support the use of the foreshore for tuition. This has been occurring informally for a number of years and there have been no problems.	Support	Noted.	Uphold
5	The road reserve in this location has insufficient width to accommodate the parking of vehicles. Parking within the verge interferes with the flow of traffic and the egress of cars from residences.  Increased activity on the foreshore will result in damage and erosion.	Objection  Objection	Parking is permitted within the road reserve along the majority of the length of Melville Beach Road.  The activities associated with the tuition activity proposed are unlikely to cause damage or erosion.	Not Uphold  Not Uphold

**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPLECROSS  
(REC) (ATTACHMENT)**

6	Due to the existing number of vehicles parking along the foreshore, Melville Beach Road from Cunningham to Dee Road becomes one way.	Objection	See comments above regarding verge parking.	Not Uphold
	More toilets, BBQ areas and rubbish bins should be provided.	Neutral	Public toilets have recently been installed at the southern end of Melville Beach Road. In addition, there are BBQ facilities and bins available at Tompkins Park.	Not Uphold
	Potential safety issues between competent kite surfers and students.	Objection	SRT will obtain the Department of Transport's comments regarding competing users and the likely safety implications.	Noted
7	Due to learners inexperience, there are potential safety issues of using this location.	Objection	See comments above regarding safety.	Not Upheld due to mitigating factors.
	Car parking along Melville Beach Road is often full. The road is not wide enough, making it difficult to pass.	Objection	See above comments regarding parking and traffic.	Not Uphold
8	Objection to the businesses in the proposed position. A better location would be the southern end of Melville Beach Road near Cantray Ave where a larger car park could be constructed to remove the current dangerous traffic congestion along Melville Beach Road.	Objection	See comments above regarding verge parking. In addition, there is no beach in the suggested location making this unsuitable for kite surfing preparation.	Not Uphold

**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPECROSS  
(REC) (ATTACHMENT)****CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

The City is not required to consult with other agencies and consultants as the SRT are the determining authority.

**STATUTORY AND LEGAL IMPLICATIONS**

As planning approval is not required from the City, CPS5 does not prescribe any provisions relating to the assessment of the proposal, however the application can be assessed on its merits and in respect of compliance with the objectives of orderly and proper planning. The City of Melville Property Local Law applies in relation to commercial use of any reserve.

**FINANCIAL IMPLICATIONS**

The *Local Government Property Local Law* requires a person/s to obtain a permit where they, 'carry on any trading as part of a business undertaken on local government property', together with the payment of appropriate fees. This local law applies to the proposed business where it operates from land vested in the City of Melville.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no strategic, risk or environmental implications anticipated as a result of this application.

**POLICY IMPLICATIONS**

The City has no relevant policies in relation to the proposal.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The City is being requested to provide a recommendation and comment on the application to the SRT.

The Council can elect to support or resist the use. The STR are not bound by the recommendation made by Council. .

**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPLECROSS  
(REC) (ATTACHMENT)****COMMENT**

An application for a Licence to operate kite surfing tuition from Melville Beach, has been submitted to the SRT, who have in turn referred the application to the City for its comment.

Kite surfing or kite boarding, as it's also known as, involves riding on a small surfboard that is propelled across water by a large kite to which the rider is harnessed. This sport is growing in popularity in WA due to the ideal conditions provided by the prevailing winds and the availability of suitable locations at which the sport can be undertaken.

In this instance, the business is proposed to operate from Melville Beach close to its intersection with Dee Road in Applecross. Two instructors teaching up to two pupils each, at any one time are proposed. The lessons are to be held between 12pm and 2pm each day, as this is when the sea breeze comes in. It is proposed to operate three days per week.

Generally, the business offers a five hour beginner package which is split up over three lessons. The first lesson is a one hour safety session. The other two, two hour sessions teach the rider how to fly the kite in the water and safety.

No advertising, flags or shelters are proposed.

As outlined above, there are no provisions within CPS5 or Council Policies against which the proposal must be assessed. Despite this, it is incumbent on the City to ensure that the proposal is considered in the context of orderly and proper planning, and that it is consistent with the intent of the Metropolitan Region Scheme (MRS) reservation.

**Location**

Melville Beach is reserved for parks and recreation under the MRS. As kite surfing is a recreational activity, it is considered that the proposed use is consistent with the intent of the reserve.

**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPLECROSS  
(REC) (ATTACHMENT)**

Kite surfing in Western Australia is informed by the WA Kite Surfing Association (WAKSA). WAKSA suggests optimum locations for general use, learning and those to be avoided. Melville Beach is one of three locations favoured by WAKSA within the Swan River and is identified on their website as being *“a popular flatwater site for beginner to expert kites providing a large protected shallow bay and a long narrow beach”*. WAKSA also identifies that the area marked by the three yellow buoys in the river between Nairn and Dee Roads is a designated launch, landing and learning area which creates a buffer zone between the kite surfers and the road reserve.

The information provided by WAKSA is consistent with the Department of Transport’s designation for this location as it identifies that the Kite Surfing area is not located within an area of conservation and is available for use by Power Water Craft, water skier’s, people participating in lessons or any other potential users of the marine reserve.

**Benefits**

It is recognised that benefits can occur as a result of recreational businesses operating within a public area. These benefits can include education, monitoring and fostering a sense of responsibility amongst other river users. Recreation businesses such as the one proposed, can also bring tourists and visitors into an area which can add to its vitality and benefit other businesses such as retail and food/beverage outlets.

**Car Parking**

The users of Melville Beach currently park within the road reserve of Melville Beach Road. It is noted that Melville Beach Road between Dee and Nairn Roads is two lanes wide, however the lane adjacent to the river is significantly wider which allows for the on street parking to take place without prejudice to road safety or the free flow of traffic. These parking bays are well utilised due to the popularity of the location for kite surfing.

The business the subject of this application has been operational for in excess of 18 months, there being a number of delays on the part of the City and the SRT, in responding to the current application to legitimise the business activities. Given this fact, coupled with the low key nature and scale of the activity, it is concluded that the car parking requirements of the business are readily met using the on street car parking available within the road reserve..

It is noted that the City’s Rangers have issued only ten parking infringements in the last three years to vehicles along the Melville Beach Road foreshore. Most of these infringements have related to parking in the designated “no standing” areas. As such, parking in this location is not considered to be problematic.

**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPECROSS  
(REC) (ATTACHMENT)****Safety**

In order to address safety, the Applicant has supplied a risk assessment and a copy of their public liability insurance with the application.

It is acknowledged that the proposed business would educate and inform of safe practices, regulate the areas of use and train beginner kite surfers. Furthermore, undertaking lessons within an area can encourage a sense of responsibility amongst other users of the river which can also enhance the safety of an area.

With regard to safety on the river, the SRT will refer the application to the Department of Transport for their recommendation and comment prior to determining the application.

With regard to safety of land vested in, or under the care and control of the City of Melville, it is recognised that the narrow nature of the Melville Beach foreshore and Reserve (the land between the road kerb and the water line is approximately 15m) makes potentially more difficult, particularly for inexperienced kite surfers, to operate without prejudice to their safety, and that of other parties using the reserve, including those who reside in the vicinity.

It is recognised and acknowledged however, that these safety concerns are of more relevance to the ongoing Kite Surfing activities that occur from this location by individual kite surfers pursuing their sport, as opposed to the more managed commercial tuition activities such as that proposed by this application.

In the context of safety, officers of the Statutory Planning Team have recently taken part in a seminar facilitated by Surf Lifesaving WA on behalf of the Government of Western Australia Department of Sport and Recreation (DSR).

The DSR acknowledges the growing popularity of the sport, but as a result of recent serious incidents involving Kite Surfers in WA, is concerned that a Kite Boarding Safety Framework be put in place to provide guidance, advice, and consistency to the kite boarding community.

It is anticipated that the framework will, once delivered, deal with the following outputs:

- Safety guidelines relating to kite boarding
- Guidelines for Event Managers (including risk management)
- Standard approach and guidance provided to Local Government
- Greater awareness by the Insurance industry of acceptable industry operating guidelines
- Awareness programme targeted at the recreational kite boarder.

**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPECROSS  
(REC) (ATTACHMENT)**

Apart from the Guidelines that will eventually be made available to the City, and which will then be used to inform decision making around this activity, it is noted that other Local Governments who participated in the Kite Boarding seminar have Management Plans in place to guide kite boarders to specific locations, with restrictions in place to deter use of certain areas, or to ensure that competing users do not conflict with one another.

Whether the City should adopt such a managed approach to regulate Kite Boarding activities undertaken within its boundaries is worthy of investigation.

As far as the commercial tuition activity the subject of the current proposal, it is considered reasonable that the impacts of such proposals be considered in the context of the statutory licence regime that is currently in place. To that end it is considered that the proposed tuition school at Melville Beach is supported, and should be recommended for approval, subject to the proviso that any licence issued be restricted in the first instance to a 12 month approval period only. This recognises the fact that Kite Boarding Safety Guidelines are in development, and will enable the City to monitor the activities throughout that period, and before any permanent approval is considered.

#### Environment

With regard to the potential environmental implications that result from the proposal, it is acknowledged that all recreational activities have the potential to cause degradation to the foreshore environment, but this adverse impact must be tempered against the needs of the community to gain access to the river and foreshore areas in pursuit of recreation. The latter is indeed acknowledged by the SRT in the sense that no formal restrictions on access are in place in the immediate vicinity of the application site, it being expected therefore that this area of the river foreshore is one where people will gain access to the river.

Officers from the Environmental Team of the City's Technical Services Directorate have confirmed that any type of access to the River foreshore has the ability to detract from the environmental quality offered within that foreshore environment. This is inevitable where access to the foreshore by the public is allowed, as it is in this location. The challenge is to encourage persons recreating within these types of sensitive environments to behave responsibly, keep to footpaths, avoid trampling through vegetation, take litter home or dispose of correctly, and so on. In the context of the Kite Surfing tuition activity proposed by this application, it was the view of the officers that damage to the environment is no more likely to occur as a result of the Kite Boarding activities as would result from the general use of the locations for other recreational pursuits, including that which will occur via the use of the area by individual kite boarders.

**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPECROSS  
(REC) (ATTACHMENT)**

On that basis, and noting the very low key nature of the tuition use in this case, it is considered that the activities associated with the tuition activity will unlikely result in additional degradation to the foreshore area than already occurs as a result of all other foreshore activity..

**CONCLUSION**

On the grounds that:

- the area will continue to be heavily frequented by private kite surfers irrespective of the Councils endorsement,
- that it is identified by KAKSA as being a location for kite surfing which is particularly favourable for the sport,
- the use will likely result in greater proficiency for Kite Surf users, and
- in view of the very low key nature of the tuition business as proposed.

It is recommended that the Council lend its support for the proposal.

**OFFICER RECOMMENDATION (3374)****RECOMMEND SUPPORT**

**That the Council advise the Swan River Trust that the City of Melville is supportive of the proposed Kite Surfing School at Melville Beach, Applecross, in accordance with the submitted plans and details and subject to the following conditions and advice notes:**

**CONDITIONS**

1. **Prior to the commencement of the activity, the applicant is to provide and maintain a \$20 million public liability insurance policy ('the Policy') with a reputable public insurance office.**
2. **A maximum of six people (including instructors) are to undertake tuition at any one time.**
3. **No signage, flags or the like associated with the business are to be displayed within the foreshore reserve.**
4. **No shade structures associated with the business are to be erected within the foreshore reserve.**
5. **That the licence be granted for a 12 month period only.**
6. **The water based kite surfing tuition is to be undertaken within the Teaching Zone to the north of the projected boundary between 11-13 Melville Beach Road Applecross at Melville Beach, as identified by the WA Kite Surfing Association's Kite Surfing Guidelines**

**3374 Kite Surfing Guidelines Melville Beach**

**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPLECROSS  
(REC) (ATTACHMENT)**

**ADVICE NOTES**

- a. Under the provisions of the City of Melville Local Government Property Local Law, a separate licence is required from the City for the proposed business to operate.

**REJECT AND REPLACE**

At 7.21pm Cr Taylor-Rees moved, seconded Cr Barton -

**That the Council advises the Swan River Trust that the City of Melville in the absence of any Management Plan or policy governing kite surfing cannot support a proposed Kite Surfing School at Melville Beach, Applecross.**

At 7.48pm the Mayor submitted the motion, which was declared

**TIED VOTE (6/6)**

*Being a tied vote the presiding member exercised his second vote to vote against the reject and replace motion.*

**LOST (6/7)**

Cr Barton requested that the votes be recorded –

**For: Cr Barton, Cr Hill, Cr Nicholson, Cr Pazolli, Cr Taylor-Rees, Cr Willis.**

**Against: Deputy Mayor Cr Macphail, Cr Foxtton, Cr Kinnell, Cr Reidy, Cr Reynolds, Cr Robartson.**

At 8:29pm Ms Templeton left the meeting and returned at 8.30pm.

**P13/3374 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH, APPECROSS  
(REC) (ATTACHMENT)****OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3374)****RECOMMEND SUPPORT**

At 7.50pm Cr Reynolds moved, seconded Reidy -

**That the Council advise the Swan River Trust that the City of Melville is supportive of the proposed Kite Surfing School at Melville Beach, Applecross, in accordance with the submitted plans and details and subject to the following conditions and advice notes:**

**CONDITIONS**

6. Prior to the commencement of the activity, the applicant is to provide and maintain a \$20 million public liability insurance policy ('the Policy') with a reputable public insurance office.
7. A maximum of six people (including instructors) are to undertake tuition at any one time.
8. No signage, flags or the like associated with the business are to be displayed within the foreshore reserve.
9. No shade structures associated with the business are to be erected within the foreshore reserve.
10. That the licence be granted for a 12 month period only.
- 6 The water based kite surfing tuition is to be undertaken within the Teaching Zone to the north of the projected boundary between 11-13 Melville Beach Road Applecross at Melville Beach, as identified by the WA Kite Surfing Association's Kite Surfing Guidelines

[3374 Kite Surfing Guidelines Melville Beach](#)

**ADVICE NOTES**

- b. Under the provisions of the City of Melville Local Government Property Local Law, a separate licence is required from the City for the proposed business to operate.

At 8.33pm the Deputy Mayor submitted the motion, which was declared

**CARRIED (7/5)**

**Cr Taylor-Rees requested that the votes be recorded –**

**For: Cr Foxton, Cr Kinnell, Cr Macphail, Cr Reidy, Cr Reynolds, Cr Robartson, Cr Willis.**

**Against: Cr Barton, Cr Hill, Cr Nicholson, Cr Pazolli, Cr Taylor-Rees.**

At 8.34pm Cr Reidy left the meeting and returned at 8.37 pm.

At 8.34pm Cr Reynolds left the meeting and returned at 8.37pm.

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPLECROSS, ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)**

Ward : Applecross/Mt Pleasant  
Bicton/Attadale

Category : Operational

Application Number : DA-2013-57

Property : Melville Beach, Applecross  
Attadale Foreshore, Attadale  
Point Walter, Bicton

Proposal : KiteSurfing school

Applicant : Kitesurf Warehouse

Owner : State of Western Australia

Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.

Previous Items : Item P13/3375 – Proposed Kite Surfing School at Melville Beach Applecross, Attadale Foreshore and Point Walter – Ordinary Meeting of Council 19 March 2013

Responsible Officer : Peter Prendergast  
Manager Statutory Planning

**AUTHORITY / DISCRETION**

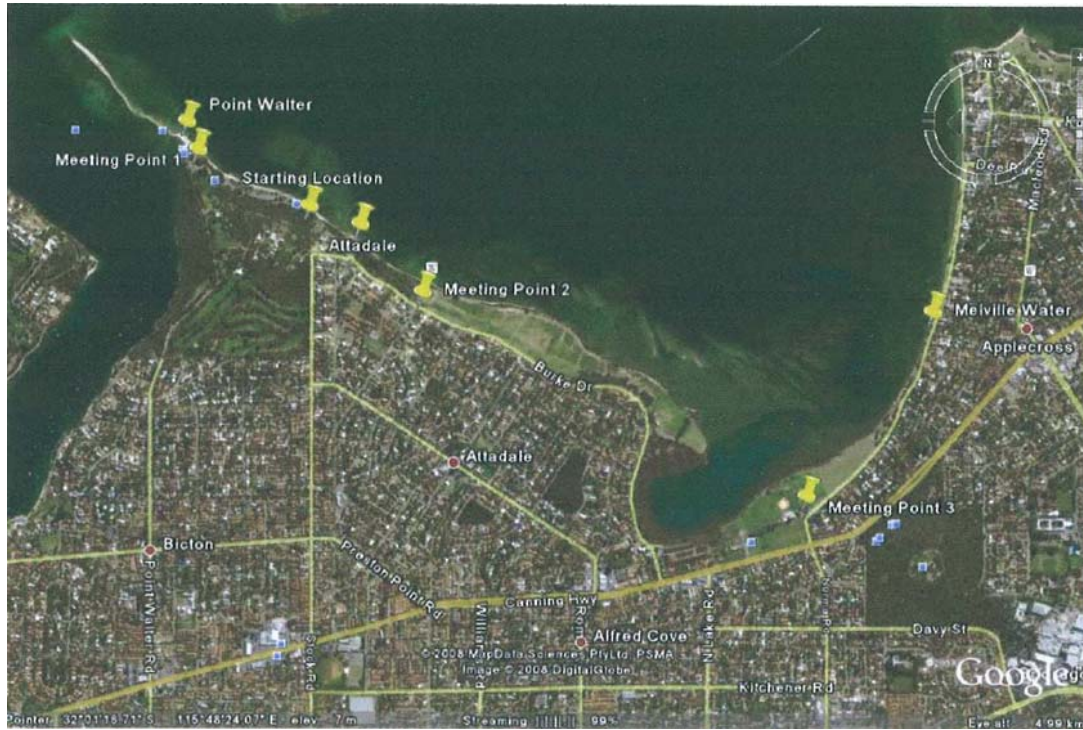
**DEFINITION**

<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 to note.</i>

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- The Swan River Trust (SRT) seeks the City's comments in relation to a proposed Kite Surfing School to operate at Melville Beach, Applecross, Attadale Foreshore, Attadale and Point Walter, Bicton.
- This item was presented to the Ordinary meeting of the Council held 19 March 2013, at which, as a result of a procedural motion put forward by CR Taylor Rees, it was resolved to defer consideration of the matter to the April 2013 Ordinary Meeting of the Council.
- The matter was deferred pending consideration of the need for a City wide Kite Surfing Management Plan, and to enable interested 3<sup>rd</sup> party groups to consider the implications of the proposal, affording them the opportunity to make a deputation to the Council at an Agenda Briefing Forum.
- It is proposed to operate classes where up to two instructors teach a maximum of two clients each at any one time.
- The Melville Beach location is the preferred one for the applicant, whilst Attadale Foreshore and Point Walter are proposed to be used as alternative locations only, when conditions at Melville Beach are not optimum.
- Planning approval from the City is not required as the activity is being undertaken within a Metropolitan Region Scheme Reserve, over which the City has no jurisdiction in planning terms. However, a licence and permit is required for the activity from the SRT under the *Swan and Canning Rivers Management Act 2006* and the associated Regulations.
- Kite Surfing is a popular sport within the Swan River reserve, particularly along the Melville Beach foreshore area due to favourable prevailing winds. This area is also a desired location for learning as the water is shallow, there is no water traffic and there is a waveless environment.
- It is recognised that there are however, some physical constraints at play which can be seen to prejudice safety levels for reserve users in the vicinity of Melville Beach Road, particularly the narrow width of the reserve at the point where Kite Surfing activity is so popular, which can make landing, and to a lesser extent, take off, difficult.
- Notwithstanding these constraints, and given the popularity of these areas for wind surfing activities over numerous years, it is recognised that kite surfing activities will continue to take place as private kite surfers exercise their right to recreate within the River Foreshore reserve. Furthermore, the activities associated with a tuition school will be carefully managed so as to minimise risks to students and other users of the foreshore and local residents, and in that way the activities associated with this proposal are effectively more managed.
- In view of this, and despite the physical constraints identified, it is recommended that the City lend its support for the proposed Kite Surfing Tuition taking place at Melville Beach, Attadale and Point Walter and advise the SRT accordingly on the basis of a 12 month licence

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)**



**Note: Teaching and Meeting areas marked in yellow**

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)****BACKGROUND**

In 2008, an application to conduct a paddle boarding, kite and windsurfing school with associated equipment hire at Point Walter Reserve, Melville Beach Road and Jeff Joseph Reserve, Applecross was referred to the City of Melville by the SRT for comment. At the time of the application, the paddle boarding component was supported by the Development Advisory Unit (DAU), however limited support was provided for the kite and wind surfing components due to potential public safety and liability concerns. As is generally the case with matters of this nature, the SRT shared the concerns as expressed by the City, and refused to grant the licence.

It is noted that the City is also in receipt of another licence application from the SRT which also seeks consent to operate a kite surfing school from a single location at Melville Beach. This application is also reported to Council at its April 2013 meeting.

**Scheme Provisions**

MRS Zoning/Reservation	:	'Parks and Recreation' Reserve
CPS 5 Zoning/Reservation	:	Not applicable
R-Code	:	Not applicable
Use Type	:	Recreation
Use Class	:	Not applicable

**Site Details**

Lot Area	:	Not applicable
Retention of Existing Vegetation	:	Not applicable
Street Tree(s)	:	Not applicable
Street Furniture (drainage pits etc)	:	Not applicable
Site Details	:	Refer to photo above

**DETAIL**

Approval is sought from the SRT to conduct Kite Surfing lessons at Melville Beach, Applecross in the first instance, but also Attadale Foreshore and Point Walter when conditions are not favourable at Melville Beach. The application has been referred to the City by the SRT for its recommendation.

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)**

**PUBLIC CONSULTATION/COMMUNICATION**

The City is not required to undertake public consultation as the SRT are the determining authority for the application. Notwithstanding this, public consultation has been undertaken by the City due to the proximity of the proposed school location to residential properties along Melville Beach Road. Public consultation has also been undertaken with landowners adjacent to the car parking area for Attadale foreshore.

In all, eleven submissions were received in respect of the proposal, seven of which refer solely to the Melville Beach location (two in support, one neutral and four in objection) and three opposing the use of the Attadale Foreshore. One neutral submission was also received in relation to the use of the Attadale Foreshore.

Submission Number	Summary of Submission	Support/Objection	Officer's Comment	Action (Condition/Uphold/Not Uphold)
<b>Melville Beach Foreshore</b>				
1	Recommend parking along Melville Beach Road be formalised and marked.	Neutral	The City is aware that parking occurs in this location, however there are no current plans to formalise it or mark bays within the road reserve.	Not Uphold
2	Kite surfers add colour to the area.	Support	Noted.	Uphold
3	Due to the proximity of the foreshore to the road and private properties, kite surfing in this location poses a safety concern.	Objection	Noted although recognised that this concern is levelled towards the general Kite Surfing activities that take place in this location, as opposed to the more supervised and managed activity proposed by this licence application. .	Not Uphold

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)**

4	Support the use of the foreshore for tuition. This has been occurring informally for a number of years and there have been no problems.	Support	Noted.	Partially uphold
5	The road reserve in this location has insufficient width to accommodate the parking of vehicles. Parking within the verge interferes with the flow of traffic and the exiting of cars from residences. Increased activity on the foreshore will result in damage and erosion.	Objection	Parking is permitted within the road reserve along the majority of the length of Melville Beach Road.	Not Uphold
		Objection	The activities associated with the tuition activity proposed are unlikely to cause damage or erosion.	Not Uphold
6	Due to the existing number of vehicles parking along the foreshore, Melville Beach Road from Cunningham to Dee Road becomes one way.  More toilets, BBQ areas and rubbish bins should be provided.  Potential safety issues between competent kite surfers and students.	Objection	See comments above regarding verge parking.	Not Uphold
		Neutral	Public toilets have recently been installed at the southern end of Melville Beach Road. In addition, there are BBQ facilities and bins available at Tompkins Park.	Not Uphold
		Objection	SRT will obtain the Department of Transport's comments regarding competing users and the likely safety implications..	Noted

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)**

7	Due to learners inexperience, there are potential safety issues of using this location.	Objection	See comments above regarding safety.	Not Uphold
	Car parking along Melville Beach Road is often full. The road is not wide enough, making it difficult to pass.	Objection	See above comments regarding parking and traffic.	Not Uphold
8	Objection to the businesses in the proposed position. A better location would be the southern end of Melville Beach Road near Cantray Ave where a larger car park could be constructed to remove the current dangerous traffic congestion along Melville Beach Road.	Objection	See comments above regarding verge parking. In addition, there is no beach in the suggested location making this unsuitable for kite surfing preparation.	Not Uphold
<b>Attadale Foreshore</b>				
1	No objection as long as it does not exceed the four students and two instructors.	Neutral	Condition restricting staff and patron numbers is recommended.	Condition

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)**

2	Express concern that the existence of the Swan Estuary Marine Park, located parallel to Burke Drive in Attadale has not been taken into account in consideration of the Kite Surfing proposal which includes the use of River Foreshore directly adjacent to the western boundary of the Marine Park.	Objection	The City is aware of the location of the Marine Park relative to the proposed Kite Surfing location at the Attadale Foreshore. The fact remains that Kite Surfing activities can and do take place in this location, irrespective of the current proposal to offer Kite Surfing tuition. The existence of the Marine Park does not preclude the use of the River and foreshore areas by other recreational users, provided the activity is undertaken as part of a managed operation, as it would be in this case.	Not uphold
3 and 4	A submission has been received from The Friends of Attadale Foreshore (FOAF), and a separate one from the Swan Estuary Reserves Action Group Inc (SERAG). Full details of these submissions form an attachment to this report.	Objection	The submissions highlight the need to protect designated Nature Reserves within the Swan Estuary Marine Park from interference from other River Users and/or activities.	

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)**

<p>3 and 4 continued</p>			<p>The specific area in question is located immediately adjacent to one of the Kite Surfing tuition areas proposed by the current licence application. It is noted however that the area classed as Nature Reserve is fenced off, effectively closing it off for protection and rehabilitation purposes. It is considered that provided other complementary recreational river based activities such as Kite Boarding are well managed, any adverse impacts that might otherwise result are effectively managed. It is further noted that the area is available for use by recreational river users without restriction, and in that vein the managed activity associated with the Tuition School now proposed can be seen to be more readily accommodated in this location.</p>
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**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)**

3 and 4 continued			The scale of the activity is very low key, and in isolation from the range of active river pursuits followed by other users of the River Foreshore in this specific location, including dog owners, boat owners, and wind surfers, would be negligible in terms of its impact.	
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**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

The City is not required to consult with other agencies and consultants as the SRT are the determining authority.

**STATUTORY AND LEGAL IMPLICATIONS**

As planning approval is not required from the City, CPS5 does not prescribe any provisions relating to the assessment of the proposal, however the application can be assessed on its merits and as to whether it conforms to proper and orderly planning.

The City is asked to make a recommendation to the SRT and is not the determining authority for the subject application. As such, there are no statutory or legal implications for the City as a result of this proposal.

**FINANCIAL IMPLICATIONS**

The *Local Government Property Local Law* requires a person/s to obtain a permit where they, 'carry on any trading as part of a business undertaken on local government property', together with the payment of appropriate fees. This local law applies to the proposed business where it operates from land vested in the City of Melville.

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)****STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no strategic, risk or environmental implications anticipated as a result of this application.

**POLICY IMPLICATIONS**

The City has no relevant policies in relation to the proposal.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The City is being requested to provide a recommendation and comment on the application to the SRT.

The Council can elect to support or resist the use. The STR are not bound by the recommendation made by Council.

**COMMENT**

An application for a Licence to operate kite surfing tuition, primarily from Melville Beach, and when conditions prevail, from Attadale Foreshore and the Point Walter Spit, has been submitted to the SRT, who have in turn referred the application to the City for its comment.

Kite surfing or kite boarding, as it's also known as, involves riding on a small surfboard that is propelled across water by a large kite to which the rider is harnessed. This sport is growing in popularity in WA due to the ideal conditions provided by the prevailing winds and the proximity to many suitable locations.

Two instructors, teaching up to two pupils each, at any one time are proposed. The days and times of the classes proposed are subject to weather conditions, however start times are usually between 12pm and 2pm as this is generally when the sea breeze comes in..

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)**

The business offers a seven hour beginner package which is split up over three lessons. The first lesson is a three hour land-based session undertaken on Tomkins Park with the pupil first learning how to fly the kite and to understand weather conditions. This is followed by a water session involving safety and teaching self rescue. The other two, two hour sessions teach the rider how to fly the kite in the water and safety.

No advertising, flags or shelters are proposed.

As outlined above, there are no provisions within CPS5 or Council Policies against which the proposal must be assessed. Despite this, it is incumbent on the City to ensure that the proposal is considered in the context of orderly and proper planning, and that it is consistent with the intent of the Metropolitan Region Scheme (MRS) reservation.

#### Location

All three locations are reserved for parks and recreation under the MRS. As kite surfing is a recreational activity, it is considered that the proposed use is consistent with the intent of the reserves.

Kite surfing in Western Australia is informed by the WA Kite Surfing Association (WAKSA). WAKSA designates certain precincts for general use, for learning and areas of exclusion. Melville Beach is one of three locations recognised by WAKSA within the Swan River and is identified on their website as being *“a popular flatwater site for beginner to expert kites providing a large protected shallow bay and a long narrow beach”*. WAKSA also identifies that the area marked by the three yellow buoys in the river between Nairn and Dee Roads is a designated launch, landing and learning area which creates a buffer zone between the kite surfers and the road reserve.

The information provided by WAKSA is consistent with the Department of Transport’s designation for the Melville Beach area, as it identifies that the area is not located within an area of conservation and is available for use by Power Water Craft, water skier’s people participating in lessons or any other potential users of the marine reserve.

WAKSA identifies Attadale Foreshore and Point Walter as other locations which *‘are kite-able when easterly or north easterly winds are blowing, predominantly on summer mornings’*. The WAKSA guidance states that due to its size, launch and landing can be difficult, and as such does not recommend the location as being suited to beginners. In view of this advice, clarification has been sought from both the applicant and the President of WAKSA, who are both of the view that the location is not considered suitable for individual beginner Kite Boarders, but is a suitable location for beginners who are under the guidance and control of an experienced Kite Boarder, as would be the case with this proposal.

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPLECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)**

The Department of Transport designates a water ski area at Point Walter and Attadale which is in close proximity to the kite surfing location. However, it is noted that water skiing requires flat water and kite surfing generally requires wind at approximately 15 knots, meaning that potential conflict between the two sports is unlikely.

**Benefits**

It is recognised that benefits can occur as a result of recreational businesses operating within a public area. These benefits can include education, monitoring and fostering a sense of responsibility amongst other river users. Recreation businesses such as the one proposed, can also bring tourists and visitors into an area which can add to the vitality of an area and benefit other businesses such as retail and food/beverage outlets.

**Car Parking**

The users of Melville Beach currently park within the road reserve of Melville Beach Road. It is noted that Melville Beach Road between Dee and Nairn Roads is two lanes wide, however the lane adjacent to the river is significantly wider which allows for the on street parking to take place without prejudice to road safety or the free flow of traffic. These parking bays are well utilised due to the popularity of the location for kite surfing, and it is considered that the car parking demands for the proposed tuition school activity can be readily met using these car parking bays.

It is noted that the City's Rangers have issued only ten parking infringements in the last three years to vehicles along the Melville Beach Road foreshore, the bulk of which relate to parking in the designated "no standing" areas. As such, parking along Melville Beach is not considered to be a significant problem.

At times when lessons are being undertaken from the Attadale Foreshore or Point Walter, there is ample parking available along Burke Drive and within the public car parking areas at Point Walter Reserve.

**Safety**

In order to address safety, the Applicant has supplied a risk assessment and a copy of their public liability insurance with the application.

It is acknowledged that the proposed business would educate and inform safe practice, regulate the areas of use and train beginner kite surfers. Furthermore, undertaking lessons within an area can encourage a sense of responsibility amongst other users of the river which can also enhance the safety of an area.

With regard to safety on the river, the SRT will refer the application to the Department of Transport for their recommendation and comment prior to determining the application.

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)**

With regard to safety of land vested in, or under the care and control of the City of Melville, it is recognised that the narrow nature of the Melville Beach foreshore and Reserve (the land between the road kerb and the water line is approximately 15m) makes it more potentially more difficult, particularly for inexperienced kite surfers, to operate without prejudice to their safety, and that of other parties using the reserve, including those who reside in the vicinity.

It is recognised and acknowledged however, that these safety concerns are of more relevance to the ongoing Kite Surfing activities that occur from this location by individual kite surfers pursuing their sport, as opposed to the more managed commercial tuition activities such as that proposed by this application.

In the context of safety, officers of the Statutory Planning Team have recently taken part in a seminar facilitated by Surf Lifesaving WA on behalf of the Government of Western Australia Department of Sport and Recreation (DSR).

The DSR acknowledges the growing popularity of the sport, but as a result of recent serious incidents involving Kite Surfers in WA, is concerned that a Kite Boarding Safety Framework be put in place to provide guidance, advice, and consistency to the kite boarding community.

It is anticipated that the framework will, once delivered, deal with the following outputs:

- Safety guidelines relating to kite boarding
- Guidelines for Event Managers (including risk management)
- Standard approach and guidance provided to Local Government
- Greater awareness by the Insurance industry of acceptable industry operating guidelines
- Awareness programme targeted at the recreational kite boarder.

Apart from the Guidelines that will eventually be made available to the City, and which will then be used to inform decision making around this activity, it is noted that other Local Governments who participated in the Kite Boarding seminar have Management Plans in place to guide kite boarders to specific locations, with restrictions in place to deter use of certain areas, or to ensure that competing users do not conflict with one another.

Whether the City should adopt such a managed approach to regulate Kite Boarding activities undertaken within its boundaries is worthy of investigation.

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)**

As far as the commercial tuition activity the subject of the current proposal, it is considered reasonable that the impacts of such proposals be considered in the context of the statutory licence regime that is currently in place. To that end it is considered that the proposed tuition school at the three subject locations is supported, and should be recommended for approval, subject to the proviso that any licence issued be restricted in the first instance to a 12 month approval period only. This recognises the fact that Kite Boarding Safety Guidelines are in development, and will enable the City to monitor the activities throughout that period, and before any permanent approval is considered.

**Environment**

With regard to the potential environmental implications that result from the proposal, it is acknowledged that all recreational activities have the potential to cause degradation to the foreshore environment, but this adverse impact must be tempered against the needs of the community to gain access to the river and foreshore areas in pursuit of recreation. The latter is indeed acknowledged by the SRT in the sense that no formal restrictions on access are in place in the immediate vicinity of the application site, it being expected therefore that this area of the river foreshore is one where people will gain access to the river.

Officers from the Environmental Team of the City's Technical Services Directorate have confirmed that any type of access to the River foreshore has the ability to detract from the environmental quality offered within that foreshore environment. This is inevitable where access to the foreshore by the public is allowed, as it is in the locations in question. The challenge is to encourage persons recreating within these types of sensitive environments to behave responsibly, keep to footpaths, avoid trampling through vegetation, take litter home or dispose of correctly, and so on. In the context of the Kite Surfing tuition activity proposed by this application, it was the view of the officers that damage to the environment is no more likely to occur as a result of the Kite Boarding activities as would result from the general use of the locations for other recreational pursuits, including the exercising of dogs, an activity which is highly prevalent given the fact that the beach area upon which the Kite Boarding tuition is proposed to take place, is in fact a designated Dog Beach.

On that basis, and noting the very low key nature of the tuition use in this case, it is considered that the activities associated with the tuition activity will unlikely result in additional degradation to the foreshore area than already occurs as a result of all other foreshore activity, including that brought about by individual Kite Boarders who, as stated, recreate in these locations unchecked.

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)****CONCLUSION**

On the grounds that:

- the areas in question, particularly Melville Beach, will continue to be heavily frequented by private kite surfers irrespective of the Councils endorsement,
- two of the three locations are identified by WAKSA as being ones where conditions for the sport are favoured,
- the use will likely result in greater proficiency for Kite Surf users, and
- in view of the very low key nature of the tuition business as proposed,

it is recommended that the Council lend its support for the proposal.

**OFFICER RECOMMENDATION (3375)****RECOMMEND SUPPORT**

That the Council advise the Swan River Trust that the City of Melville is supportive of the proposed Kite Surf Warehouse Pty Ltd Kite Surfing School at, Melville Beach, Applecross, Attadale Foreshore and Point Walter, in accordance with the submitted plans and details and subject to the following conditions and advice notes:

**CONDITIONS**

1. Prior to the commencement of the activity, the applicant is to provide and maintain a \$20 million public liability insurance policy ('the Policy') with a reputable public insurance office.
2. A maximum of six people (including instructors) are to undertake tuition at any one time.
3. No signage, flags or the like associated with the business are to be displayed within the foreshore reserve.
4. No shade structures associated with the business are to be erected within the foreshore reserve.
5. That the licence be granted for a 12 month period only.
6. In respect of the Melville Beach location the water based kite surfing tuition is to be undertaken within the Teaching Zone to the north of the projected boundary between 11-13 Melville Beach Road Applecross at Melville Beach, as identified by the WA Kite Surfing Association's Kite Surfing Guidelines

[3374 Kite Surfing Guidelines Melville Beach](#)

**P13/3375 - PROPOSED KITE SURFING SCHOOL AT MELVILLE BEACH APPECROSS,  
ATTADALE FORESHORE AND POINT WALTER (REC) (ATTACHMENT)****ADVICE NOTES**

- a. Under the provisions of the City of Melville Local Government Property Local Law, a separate licence is required from the City for the proposed business to operate.

**REJECT AND REPLACE**

At 8.35pm Cr Pazolli moved, Seconded Cr Taylor-Rees

**That the Council advises the Swan River Trust that the City of Melville in the absence of any Management Plan or policy governing kite surfing cannot support a proposed Kite Surfing School at such a large number of locations including Melville Beach Applecross , Alfred Cove, Attadale, and Point Walter Foreshore.**

At 8.45pm the Deputy Mayor submitted the motion, which was declared.

**CARRIED (12/0)**

Reasons for Reject and Replace

The reasons provided by Cr Pazolli in support of the reject and replace motion were because of the large number of locations, increased environmental sensitivity, impact on competition for space, and the need for a foreshore Kite Surfing Management Plan.

At 8.45pm the meeting reverted to the normal order of the Agenda.

**P13/3378 - ADOPTION OF PROVISION OF PUBLIC ART IN DEVELOPMENT PROPOSALS POLICY (REC) (ATTACHMENT)**

Ward	: All
Category	: Policy
Application Number	: Not applicable
Subject Index	: Policy and Policy Development
Customer Index	: City of Melville
Proposal	: Adoption of Provision of Public Art in Development Proposals policy for advertising
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: P12/3352 – Adoption of Provision of Public Art in Development Proposals Policy for Advertising – Ordinary Meeting of Council - 20 November 2012
Responsible Officer	: Peter Prendergast Manager Statutory Planning

**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 (e.g. 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 to note.</i>

**P13/3378 - ADOPTION OF PROVISION OF PUBLIC ART IN DEVELOPMENT PROPOSALS POLICY (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Community Planning Scheme No. 5 (CPS5) allows the Council to prepare and adopt planning policies and undertake regular policy reviews.
- The Council at its meeting of 20 November 2012 resolved to adopt the draft Provision of Public Art in Development Proposals policy for public consultation.
- The revised policy was advertised for a period of 21 days, via a notice in the Melville Times newspaper and on the City's website. No submissions were received.
- Following the public consultation period, an amendment to the policy has been made to require the provision of public art where the value of development exceeds \$1 million rather than for all development regardless of value.
- It is recommended that the Council adopt the policy.

**BACKGROUND**

Operational Policy Op-010: Arts and Culture was adopted by Council in December 2009. This policy required that an amount equal to 1% of the construction value of development should be allocated to the provision of public art. Pursuant to this policy, the City required the provision of public art as part of the development approval process. However, this practice was brought into question by the State Administrative Tribunal (SAT) during the course of an appeal, as the Arts and Culture policy was not adopted in accordance with the requirements of Clause 9.6 of CPS5. Since this finding, the City has been unable to require the provision of public art, unless the Applicant has agreed to do so.

At the Ordinary Meeting of Council held 20 November 2012, the following resolution was passed:

***“That the Council resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the draft Provision of Public Art in Development Proposals Policy 3352\_Provision of Public Art in Development Proposals Policy for public consultation via notice in a local newspaper for a period of 21 days subject to the following amendments –***

***That points (j) and (l) be added to the Policy as follows***

- (j) That the public art be functional where appropriate***
- (l) Be resistant as possible to vandalism”***

**Scheme Provisions**

Not applicable.

**Site Details**

Not applicable.

**P13/3378 - ADOPTION OF PROVISION OF PUBLIC ART IN DEVELOPMENT PROPOSALS POLICY (REC) (ATTACHMENT)****DETAIL**

It is proposed that the Provision of Public Art in Development Proposals policy be finally adopted by the Council, subject to one amendment, relating to the minimum cost of development. It is also made clear in the Policy that any cash in lieu received may be expended, at the discretion of the City, in any location within the District.

The draft policy as advertised, did not stipulate a minimum cost of development above which the provision of public art would be levied. To maintain the policy as advertised would result in all non-residential, mixed use and multiple dwelling developments, regardless of their scale or value, having to provide public art (or cash-in-lieu). This would be onerous, and difficult to administer, for both developers and the City alike.

As such, the proposed policy has been amended to require the provision of public art as part of multiple dwelling, mixed use or non-residential developments (or alterations, additions or extensions to these developments) where the cost of development exceeds \$1 million.

As the policy was advertised without a minimum cost of development figure, the imposition of a minimum figure is not considered to warrant re-advertising as the policy provisions are seen to be less, not more restrictive.

**[3378 Provision for Art Policy](#)****PUBLIC CONSULTATION/COMMUNICATION**

In accordance with Clause 9.6 of CPS5, the revised policy was advertised for public comment for a period of 21 days via a notice in the Melville Times newspaper and on the City's website. No submissions were received.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Clause 9.6(b) (ii) of CPS5 requires that Council advise the Western Australian Planning Commission (WAPC) of any policy proposal which affects the interests of the WAPC. The proposed policy does not have regional significance; therefore the WAPC need not be consulted.

**STATUTORY AND LEGAL IMPLICATIONS**

The final adoption of the Provision of Public Art in Development Proposals policy pursuant to Clause 9.6 of CPS5 will enable the City to require public art as part of the development approval process.

**FINANCIAL IMPLICATIONS**

Where a developer elects and Council agrees, the public art contribution can be paid as cash-in-lieu into the City of Melville Capital Arts Budget. Where cash-in-lieu is provided, these funds are to be expended by the City on public art located within the District.

**P13/3378 - ADOPTION OF PROVISION OF PUBLIC ART IN DEVELOPMENT PROPOSALS POLICY (REC) (ATTACHMENT)****STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

The main implication of the policy is that the City will be able to require the provision of public art as part of the development approval process.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The Council could elect not to adopt the proposed policy. The implication of this action is that the City will not be able to impose a requirement to provide public art (or cash-in-lieu of public art) without the agreement of the developer. Not adopting the proposed policy would fail to recognise community interest captured through Neighbourhood Plans and the Cultural Vitality Plan.

The Council has the ability to modify the amended policy prior to final adoption; however, depending upon the scale and implications of any amendments, this may result in the policy needing to be re-advertised.

**CONCLUSION**

Overall, it is considered that public art adds to the vibrancy and amenity of the City of Melville, has the potential to assist in the creation of important landmark structures, and can contribute to the sense of place in the area. It is therefore recommended that the Council resolve to adopt the Provision of Public Art in Development Proposals Art policy pursuant to Clause 9.6 of CPS5.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3378)****ADOPTION**

**That the Council resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the Provision of Public Art in Development Proposals policy [378 Provision for Art Policy](#)**

At 8.46pm the Deputy Mayor submitted the motion, which was declared

**CARRIED EN BLOC (12/0)**

**P13/3379 - FINAL ADOPTION OF COUNCIL POLICY CP – 45: EXHIBITION / DISPLAY HOMES (REC) (ATTACHMENT)**

Ward : All  
 Category : Policy  
 Application Number : Not applicable  
 Subject Index : Policy and Policy Development  
 Customer Index : City of Melville  
 Proposal : Review of Council Policy CP – 045: Exhibition / Display Homes Policy  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : P12/357: Review of Council Policy CP – 45: Exhibition / Display Homes – Ordinary Meeting of Council 11 December 2012  
 Responsible Officer : Peter Prendergast  
 Manager Statutory Planning

**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 (e.g. 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 to note.</i>

**P13/3379 - FINAL ADOPTION OF COUNCIL POLICY CP – 45: EXHIBITION / DISPLAY HOMES (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Community Planning Scheme No. 5 (CPS5) allows the Council to prepare and adopt planning policies and undertake regular policy reviews.
- The Council at its meeting of 11 December 2012 resolved to adopt the revised Council Policy CP-45: Exhibition / Display Homes for public consultation.
- The revised policy was advertised for a period of 21 days, via a notice in the Melville Times newspaper and on the City's website. No submissions were received.
- It is recommended that Council adopt the amended policy.

**BACKGROUND**

Planning policies supplement Community Planning Scheme No. 5 (CPS5) provisions and the requirements of the Residential Design Codes (R-Codes). CPS5 allows Council to prepare and adopt planning policies and undertake regular policy reviews.

Council Policy CP – 45: Exhibition / Display Homes was last reviewed on 17 August 2010.

At the Ordinary Meeting of Council held 11 December 2012, the following resolution was passed:

***“That Council, pursuant to Clause 9.6(b) of Community Planning Scheme No. 5, resolve to adopt the amended Exhibition / Display Homes Policy 3357 Exhibition Display Homes Policy New Version for public comment via notice in a local newspaper for a period of 21 days”.***

**Scheme Provisions**

Not applicable.

**Site Details**

Not applicable.

**DETAIL**

The primary amendment to the existing policy is to extend the existing 12 month approval period to 24 months. This proposed amendment is in response to discussions held with a number of house building companies who construct Exhibition / Display Homes, who indicated that the existing 12 month approval period is onerous, especially given the time it takes to actually construct and fit out such display homes.

As a response, the policy has been amended to extend the approval period to 24 months. This time period corresponds to the average life span of a display home, however the policy still allows Council to extend the time period further upon application where additional time may be necessary.

**P13/3379 - FINAL ADOPTION OF COUNCIL POLICY CP – 45: EXHIBITION / DISPLAY HOMES (REC) (ATTACHMENT)**

The remainder of the changes to the policy are minor and are limited to formatting and clarifying the existing provisions. An additional provision relating to signage has also been incorporated.

It is proposed that the revised Exhibition/Display Homes policy be adopted pursuant to Clause 9.6 of CPS5.

**[3379 Exhibition Display Homes Policy](#)****PUBLIC CONSULTATION/COMMUNICATION**

In accordance with Clause 9.6 of CPS5, the revised policy was advertised for public comment for a period of 21 days via a notice in the Melville Times newspaper and on the City's website. No submissions were received.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Clause 9.6(b) (ii) of CPS5 requires Council to advise the Western Australian Planning Commission (WAPC) of any policy proposal which affects the interests of the WAPC. No such interests are noted and as such the WAPC were not consulted.

**STATUTORY AND LEGAL IMPLICATIONS**

The final adoption of the amended policy will enable the City to assess and require compliance with the provisions outlined within the policy.

Planning policies provide a sound basis for planning decision making, legitimising such decisions in a clear and unambiguous way. Planning policies that are of sound content and adopted in accordance with CPS5 provisions, enjoy the same status as CPS5 provisions in the State Administrative Tribunal.

**FINANCIAL IMPLICATIONS**

Under the current policy, Exhibition / Display Homes are granted approval for a 12 month period, upon which time another application is required to be submitted and considered by the City to extend the timeframe. The application fee for such renewals is \$139. The City receives such a low number of these applications each year, that the loss of these application fees will be insignificant, particularly given the costs incurred by the City in determining such renewal applications exceed that of the applicable renewal fee.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**P13/3379 - FINAL ADOPTION OF COUNCIL POLICY CP – 45: EXHIBITION / DISPLAY HOMES (REC) (ATTACHMENT)****POLICY IMPLICATIONS**

Once adopted, the revised policy will provide a sound basis for planning decisions and will improve the validity of planning decisions.

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

The Council could elect not to adopt the amended policy and continue to rely upon the existing policy. This is not recommended as the amended policy reflects an updated position which responds to the needs of the housing industry.

The Council has the ability to modify the amended policy; however, depending upon the scale and implications of any amendments, this may result in the requirement to re-advertise.

**CONCLUSION**

It is considered that the amended policy will be more responsive to the needs of display home builders, and the changes proposed to amend the validity period of any planning approval issued can be readily accommodated without detriment to residential amenity.

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3379)****ADOPTION**

**That the Council resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the Exhibition / Display Homes Policy [3379 Exhibition Display Homes Policy](#) as amended.**

At 8.46pm the Deputy Mayor submitted the motion, which was declared

**CARRIED EN BLOC (12/0)**

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)**  
**(ATTACHMENT)**

Ward : Palmyra/Melville/Willagee  
 Category : Strategic  
 Subject Index : Carawatha Primary School  
 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 : CO6/8006 'Carawatha Primary School – Use of Buildings' August 2006  
 P10/3170 'Amendment No. 43 to Community Planning Scheme No. 5 by Amending the Scheme Map and Text from "Local Reserve – Public Purpose – Primary School" to "Local Reserve – Local Open Space" and "Community Centre Precinct (CCR) with a Density Coding of Residential R30/60", Lot 300 (10) Archibald Street, Willagee' October 2010  
 Works Programme : 2013/2014 and 2014/2015  
 Funding : Capital budget 2013/2014 - \$577,021 2014/2015 - \$731,666  
 Responsible Officer : Ian Davis  
 Project Coordinator

**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 to note.</i>

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)  
(ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- In 2005 the City of Melville moved to acquire the former Carawatha Primary School from the Department of Education and Training (DET).
- The sale of the property for \$5.187million occurred on 13 June 2006.
- In late 2011 the Scheme Amendment for the site was approved with a change from Public Purposes to Public Open Space and included some Community Centre purposes with a residential density of R40.
- The buildings were demolished in early 2012.
- Approximately one third of the site was reserved as Local Reserve, Local Open Space with the remaining two-thirds zoned Community Centre Precinct.
- In February 2012 a decision was taken to proceed with the design and installation of the Public Open Space.
- The site has been left vacant and been maintained at a minimal standard since the City purchased the property in 2006.
- The area consists of two packages of land; bushland (approximate size 5,700m<sup>2</sup>) and parkland (approximate size 7,500m<sup>2</sup>).
- Extensive community engagement has been undertaken prior to concept plan development.
- The final Concept Plan has incorporated public comments received and includes BBQs, lighting, barrier between Archibald Street and playground, hardstand path through bushland (access for the aged), toilets and a provision for additional formal parking.
- The Construction schedule suggests a staged approach;
  - bushland development be completed in the initial three months of the 2013/2014 financial year (approx \$66,000).
  - Parkland development be implemented in one project but spanning two financial years (2013/2014 and 2014/2015) with construction starting around May 2014 and concluding September 2014.
- Proposed capital budgets - 2013/2014 - \$577,021 and 2014/15 - \$731,666
- Additional requirements for maintenance funds into the future have been identified as -

Year	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
<b>Total operating/maintenance cost</b>	<b>\$12,500</b>	<b>\$32,643</b>	<b>\$65,402</b>	<b>\$67,364</b>	<b>\$69,385</b>	<b>\$71,466</b>

- Community feedback indicates “Carawatha Park” as the preferred name for the new park

**BACKGROUND**

In 2005 the City of Melville moved to acquire the former Carawatha Primary School from the Department of Education and Training (DET). At the time, the Council committed to use a portion of the site to address a short-fall of local open space in the immediate area.

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)  
(ATTACHMENT)**

At the point of acquisition the City considered a number of expressions of interest (EOI's) and supported the Coastal Business Centre application to develop a business incubator on the balance of the land (in the former Primary School buildings). This was considered to be a positive opportunity to encourage development, re-use of the existing buildings and encourage local employment.

The EOI process was delayed as the sale of the property was subject to further set backs between the City and the Department of Employment and Training (DET), raising the eventual sale price to \$5.187million. Settlement of the property occurred on 13 June 2006.

In 2006 (Report C06/8006 Carawatha Primary School – Use of Buildings) Council resolved;

*“That the Director of Strategic Urban Planning develop a local precinct plan for the area immediately adjacent to the Carawatha site incorporating entry statements, landscaping, parking and integration with local shopping strips.*

*That Council adopts a place based planning approach for the area in order to address long term community outcomes.”*

In April 2007, the City received advice that the funding application by the Coastal Business Centre (required to enable their relocation to the property) had been unsuccessful.

In July 2008, the City again called for EOI's. The advertisement clearly alluded to the types of development supported by the 'approved' scheme amendment for the site, even though the scheme amendment was being back-dated pending the outcomes of the EOI process.

Neither EOI process resulted in the appointment of a development partner or the agreement of development outcomes.

The Major Land Transaction Plan, written in 2009, considering public submissions and adoption of the advertised major land transaction business plans including part Lot 300 (10) Archibald Street, Willagee (the former Carawatha Primary School site), was deferred by the Council until a more strategic review of all land assets was completed.

In late 2011 the Scheme Amendment for the site was approved with a change from Public Purposes to Public Open Space including some Community Centre purposes with a residential density of R40.

The buildings, having suffered from continual damage through vandalism, were demolished in early 2012 to reduce anti-social behaviour and an increasing maintenance burden.

Approximately one third of the site was reserved as Local Reserve, Local Open Space with the remaining two-thirds zoned Community Centre Precinct. This purpose will be further refined once investigations have concluded and a Strategic Master Plan produced.

In February 2012 a decision was taken to proceed with the design and installation of the Public Open Space rather than wait for the Master Planning Process to be undertaken, and following a period of community engagement, a Concept Plan was developed.

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)**  
**(ATTACHMENT)**

**DETAIL**



**Picture 1: Area Identified For Development**

The site has been left vacant and been maintained at a minimal standard since the City purchased the property in 2006. The space identified for park development consists of two discrete packages;

1. A patch of remnant bushland (**Picture 1** dark green area of approximately 5,700 m<sup>2</sup>) is in reasonable condition. The intention is to manage it in accordance with best practice bushland management principles including fencing, planting, access management, intensive weed control and further development of long term management programs
2. Vacant land (**Picture 1** light green area of approximately 7,500 m<sup>2</sup>) which includes the original turf that formed one of the school ovals (which has not been irrigated since the City of Melville purchased the property), and a small number of adjacent exotic trees. Unfortunately the old school oval is no longer serviceable and therefore the area requires redevelopment to a standard acceptable for a local park.

The park design has considered the City of Melville's current practices of sustainable design principles wherever practicable. It includes principles such as hydro-zoning, Water Sensitive Urban Design (WSUD) and clearly delineated zones and materials that will minimise maintenance requirements. Crime Prevention Through Environmental Design (CPTED) has also been considered through activities such as lifting the tree canopies, removal of low sight-obstructing shrubs and the inclusion of park lighting.

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)  
(ATTACHMENT)**

The proposal is to implement the construction of the project over two financial years, starting in 2013/2014 and concluding in 2014/2015. The suggested schedule, pending financial approval, would include;

- Bushland development at the onset of the 2013/2014 year. This would take approximately three months to complete and would include fencing, weed control, rubbish removal, path construction and installation of appropriate signage. In accordance with the purchasing policy there is no requirement for a tender for this component of the development as the procurement of these tasks may be undertaken through the quotation procedure and existing supply contracts. The benefit of undertaking the bushland development immediately in the new financial year is that the community will finally see that the development of the Park is becoming a reality.
- The parkland development would be scheduled to start later in the year, approximately April 2014 and conclude in September 2014. This would allow the parkland area to be fully developed in one stage but allow budgeting across two financial years. The benefits of scheduling in this manner are that the project would not incur the additional costs that staging would present in terms of duplication of tasks i.e. those associated with mobilisation and demobilisation, would require only one tender and contract to complete and would minimise the disruption to adjacent residents.

**PUBLIC CONSULTATION/COMMUNICATION**Objective of community engagement in the design of Carawatha Park

To create an agreed "design brief" to guide the "concept design" for the Public Open Space Redevelopment at the Former Carawatha Primary School Site.

The planned outcome of the participatory workshops was to create a vision for the development of "a unique Willagee park that the community owns and loves".

SpaceShaper workshops

Consultation was performed with the SpaceShaper toolkit facilitated by a trained professional from PlaceScape. SpaceShaper is a practical toolkit developed by the Commission for Architecture and the Built Environment in the United Kingdom (CABE UK) to measure the quality of a public space before investing time and money in improving it.

SpaceShaper captures the views of the professionals who are managing the space, as well as those of the people using it. Open discussion is facilitated about how the space works for different people.

In mid 2012, the City's held a series of SpaceShaper workshops specifically tailored to address the Carawatha Public Open Space (POS) with the local community and students from the Caralee Primary School. The workshops were highly successful in gathering information about what people value about the space, how they use it and what works and what doesn't work. It brought representatives from the local community and City of Melville staff together to discuss the park. A report was produced and forms an attachment to this report.

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)  
(ATTACHMENT)**SpaceShaper workshop results

The community identified a number of activity areas/design features that they felt were important for inclusion in the new park. These included;

- Protect and enhance the bush area
- A “natural” or “bush” theme for the park
- Art and play elements inclusive of the bush and trees
- Inclusion of local history
- Inclusion of a bush tucker walk
- Creation of a friends group for the park
- Improved path access
- Areas to sit in the shade
- Open green space to kick a footy and run
- Areas for teenagers to “hang out” and be active
- Hard surfaces for bikes, skateboards, scooters
- Universal access paths and seating for aged and physically impaired
- Keep it simple

For further details, please refer to the SpaceShaper Report which forms part of the attachments to this Item. [3383 SpaceShaper Report](#)

Draft Concept Plan

The “Draft Concept Plan” that was developed from the SpaceShaper results was presented to the wider community by mailout, on the City’s website and a display at the Willagee Library and the Willagee Community Centre. The Draft Concept Plan was received positively, with respondents overwhelmingly in favour of the plan.

Public feedback on the Draft Concept Plan

Feedback that was received from the community has been incorporated into the final concept plan and includes:

- BBQs
- Lighting
- A barrier between the kids playground and Archibald Street to contain young children
- A hardstand path through the bushland for universal access
- Toilets
- The provision for future additional parking along Stacey Street

The Final Draft Concept Plan forms part of the attachments to this Item.

[3383 Carawatha Final Draft Concept Plan](#)

Naming the Park

The park is yet to be officially named. A questionnaire was circulated to the local community to canvass their preference. The questionnaire was carefully worded so that the public were aware that while they were being asked for their preferred name, the final decision would be made by Council. “Carawatha” is widely supported by the public.

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)  
(ATTACHMENT)**

The name “Carawatha” refers to the old Primary School which was on the site and thus links with the history of the site. The name is already commonly used for the park both locally and by City staff. It is an aboriginal word meaning “wind through the trees” (or similar) and thus links the park to the indigenous community.

As part of the planning process for the naming of parks, City staff are currently compiling a list of suggested names. The list will then be submitted to Landgate for a determination of acceptability of the suggested names. The final list, together with an officer recommendation be presented to the Council in due course for a decision.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Landgate have been consulted regarding the naming of the park.

**STATUTORY AND LEGAL IMPLICATIONS**

There are no statutory or legal implications that have required formal advice or affect the development of this park or would impact on Council’s final decision for this development.

**FINANCIAL IMPLICATIONS**

This is a new development and therefore requires funding for capital works across three financial years. Once developed, the park will require additional ongoing operating funds to maintain the park into the future.

The 2012/2013 capital budget (current year) already has an approved allocation of \$130,000.

As outlined in the detail above the implementation of the project is proposed over two financial years starting in 2013/2014 and concluding in 2014/2015.

The Capital budget is summarised in Table 1 below.

Table 2 summarises the ongoing maintenance costs. There is already a recurring budget of \$22,135 (2012/2013) set aside for basic maintenance. A 3% annual increase has been factored in across the following five years. Additional maintenance costs (over and above the existing budget) will be required for the parkland with new funds required for bushland management (which hasn’t been actively managed to date). Bushland maintenance requirements in the initial stages (years 1 and 2) will be higher as additional weed control and planting costs have been factored in. Once these initial tasks have been addressed the bushland will be scheduled for regular maintenance visits under an existing service contract. The cost for the outsourcing of bushland management is listed in Table 2 under contractors.

Maintenance costs are based on costs and service levels for similar maintenance works carried out by the City staff. Annual increments have been factored in to allow for increases in wages, utilities, material and contract costs.

Table 3 shows the Net Operating Financial Impact extrapolated over a 10 year time frame.

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)**  
**(ATTACHMENT)**

Table 1: Capital Costs

(\$000s)	2012/13	2013/14	2014/15	2015/16	2016/17	5 yr Total
	y1	y2	y3	y4	y5	
<b>Project Development</b>						
Concept Plan Development	6,000					
Public Information and Comment	4,000					
<b>Project Set up</b>						
Site Investigations						
Technical specifications and construction drawings	12,000					
Communication Plan Implementation	500					
<b>Project Implementation</b>						
Power connection (new)	15,000					
Bore installation (new)	32,000					
Water Connection (new)	5,500					
Bushland (rehabilitation, paths, fencing)		66,335	15,000			
Preliminaries to Works		15,440				
Site Clearance and earthworks		65,000				
Concrete pathways and initial hard works		93,610	44,900			
Carpark and surrounding footpath artwork		8,000	39,000			
Soft works (planting, turf, etc)			94,510			
Irrigation		72,000				
Electrical works		8,000	55,250			
Furniture, equipment, toilet and Signage			358,490			
Communication media and launch event		2,000	3,000			
<b>Sub Total</b>	<b>74,500</b>	<b>441,835</b>	<b>610,150</b>			
Contingency (10% of construction costs)		43,984	60,715			
CoM Project design fees		37,691	25,127			
Project Management	55,000	53,511	35,674			
<b>TOTAL COST</b>	<b>\$130,000</b>	<b>\$577,021</b>	<b>\$731,666</b>			<b>\$1,438,697</b>

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)  
(ATTACHMENT)**

Table 2: Maintenance Costs

Note: year 1 of bushland maintenance is a part year only and follows initial development.

\*\* Note: year 2 – parkland maintenance requirement is half year following contractor build and maintenance period

(\$000s):	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	5 yr Total
	y1	y2	y3	y4	y5	y6	
<b>ADDITIONAL OPERATING COSTS - Parkland</b>							
Salaries	8,123	7,290	14,580	15,017	15,468	15,932	76,410
Overheads	5,951	7,290	14,580	15,017	15,468	15,932	74,238
Materials	223	2,363	4,725	4,867	5,013	5,163	22,353
Fleet & Plant	6,043	2,500	5,000	5,150	5,305	5,464	29,461
Contractors	1,795	16,000	33,000	33,990	35,010	36,060	155,855
Utilities		5,000	10,000	10,300	10,609	10,927	46,836
<b>Sub-Total (additional operating costs - parkland)</b>	<b>22,135</b>	<b>40,443</b>	<b>81,885</b>	<b>84,342</b>	<b>86,872</b>	<b>89,478</b>	<b>405,154</b>
<b>Less existing recurring budget (added 3% CPI each year)</b>	<b>22,135</b>	<b>22,799</b>	<b>23,483</b>	<b>24,188</b>	<b>24,913</b>	<b>25,661</b>	<b>143,179</b>
<b>ADDITIONAL MAINTENANCE COSTS - Bushland</b>							
Contractors	12,500	15,000	7,000	7,210	7,426	7,649	56,785
<b>Sub-Total (additional maintenance costs - bush land)</b>	<b>12,500</b>	<b>15,000</b>	<b>7,000</b>	<b>7,210</b>	<b>7,426</b>	<b>7,649</b>	<b>56,785</b>
<b>TOTAL ADDITIONAL OPERATING &amp; MAINTENANCE COSTS</b>	<b>*12,500</b>	<b>**32,643</b>	<b>65,402</b>	<b>67,364</b>	<b>69,385</b>	<b>71,466</b>	<b>318,760</b>

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)  
(ATTACHMENT)**

Table 3: Net Operating Financial Impact

(\$000s):	2012/13	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	10 yr Total
	y1	y2	y3	y4	y5	y6	y7	y8	y9	y10	
<b>TOTAL NET</b>	<b>12,500</b>	<b>32,643</b>	<b>65,402</b>	<b>67,364</b>	<b>69,385</b>	<b>71,466</b>	<b>73,611</b>	<b>75,819</b>	<b>78,093</b>	<b>80,436</b>	<b>626,719</b>

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Strategic Risk

Risk Issue and Causes	Initial Risk Rating	Existing Treatment / Controls	Revised Risk Rating	Action Required	When	Residual Risk Rating
<p><b>Strategic Risk Issue</b> Loss of usable asset and Loss of City Reputation through deterioration of the site caused by:</p> <p>Lack of infrastructure, installation/renewal, Construction of adjacent Commercial Centre, Population Growth</p>	Likely/ Major <b>Extreme</b>	Basic reactive maintenance	Likely/ Major <b>Extreme</b>	<p>The City to address the priority of developing the Carawatha POS, immediately and instigate an ongoing maintenance program.</p> <p>Undertaking the project immediately will redress the current deterioration and restore reputation of the City.</p>	2013-2014	Possible /Minor

Project Risk

Identified Risk	Risk Level	Risk Mitigation
That the project will not achieve the desired environmental outcomes	<b>Medium</b> Unlikely/major	<ul style="list-style-type: none"> <li>Utilise best practice bushland management techniques and ensure adequate budget available for ongoing management.</li> <li>Ensure design considers issues relating to water such as hydro-zoning and water sensitive design principles.</li> <li>Ensure the site is handed over to appropriate operational areas to monitor/manage .</li> </ul>
That the project will not achieve the desired recreational outcomes	<b>Medium</b> Unlikely/major	<ul style="list-style-type: none"> <li>Ensure adequate community consultation is undertaken</li> <li>Utilise current best practice POS development and management techniques.</li> <li>Continue to monitor the site over time and take action as necessary.</li> </ul>

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)  
(ATTACHMENT)**

Identified Risk	Risk Level	Risk Mitigation
That public safety and amenity will be compromised	<b>Medium</b> Possible / moderate	<ul style="list-style-type: none"> <li>• Ensure that site management plans are adequate , implemented and monitored</li> <li>• City of Melville Contractor OH&amp;S Induction</li> <li>• Ensure that redevelopment works are carried out in a timely manner (in accordance with agreed schedule)</li> <li>• Ensure all work proposed complies with relevant Australian Standards and best practices</li> </ul>
That damage occurs to third party assets through contractor actions	<b>Low</b> Unlikely/ minor	<ul style="list-style-type: none"> <li>• Ensure adequate insurance by contractor - \$20 million public liability</li> <li>• Undertake site induction</li> </ul>
Human resources inadequate	<b>Medium</b> Possible/moderate	<ul style="list-style-type: none"> <li>• Allocate project co-ordinator in development phase</li> <li>• Ensure that project management process is adhered to</li> <li>• Ensure that project team is identified with all responsibilities identified and agreed</li> </ul>

**POLICY IMPLICATIONS**

Procurement of Products or Services Policy No. CP- 023. Current policy states;

*Where the value of procurement (Ex GST) or the value of the contract over the full contract period (incl. options to extend) is expected to be:-*

\$1,501 - \$14,999	<i>Obtain at least three verbal quotations or priced printouts from reputable suppliers' catalogues or websites.</i>
\$15,000 - \$49,999	<i>Obtain at least three written quotations.</i>
\$50,000 - \$99,999	<i>Formal quotation process similar to a public tender process will be undertaken and coordinated by the Purchasing Team.</i>
\$100,000 and above	<i>Conduct a public tender process. Note this is also a statutory obligation as set out in the Local Government (Functions and General) Regulations 1996 as amended.</i>

The bushland development will consist of a number of components that can be procured through contractors that are already under contract to the City. In the case of fencing, procurement of a suitable contractor will be identified by obtaining at least three written quotes.

The Parkland component of the development will require a public tender process.

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)  
(ATTACHMENT)****ALTERNATE OPTIONS & THEIR IMPLICATIONS**

This project is being undertaken as a result of a lack of developed public open space in Willagee. Public demand and expectations are high for a quality parkland development. The option of not developing this parkland is available to the City however presents an extreme risk in terms of reputation and resident dissatisfaction as identified in the strategic risk table above. Therefore no alternative options are presented as part of this report.

**CONCLUSION**

The community of Willagee has expressed a clear opinion that they wish to see a quality community asset created at the old Carawatha Primary School site. Extensive community engagement has been carried out and the ideas gathered from community workshops have been incorporated into the concept design.

With its much smaller size and following feedback received through the community engagement process, the design has incorporated a more nature based experience that will still deliver a high quality park for the local community.

The development of the park has been scheduled to include the formal creation of a Conservation Bush Reserve in the first instance. This was identified as an important aspect of the site and the timely start will be positively viewed by the community as progress in terms of the park development.

The parkland area will be developed in the last quarter of 2013/2014 and concluded in September 2014/2015, thus allowing the construction and budgeting to span two financial years but be completed as a single project. This will result in cost savings as it removes the need for multiple incidences of mobilisation and demobilisation and it allows the project to be fully completed over a shorter period and be less disruptive for adjacent residents.

Community comment has been sought on the suggested name for the Public Open Space (POS) and “Carawatha Park” was seen as linking with the history of the site and is already used extensively as the default name.

A comprehensive Business Case for this project forms part of the attachments to this Item.

[3383 Carawatha Business Case](#)

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)  
(ATTACHMENT)**

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3383)**

**APPROVAL**

At 8.49pm Cr Kinnell moved, seconded Cr Hill -

1. That \$577,021 be considered as part of the 2013/2014 Capital Works budget process and \$731,666 be considered as part of the 2014/2015 Capital Works budget process to allow for the development of a portion of the former Carawatha Primary School site.
2. That the recurring maintenance budget as set out in the table below be considered as part of future budget processes.

Financial Year	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Total operating/maintenance cost	\$12,500	\$32,643	\$65,402	\$67,364	\$69,385	\$71,466

3. That the naming process for the park proceeds through Statutory Planning and includes the name "Carawatha Park" as one of the suggestions.

Amendment

At 8.49 Cr Kinnell with the agreement of the seconder, Cr Hill, agreed to incorporate the Amendment into the recommendation.

*That Point 4 be added to the Officer Recommendation as follows –*

4. *The City seek possible external grant funding for the project or portions of the project.*

**T13/3383 – RE-DEVELOPMENT OF CARAWATHA PRIMARY SCHOOL (REC)  
(ATTACHMENT)**

**COUNCIL RESOLUTION (3383)**

**APPROVAL**

At 8.49pm the Deputy Mayor submitted the substantive motion as amended -

1. That \$577,021 be considered as part of the 2013/2014 Capital Works budget process and \$731,666 be considered as part of the 2014/2015 Capital Works budget process to allow for the development of a portion of the former Carawatha Primary School site.
2. That the recurring maintenance budget as set out in the table below be considered as part of future budget processes.

Financial Year	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
Total operating/maintenance cost	\$12,500	\$32,643	\$65,402	\$67,364	\$69,385	\$71,466

3. That the naming process for the park proceeds through Statutory Planning and includes the name "Carawatha Park" as one of the suggestions.
4. *The City seek possible external grant funding for the project or portions of the project.*

At 8.50pm Cr Nicholson left the meeting and returned at 8.55pm.  
At 8.50pm Cr Taylor-Rees left the meeting and returned at 8.52pm.  
At 8.52pm Ms A Templeton left the meeting.

At 9.14pm the Deputy Mayor submitted the motion, which was declared

**CARRIED (11/1)**

**C13/5000 – 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 Programme	:	Not applicable
Funding	:	Not applicable
Responsible Officer	:	Bruce Taylor - Manager Information, Technology & Support

**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 to note.</i>

**KEY ISSUES / SUMMARY**

This report details the documents to which the City of Melville Common Seal has been applied for the period from 19 February 2013 up to and including 22 March 2013 and recommends that the information be noted.

**C13/5000 – 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 attest the affixing of the seal.

**DETAIL**

<b>Register Reference</b>	<b>Party</b>	<b>Description</b>	<b>File Reference</b>
769	City of Melville and Melville Palmyra Tennis Club	Management Licence for a further five years term between the City of Melville and Melville Palmyra Tennis Club	2901229
780	City of Melville and Landgate	Application for New Titles for 20A and 20B Queens Road, Mount Pleasant	2949439

**PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Not applicable.

**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**

Not applicable.

**C13/5000 – COMMON SEAL REGISTER (REC)****STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Not applicable.

**POLICY IMPLICATIONS**

Not applicable.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**CONCLUSION**

This is a standard report for Elected Members information.

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

**That the action 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 19 February 2013 up to and including 22 March 2013, be noted.**

At 9.14pm the Deputy Mayor submitted the motion, which was declared

**CARRIED EN BLOC (12/0)**

**C13/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2013 (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	: Khris Yeoh – Senior Financial Accountant

**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 to note.</i></b>

**C13/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2013 (REC)****KEY ISSUES / SUMMARY**

- This report presents the investment statement for the month of February 2013 and recommends that the information detailed in the report be noted.
- The low 'Cash' rate and legislative restrictions continue to have a major impact on the City's investment earnings.
- Monthly valuations for Collateralised Debt Obligations (CDOs) shown for February 2013 are based on valuations obtained from CPG Research and Advisory as at 28 February 2013. When compared to the valuations used as at 30 June 2012, CDOs have increased in value by \$746,512.
- Four of the five Lehman Brothers arranged CDOs were repaid on 26 February 2013 and the total consideration received was \$5.116m. The book value of these CDOs was previously written down to \$10,000 and this also exceeded the original amount invested of \$4.85m, by \$265,745. Therefore, the receipt of these funds fully reverses any impairment (book losses) that was recorded for these CDOs and will further restore the City's Reserve Account Balances.

**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.

**C13/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2013 (REC)**

**DETAIL**

Summary details of investments held as at 28 February 2013 are shown in the tables below.

CITY OF MELVILLE STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 28 FEBRUARY 2013					
SUMMARY BY FUND	PURCHASE PRICE \$	MANAGEMENT VALUE AT 30/06/2012 \$	ESTIMATED CURRENT MARKET VALUE \$	BOOK PROFIT/(LOSS) \$	BOOK PROFIT/(LOSS) %
MUNICIPAL	\$ 48,680,528	\$ 48,680,528	\$ 48,680,528	\$ -	0.00%
RESERVE	\$ 51,395,103	\$ 48,477,341	\$ 49,223,853	\$ 746,512	1.45%
TRUST	\$ 472,723	\$ 472,723	\$ 472,723	\$ -	0.00%
CRF	\$ 191,474	\$ 191,474	\$ 191,474	\$ -	0.00%
	<b>\$ 100,739,828</b>	<b>\$ 97,822,066</b>	<b>\$ 98,568,578</b>	<b>\$ 746,512</b>	<b>0.74%</b>
SUMMARY BY INVESTMENT TYPE	PURCHASE PRICE \$	MANAGEMENT VALUE AT 30/06/2012 \$	ESTIMATED CURRENT MARKET VALUE \$	BOOK PROFIT/(LOSS) \$	BOOK PROFIT/(LOSS) %
CDO	\$ 3,000,000	\$ 82,238	\$ 828,750	\$ 746,512	24.88%
BOND	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ -	0.00%
FRN	\$ 4,000,000	\$ 4,000,000	\$ 4,000,000	\$ -	0.00%
FRTD	\$ 3,500,000	\$ 3,500,000	\$ 3,500,000	\$ -	0.00%
TERM DEPOSIT	\$ 85,990,683	\$ 85,990,683	\$ 85,990,683	\$ -	0.00%
11AM	\$ 2,018,500	\$ 2,018,500	\$ 2,018,500	\$ -	0.00%
UNITS (Local Govt Hse)	\$ 230,645	\$ 230,645	\$ 230,645	\$ -	0.00%
	<b>\$ 100,739,828</b>	<b>\$ 97,822,066</b>	<b>\$ 98,568,578</b>	<b>\$ 746,512</b>	<b>0.74%</b>
SUMMARY BY CREDIT RATING	PURCHASE PRICE \$	MANAGEMENT VALUE AT 30/06/2012 \$	ESTIMATED CURRENT MARKET VALUE \$	BOOK PROFIT/(LOSS) \$	BOOK PROFIT/(LOSS) %
AA	\$ 6,000,000	\$ 6,000,000	\$ 6,000,000	\$ -	0.00%
AA-	\$ 52,309,183	\$ 52,309,183	\$ 52,309,183	\$ -	0.00%
A+	\$ 14,500,000	\$ 14,500,000	\$ 14,500,000	\$ -	0.00%
A	\$ 14,700,000	\$ 14,700,000	\$ 14,700,000	\$ -	0.00%
A-	\$ 6,200,000	\$ 6,200,000	\$ 6,200,000	\$ -	0.00%
BBB+	\$ 3,800,000	\$ 3,800,000	\$ 3,800,000	\$ -	0.00%
NR	\$ 3,000,000	\$ 82,238	\$ 828,750	\$ 746,512	24.88%
UNITS (Local Govt Hse)	\$ 230,645	\$ 230,645	\$ 230,645	\$ -	0.00%
	<b>\$ 100,739,828</b>	<b>\$ 97,822,066</b>	<b>\$ 98,568,578</b>	<b>\$ 746,512</b>	<b>0.74%</b>

**C13/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2013 (REC)**

The following statements detail the investments held by the City for the period ending 28 February 2013. Marketable investments are shown at their current estimated market value.

STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 28 FEBRUARY 2013									
INSTITUTION / INVESTMENT	RISK of IMPAIRMENT	INVESTMENT TYPE	Current Interest Rate %	S & P RATING	FACE VALUE \$	BOOK VALUE AT 30/6/2012 \$	CURRENT EST MARKET VALUE \$	INVESTMENT GAIN / (LOSS) SINCE 30/06/12 \$	MATURITY DATE
BANKWEST (11AM)	Very Low	11AM	3.00%	AA-	\$214,669	\$214,669	\$214,669	\$0	On call
WESTPAC (MAXI DIRECT)	Very Low	11AM	3.75%	AA-	\$800,000	\$800,000	\$800,000	\$0	On call
WESTPAC (MAXI BONUS 1)	Very Low	11AM	4.10%	AA-	\$1,002,622	\$1,002,622	\$1,002,622	\$0	On call
WESTPAC (MAXI BONUS 2)	Very Low	11AM	4.10%	AA-	\$1,210	\$1,210	\$1,210	\$0	On call
					<b>\$2,018,500</b>	<b>\$2,018,500</b>	<b>\$2,018,500</b>	<b>\$0</b>	
ANZ BANK (TERM)	Very Low	TERM	4.54%	AA-	\$2,000,000	\$2,000,000	\$2,000,000	\$0	22-May-13
BANKWEST (TERM)	Very Low	TERM	Various	AA-	\$6,190,683	\$6,190,683	\$6,190,683	\$0	Various
BANK OF QUEENSLAND (TERM)	Very Low	TERM	4.50%	BBB+	\$1,800,000	\$1,800,000	\$1,800,000	\$0	23-Jul-13
BENDIGO AND ADELAIDE BANK (TERM)	Very Low	TERM	Various	A-	\$6,200,000	\$6,200,000	\$6,200,000	\$0	Various
COMMONWEALTH BANK (TERM)	Very Low	TERM	Various	AA-	\$0	\$0	\$0	\$0	Various
ING BANK (TERM)	Very Low	TERM	Various	A	\$12,300,000	\$12,300,000	\$12,300,000	\$0	Various
MACQUARIE BANK (TERM)	Very Low	TERM	Various	A	\$900,000	\$900,000	\$900,000	\$0	Various
NAB (TERM)	Very Low	TERM	Various	AA-	\$16,900,000	\$16,900,000	\$16,900,000	\$0	Various
RABODIRECT (TERM)	Very Low	TERM	4.90%	AA	\$2,000,000	\$2,000,000	\$2,000,000	\$0	4-Apr-13
ST GEORGE BANK (TERM)	Very Low	TERM	Various	AA-	\$8,700,000	\$8,700,000	\$8,700,000	\$0	Various
SUNCORP METWAY LTD (TERM)	Very Low	TERM	Various	A+	\$14,500,000	\$14,500,000	\$14,500,000	\$0	Various
WESTPAC (TERM)	Very Low	TERM	Various	AA-	\$14,500,000	\$14,500,000	\$14,500,000	\$0	Various
					<b>\$85,990,683</b>	<b>\$85,990,683</b>	<b>\$85,990,683</b>	<b>\$0</b>	
BANK OF QUEENSLAND (FLOAT RATE TD)	Very Low	FRTD	4.57%	BBB+	\$2,000,000	\$2,000,000	\$2,000,000	\$0	30-Sep-13
ING BANK (FLOAT RATE TD)	Very Low	FRTD	4.66%	A	\$1,500,000	\$1,500,000	\$1,500,000	\$0	10-Sep-13
					<b>\$3,500,000</b>	<b>\$3,500,000</b>	<b>\$3,500,000</b>	<b>\$0</b>	
COMMONWEALTH BANK (RETAIL BOND)	Very Low	BOND	4.56%	AA	\$2,000,000	\$2,000,000	\$2,000,000	\$0	20-Dec-15
NAB (FRN)	Very Low	FRN	4.31%	AA-	\$2,000,000	\$2,000,000	\$2,000,000	\$0	21-Jun-16
COMMONWEALTH BANK (FRN)	Very Low	FRN	4.11%	AA	\$2,000,000	\$2,000,000	\$2,000,000	\$0	2-Aug-16
					<b>\$6,000,000</b>	<b>\$6,000,000</b>	<b>\$6,000,000</b>	<b>\$0</b>	
CORSAIR (CAYMAN) KAKADU	Very High	CDO	0.00%	NR	\$1,500,000	\$72,363	\$498,000	\$425,637	20-Mar-14
MANAGED ACES CLASS 1A PARKES	Very High	CDO	0.00%	NR	\$1,050,000	\$9,874	\$15,750	\$5,876	20-Jun-15
BERYL FINANCE GLOBAL BANK NOTE 2	Early Term.	CDO	0.00%	NR	\$450,000	\$1	\$315,000	\$314,999	20-Sep-14
					<b>\$3,000,000</b>	<b>\$82,238</b>	<b>\$828,750</b>	<b>\$746,512</b>	
UNITS IN LOCAL GOVT HOUSE	NA	NA	NA	NA	\$230,645	\$230,645	\$230,645	\$0	NA
<b>TOTAL FUNDS INVESTED</b>					<b>\$100,739,828</b>	<b>\$97,822,066</b>	<b>\$98,568,578</b>	<b>\$746,512</b>	

**CREDIT RISK COMPARISON**

CREDIT RISK	PURCHASE PRICE \$	CURRENT ESTIMATED MARKET VALUE	ACTUAL PROPORTION	MAX. % AMOUNT IN TOTAL PORTFOLIO	Comments
AA	\$6,000,000	\$6,000,000	6%	80%	
AA-	\$52,309,183	\$52,309,183	53%	80%	
A+	\$14,500,000	\$14,500,000	15%	50%	
A	\$14,700,000	\$14,700,000	15%	50%	
A-	\$6,200,000	\$6,200,000	6%	50%	
BBB+	\$3,800,000	\$3,800,000	4%	20%	
NR	\$3,000,000	\$828,750	1%		Purchased Prior To Policy Change
UNITS IN LOCAL GOVT: HOUSE	\$230,645	\$230,645	0%	0.1%	Council Decision
<b>TOTAL</b>	<b>100,739,828</b>	<b>98,568,578</b>	<b>100%</b>		

**C13/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2013 (REC)**
**DIVERSIFICATION RISK**

INSTITUTION	INVESTMENT TYPE	S & P RATING	CURRENT ESTIMATED MARKET VALUE	ACTUAL PROPORTION	INSTITUTION PROPORTION	MAX. % WITH ANY ONE INSTITUTION	Comments
ANZ BANK (TERM)	TERM	AA-	2,000,000	2.03%	2.03%	20%	
BANKWEST (11AM)	11AM	AA-	214,669	0.22%		20%	
BANKWEST (TERM)	TERM	AA-	6,190,683	6.28%	6.50%	20%	
BANK OF QUEENSLAND (FLOAT RATE TD)	FRTD	BBB+	2,000,000	2.03%		10%	
BANK OF QUEENSLAND (TERM)	TERM	BBB+	1,800,000	1.83%	3.86%	10%	
BENDIGO AND ADELAIDE BANK (TERM)	TERM	A-	6,200,000	6.29%	6.29%	15%	
COMMONWEALTH BANK (TERM)	TERM	AA-	-	0.00%		20%	
COMMONWEALTH BANK (COVERED BOND)	BOND	AAA	-	0.00%		20%	
COMMONWEALTH BANK (RETAIL BOND)	BOND	AA	2,000,000	2.03%		20%	
COMMONWEALTH BANK (FRN)	FRN	AA	2,000,000	2.03%	4.06%	20%	
ING BANK (TERM)	TERM	A	12,300,000	12.48%		15%	
ING BANK (FLOAT RATE TD)	FRTD	A	1,500,000	1.52%	14.00%	15%	
MACQUARIE BANK (TERM)	TERM	A	900,000	0.91%	0.91%	15%	
NAB (FRN)	FRN	AA-	2,000,000	2.03%		20%	
NAB (TERM)	TERM	AA-	16,900,000	17.15%	19.17%	20%	
RABODIRECT (TERM)	TERM	AA	2,000,000	2.03%	2.03%	15%	
ST GEORGE BANK (TERM)	TERM	AA-	8,700,000	8.83%	8.83%	20%	
SUNCORP METWAY LTD (TERM)	TERM	A+	14,500,000	14.71%	14.71%	15%	
WESTPAC (MAXI BONUS 1)	11AM	AA-	1,002,622	1.02%		20%	
WESTPAC (MAXI BONUS 2)	11AM	AA-	1,210	0.00%		20%	
WESTPAC (MAXI DIRECT)	11AM	AA-	800,000	0.81%		20%	
WESTPAC (TERM)	TERM	AA-	14,500,000	14.71%	16.54%	20%	
CDO - Various	CDO		828,750	0.84%	0.84%		Purchased Prior To Policy Change
UNITS IN LOCAL GOVT HOUSE	NA	NA	230,645	0.23%	0.23%		
			<b>98,568,578</b>	<b>100%</b>	<b>100%</b>		

**MATURITY COMPARISON**

TERM to MATURITY	CURRENT ESTIMATED MARKET VALUE	ACTUAL PROPORTION	MAX. % IN ANY ONE YEAR	Comments
MUNICIPAL & TRUST FUNDS				
< 1 year	48,922,606	100%	100%	
	<b>48,922,606</b>	<b>100%</b>		
RESERVE FUNDS				
< 1 year	42,395,103	86%	100%	
< 2 years	813,000	2%	80%	
< 3 years	2,015,750	4%	80%	
< 4 years	4,000,000	8%	40%	
< 5 years	-	0%	40%	
> 5 years	-	0%	20%	
	<b>49,223,853</b>	<b>100%</b>		

**C13/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2013 (REC)**

Due to the continuing volatility in credit markets worldwide, the risks associated with two of the City's three CDOs remains elevated.

Monthly valuations for CDOs shown are based on valuations obtained from CPG Research and Advisory (CPG) as at 28 February 2013 who in turn have obtained them from the arranging banks. When compared to the valuations used as at 30 June 2012, valuations obtained from CPG as at 28 February 2013 show that CDOs have increased in value by \$746,512.

Four of the five City's Lehman Brothers arranged CDOs proceeded to noteholder meetings in December where an agreement was reached with noteholders to unwind the CDOs, thereby giving noteholders access to the collateral for the Trustee to dispose and return the proceed to the noteholders. These funds were received on 26 February 2013. The total amount received was \$5.116m which is a very pleasing result in light of their book value of just \$10,000. It also exceeded the original amount invested of \$4.85m by \$265,745. Therefore the receipt of these funds fully reverses any impairment (book losses) that was recorded for these CDO's and will further restore the City's Reserve Account Balances. The last Lehman Brothers arranged CDO with a face value of \$450,000 remains to be settled and is expected to be realised at levels close to full face value.

The City in conjunction with CPG will monitor and report on further developments. The values of Lehman Brothers arranged CDOs held as at 28 February 2013 were:

- Face Value	\$ 5,300,000
- Written Down (Book) Value (30 June 2012)	\$ 10,347
- Realised proceeds received on 26 February 2013	\$ 5,115,747
- Estimated Market Value (28 February 2013)	\$ 315,000

The Corsair Cayman Kakadu CDO and the MAS Parkes 1A CDO has suffered an erosion of credit support and therefore underlying principal of 8.6% and 41.9% respectively. Both CDOs continue to pay interest at a reduced rate depending on the extent of the principal loss incurred. The City has earned approximately \$5.04 million from CDO investments since 1 July 2007.

The remaining values of non Lehman Brothers arranged CDOs held as at 28 February 2013 were:

- Face Value	\$ 2,550,000
- Written Down (Book) Value (30 June 2012)	\$ 82,237
- Estimated Market Value (28 February 2013)	\$ 513,750

Further investment in CDOs is specifically excluded under the City's current Investment Policy.

**C13/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2013 (REC)**

**Credit Ratings and Credit Events**

Twenty two credit events impacting the City's CDO investments have now been recorded to date. The Companies involved are ResCap, PMI Group, AMBAC Financial, Takefuji, AMBAC Assurance, AIFUL, Tribune, Thomson, Financial Guaranty Insurance Company (FGIC), XL Capital Assurance, Bank TuranAlem, Idearc, Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), Lehman Brothers, WaMu, Glitnir, Kaupthing, Landsbanki, Chemtura, Abitibi and CIT Group.

**The City's Remaining CDO Investments:**

<b>CDO Name Arranger Face Value &amp; Maturity Date</b>	<b>No. of Credit Events</b>	<b>Remaining Credit Support before <b>FIRST</b> Loss of Principal</b>	<b>Remaining Credit Support before <b>TOTAL</b> Loss of Principal</b>	<b>Comments</b>
<b>Corsair Cayman Kakadu</b> Arranger: J.P. Morgan Australia <b>\$1.5 million</b> <b>Maturing 20/3/14</b>	<b>12 credit events:</b> ResCap, AMBAC Assurance, AIFUL, XL Capital Assurance, Freddie Mac, Fannie Mae, Lehman's, WaMu, Kaupthing, CIT Group, Anglo Irish Bank & PMI Group	-0.1	1.8	Partial loss 8.6% (\$0.129 million) of principal has occurred. Very high likelihood of total default.
<b>Managed Aces Class Parkes 1A</b> Arranger: Morgan Stanley <b>\$1.05 million</b> <b>Maturing 20/6/15</b>	<b>10 credit events:</b> ResCap, AMBAC Assurance, AIFUL, XL Capital Assurance, Freddie Mac, Fannie Mae, Lehman's, WaMu, CIT Group & PMI Group.	-0.8	1.1	Partial loss 41.9% (\$0.44 million) of principal has occurred. Very high likelihood of total default.

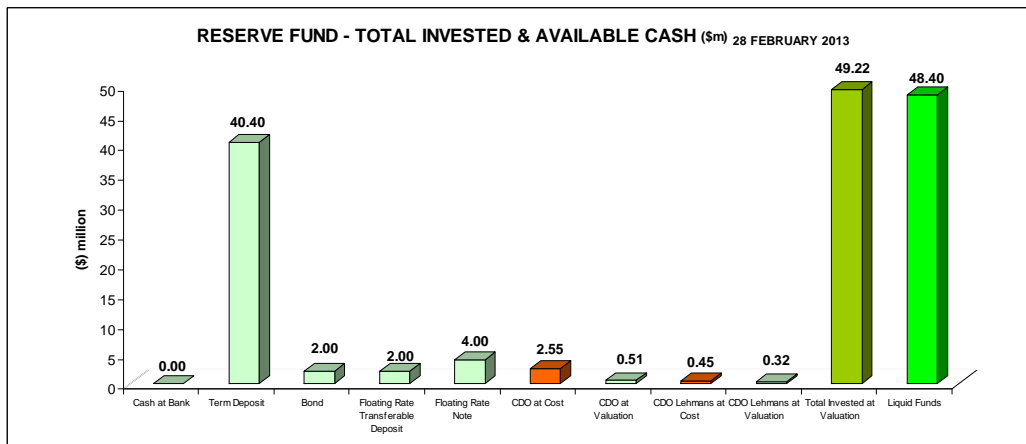
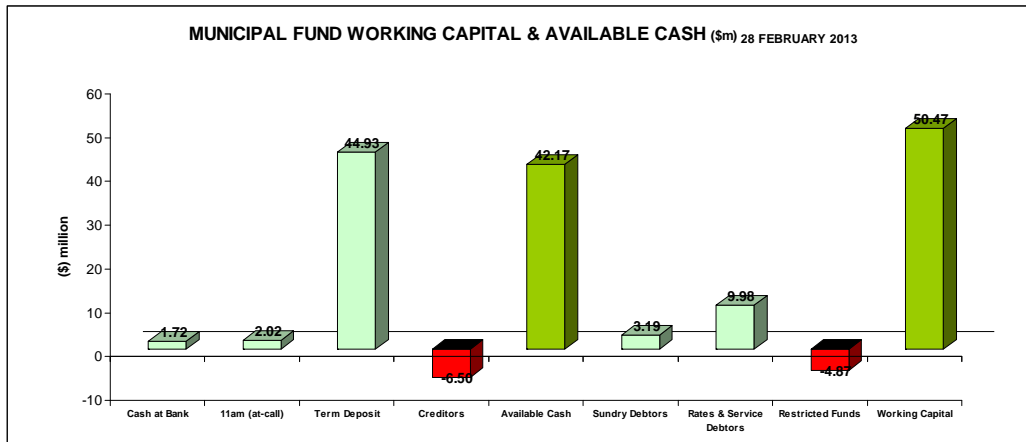
**Terminated Lehman Brothers Arranged CDO Investments:**

<b>Beryl Finance Global Bank Note 2</b> <b>\$450,000 Terminated</b> <b>(20/9/14)</b>	<b>Nil credit events:</b>	1	N/A	Terminated due to Lehman bankruptcy – In the process of being unwound and the Trustee disposing of the collateral.
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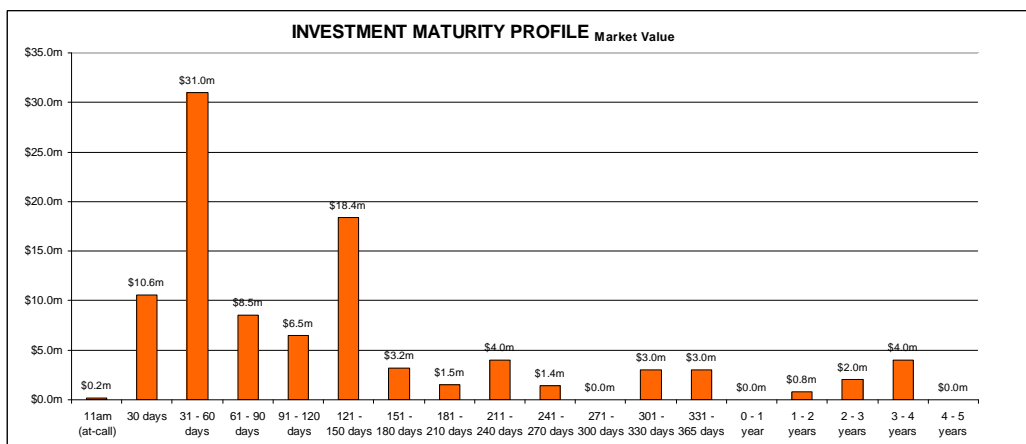
**C13/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2013 (REC)**

**Net Funds Held**

The graphs below summarise the Municipal Fund working capital and available cash and the funds held in the Reserve Fund at purchase price and last valuation at 28 February 2013.



The graph below summarise the maturity profile of the City's investments at market value as at 28 February 2013.



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**C13/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2013 (REC)****PUBLIC CONSULTATION/COMMUNICATION**

This report is available to the public on the City's web-site and hard copies of this agenda and attachments are available for viewing at the City's five public libraries.

In addition the City's bi-monthly newsletter, Mosaic, has contained several articles that highlight this issue. Numerous press articles have also been published on this topic.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

City officers are in regular contact with the City's investment advisors, CPG Research and Advisory.

**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)

The legal firm Piper Alderman have been engaged to seek recovery of any losses that may eventually be realised. JWS was successful in seeking an early termination of the Lehman arranged CDOs, so that on 26 February 2013 the City gained access to the collateral representing the City's original investments which are held by Trustees for the Lehman Brothers arranged CDOs.

In conjunction with approximately 71 other corporations and local government authorities the City of Melville has engaged litigation funder IMF Australia to seek recovery of losses from Lehman Brothers Australia. Whilst the decisions taken by the various courts have been positive for the litigants the legal process is lengthy. The latest developments which took place over February 2013 is that Piper Alderman has lodged on the City's behalf Proofs of Debt with the Liquidators of Lehman Brothers Asia as they were also implicated in the Federal Court action as being partly responsible for the losses incurred since the time Lehman Brothers purchased Grange Securities. In addition Piper Alderman have also lodged with the Federal Court of Australia an Outline of Claim and detailed holdings, transactional information, copies of the IMP Agreement the City had entered into with Grange Securities/Lehman Brothers Australia and other supporting documentation such various versions of the City's investment policies that were relevant at the time the transactions took place as well as WA legislative requirements. This information will be used by the Federal Court to determine the specific nature of the relationship that the City has entered into with Grange Securities / Lehman Brothers Australia, and establishes that they were providing their services in the position of expert and trusted advisor and were meant to be applying a commensurate level of duty of care in that capacity. It will also be used to ascertain the extent of losses incurred by the City that could be attributed to the actions/inactions of Grange Securities / Lehman Brothers Australia.

**C13/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2013 (REC)****FINANCIAL IMPLICATIONS**

For the period ending 28 February 2013, interest earned on:

- Municipal and Trust Funds was \$1,223,426 against an adopted budget of \$1,875,358. This represents a \$651,932 negative variance. The full year investment earnings budget for Municipal Funds is \$2.3 million. It is now apparent that the adopted budget will not be achieved and the budget has since been revised down to \$1.7 million during the mid year budget review.
- Reserve Funds was \$2,195,391 against a budget of \$1,389,974. This represents a \$805,417 positive variance. The full year investment earnings budget for Reserve Accounts is \$2.1 million.

The City's revenue from investment earnings is expected to decrease and not meet adopted budget in the foreseeable future, as the RBA continues to cut the 'Cash' rate and the new legislative restrictions that have been placed by regulation that limits the type of investments, and more importantly the maximum term to maturity, in which the City is permitted to invest. As stated above the amount of Municipal and Trust investment earnings has been revised downwards during the mid year budget review.

The City's last remaining Lehman Brothers arranged CDO with a face value of \$450,000 is in the process of being unwound and the City expects that this will be repaid at close to the full face value.

**C13/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2013 (REC)****STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Council's Investment of Funds policy is constructed 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.

Due to continuing credit market volatility the risks associated with two of the City's three remaining CDOs is high. Whilst the City continues to earn and be paid interest from its two remaining non Lehman Brothers arranged CDOs, the reassessment by the major rating agencies of their credit risk models used to assess the credit ratings associated with CDO portfolios, has resulted in significant downgrading of CDO investments to credit rating levels that do not meet the Council's investment policy. The remaining two legacy CDO investments are being closely monitored by officers in conjunction with the City's investment advisors.

In response to the current market conditions, funds are currently being invested for short periods and/or only with highly credit rated Australian banking institutions.

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

**POLICY IMPLICATIONS**

Council Policy CP-009 – Investment of Funds.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**CONCLUSION**

The investment report highlights that, except for the remaining three legacy CDO investments of 2007, the City's investment portfolio is invested in highly secure investments and is returning market competitive investment returns commensurate with the level of risk of the portfolio. It highlights however that Municipal Fund earnings are currently, and expected to continue to be, below adopted budget due to continuing interest rates cuts and investment opportunities.

The receipt on 26 February of \$5.115m in respect to four of the five City's Lehman Brothers arranged CDO investments which had a book value of just \$10,000 and an original purchase price of \$4.85m was a very positive outcome for the City.

**C13/6000 - INVESTMENT STATEMENTS FOR FEBRUARY 2013 (REC)**

At 9.15pm Cr Robartson left the meeting and returned at 9.18pm.

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

At 9.15pm Cr Nicholson moved, seconded Cr Barton -

**That the Investment Report for the month of February 2013 be noted.**

At 9.17pm the Deputy Mayor submitted the motion, which was declared

**CARRIED (12/0)**

**C13/6001 – SCHEDULE OF ACCOUNTS FOR FEBRUARY 2013 (REC) (ATTACHMENT)**

Ward	: All
Category	: Operational
Subject Index	: Financial Statement and Investments
Customer Index	: Not applicable
Disclosure of any Interest	: Director Corporate Services – Payment E032886
Previous Items	: Standard Item
Works Programme	: Not Applicable
Funding	: 2012/13 Budget
Responsible Officer	Khris Yeoh Senior Financial Accountant

**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 to note.</i></b>

**KEY ISSUES / SUMMARY**

This report presents details of the payments made under delegated authority to suppliers for the month of February 2013 and recommends that the Schedule of Accounts be noted.

**C13/6001 – SCHEDULE OF ACCOUNTS FOR FEBRUARY 2013 (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 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 for the month ending 28 February 2013 ([6001 February 2013](#)), including Payment Registers numbers, Cheques **332 to 336** and Electronic Funds Transfers **283 to 285** were distributed to the Members of Council on the 5 April 2013.

Payments in excess of \$25,000 for the month of February 2013 are detailed as follows:

<b>Supplier Name</b>	<b>Remittance Number</b>	<b>Remittance Details</b>	<b>Amount</b>
Carrington's Traffic Services WA	E033022 & E033210	Traffic controllers	\$35,721.49
City of Cockburn	E032823	Coolbellup east underground project	\$79,300.00
Dickies Tree Service	E032824 & E033055	Tree lopping services	\$92,862.33
Downer EDI Works Pty Ltd	E032954 & E033149	Road resurfacing	\$396,595.88
Dowsing Concrete	E033026, E033048 & E033212	Concrete works	\$128,787.89
Fire & Emergency Services Authority WA	E032974	ESL Remittance for January 2013	\$771,900.62
Flexi Staff	E032852 & E033078	Temporary employment	\$39,608.36
GHD Pty Ltd	E032949	Canning Bridge activity centre structure, soil and gas investigation at John Connell Reserve, contaminated site works stage 1 and preparation for Willagee structure plan.	\$68,374.79
Greenspan – MCE	E032858 & E033082	Repairs, installation & replacement of controller	\$25,660.80
JMG Air Conditioning & Electrical Services	E032971, E033043 & E033164	Purchase & installation & maintenance of/to air conditioners	\$48,666.48
Kleenit	E0329900 & E033185	Graffiti removal	\$27,078.96
Landmark Engineering & Design	E032841 & E033068	Drinking fountains, installation of bench seats & shelters	\$25,170.20
Major Motors Pty Ltd	E032831 & E033061	Purchase Isuzu NRL 200 & 2012 Isuzu NRL 200 & maintenance of trucks.	\$110,561.05
Quayclean Australia Pty Ltd	E032944 & E033141	Cleaning services	\$26,879.39
Rhysco Electrical Services	E032946, E033042 & E033144	Electrical maintenance	\$27,283.85
Roads 2000 Pty Ltd	Chq's 052266 & 052539	Road resurfacing to Dean Road Bateman	\$409,715.86

**C13/6001 – SCHEDULE OF ACCOUNTS FOR FEBRUARY 2013 (REC) (ATTACHMENT)**

<b>Supplier Name</b>	<b>Remittance Number</b>	<b>Remittance Details</b>	<b>Amount</b>
Robinson Buildtech	E032835 & E033064	Building maintenance	\$28,029.30
Sifting Sands	E033024 & E033211	Maintenance to sand pits	\$25,740.66
Southern Metropolitan Regional Council	E033040	WFC Member contributions	\$176,077.33
Strategix Training Group Pty Ltd	E033180	Certificate 3 in driver training	\$84,000.00
Synergy	E032851 & E033077	Electricity supply	\$259,564.21
Telstra (Melbourne)	Chq's 052275 & 052360	Phone billing	\$25,474.49
T-Quip Turf Equipment Solutions	E032837 & E033065	Turf equipment supply & maintenance	\$104,886.95
Tree Planting & Watering	E032978	Street tree watering services	\$36,665.50
Western Power	E033107 & Chq052495	Underground Power cash calls & design application fee	\$901,500.00

**PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Not applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

This report meets the requirements of the Local Government (Financial Management) Regulations 1996 Regulation 11 - Payment of Accounts, Regulation 12 - List of Creditors and Regulation 13 - Payments from the Trust Fund and the Municipal Fund.

**FINANCIAL IMPLICATIONS**

Expenditures were provided for in the 2012/13 Budget and Budget Review.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

Not applicable.

**C13/6001 – SCHEDULE OF ACCOUNTS FOR FEBRUARY 2013 (REC) (ATTACHMENT)****ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**CONCLUSION**

This is a regular monthly report for Elected Members' information.

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

**That the Schedule of Accounts for the month ending 28 February 2013 as approved by the Director Corporate Services in accordance with delegated authority DA-035, and detailed in attachment [6001 February 2013](#) be noted.**

At 9.18pm the Deputy Mayor submitted the motion, which was declared

**CARRIED EN BLOC (12/0)**

**C13/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2013 (REC) (ATTACHMENTS)**

Ward	: All
Category	: Operational
Subject Index	: Financial Reporting - Financial Statements
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	: Khris Yeoh – Senior Financial Accountant

**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 to note.</i>

**KEY ISSUES / SUMMARY**

- This report presents the Financial Statements for the financial year, period ending 28 February 2013 and recommends that they be noted by the Council.
- No budget amendments were made during the month of February 2013 as officers were completing their mid year budget review.
- This report presents the variances for the month of February 2013 and recommends that they be noted by Council.

**C13/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2013 (REC) (ATTACHMENTS)**

**BACKGROUND**

The Financial Statements for the financial year period ending 28 February 2013 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.

For the period 1 July 2012 to 28 February 2013, a net operating positive variance of \$11,819,585 and a net capital positive variance of \$8,765,585 were recorded.

The mid year budget review was undertaken in January 2013 based on figures available as at 31 December 2012. During this process, budget responsible officers had the opportunity to either rephrase their budgets or identify any potential savings or over expenditures in their budgets. The revised budget as adopted by Council at the Ordinary Meeting of Council held on Tuesday 19 March 2013 will be uploaded into the Finance system by the end of March 2013.

**Variances**

A summary of variances and comments are provided in attachment [6002H February 2013](#).

CITY OF MELVILLE RATE SETTING STATEMENT FOR THE PERIOD ENDED 28 FEBRUARY 2013								
	February Actual \$	YTD Rev. Budget \$	YTD Actual \$	Variance \$	Variance %	Annual Budget \$	Annual Rev. Budget \$	Current Commitments \$
<b>Revenues</b>								
Governance	148,843	1,343,312	1,612,558	269,246	20%	1,309,100	1,749,633	(190)
General Purpose Funding	5,821,906	11,465,580	17,805,842	6,340,262	55%	13,844,420	14,083,635	-
Community Amenities	79,947	16,042,600	16,148,358	105,758	1%	16,669,400	16,699,400	-
Recreation and Culture	710,865	5,931,182	6,291,868	360,686	6%	8,840,659	9,050,669	(8,291)
Transport	244,948	4,841,207	3,790,645	(1,050,562)	-22%	4,897,541	5,425,075	-
Other Property and Services	219,852	1,009,337	593,116	(416,220)	-41%	387,618	827,475	2,500
	7,271,841	43,488,680	49,179,841	5,274,941	13%	48,956,270	50,843,919	(5,981)
<b>Expenses</b>								
Governance	(729,528)	(8,313,902)	(7,091,881)	1,222,021	-15%	(10,698,225)	(11,158,459)	(633,424)
Law, Order, Public Safety	(293,578)	(2,548,383)	(2,327,952)	220,430	-9%	(3,723,487)	(3,773,370)	(48,401)
Health	(72,811)	(681,204)	(604,503)	76,701	-11%	(1,035,558)	(1,006,721)	(12,507)
Education & Welfare	(382,757)	(3,618,699)	(3,284,980)	333,719	-9%	(5,463,762)	(5,461,035)	(129,664)
Community Amenities	(1,326,555)	(13,464,655)	(12,010,468)	1,454,187	-11%	(19,172,687)	(19,783,997)	(774,339)
Recreation and Culture	(2,221,922)	(18,228,645)	(17,525,734)	702,911	-4%	(26,840,555)	(27,294,618)	(1,184,221)
Transport	(752,618)	(6,592,145)	(5,981,379)	610,766	-9%	(10,003,523)	(9,803,462)	(565,566)
Other Property and Services	(716,662)	(6,949,019)	(7,256,294)	(307,275)	4%	(8,557,716)	(9,440,759)	(124,142)
	(7,507,230)	(65,978,432)	(61,635,016)	4,772,665	-7%	(92,121,667)	(94,700,304)	(3,567,484)

**Revenue**

\$52.453m in Rates was raised to 28 February 2013. This is compared with a year to date budget of \$52.459m, resulting in a small negative variance of \$6K.

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

Not applicable for February 2013.

**C13/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2013 (REC) (ATTACHMENTS)**

**Budget Amendments**

No Budget Amendments were made during the month of February 2013 as the mid year budget review was being finalised.

**Rates Collections and Debtors**

Details of Rates and Sundry Debtors are shown in attachments 6002L, 6002M and 6002N.

Rates, Refuse, Fire and Emergency Service Authority & Underground Power payments totalling \$3,276,793 were collected over the course of the month. Rates collection progress for the month of February was 0.71% above target. As at 28 February 2013, 88.71% of 2012/13 rates had been collected.

Total sundry debtor balances decreased by \$348,698 over the course of the month. The 90+ day's debtor balance decreased by \$37,540.

**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.

No concessions were granted or amounts written off under delegated in the month of February 2013.

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

DESCRIPTION	LINK
Rate Setting Statement – February 2013	<a href="#">6002A February 2013</a>
Statement of Financial Activity – February 2013	<a href="#">6002B February 2013</a>
Representation of Net Working Capital – February 2013	<a href="#">6002E February 2013</a>
Reconciliation of Net Working Capital – February 2013	<a href="#">6002F February 2013</a>
Notes on Rate Setting Statements reporting on variances of 10% or greater – February 2013	<a href="#">6002H February 2013</a>
Details of Budget Amendments requested – February 2013	<a href="#">N/A</a>
Summary of Rates Debtors – February 2013	<a href="#">6002L February 2013</a>
Graph Showing Rates Collections – February 2013	<a href="#">6002M February 2013</a>
Summary of General Debtors aged 90 Days Old or Greater – February 2013	<a href="#">6002N February 2013</a>
Detail of Debts Written Off for the Month – February 2013	<a href="#">N/A</a>

**C13/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2013 (REC) (ATTACHMENTS)****PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH 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**

*(1A) In this regulation — **committed assets** means revenue unspent but set aside under the annual budget for a specific purpose.*

*(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.*

**C13/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2013 (REC) (ATTACHMENTS)**

*(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.*

*(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 at its Special meeting held on 26 June 2012 to adopt the 2012/13 Budget, was 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.

**FINANCIAL IMPLICATIONS**

Variances are dealt with in attachment [6002H February 2013](#) (Notes on Operating Statements reporting on variances of 10% or greater).

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no identifiable strategic, risk and environmental management implications arising from this report.

**POLICY IMPLICATIONS**

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

**CONCLUSION**

The attached financial reports reflect a positive financial position of the City of Melville as at 28 February 2013.

**C13/6002 – FINANCIAL STATEMENTS FOR FEBRUARY 2013 (REC) (ATTACHMENTS)**

**OFFICER RECOMMENDATION & COUNCIL RESOLUTION (6002)**

**APPROVAL**

That the Council note the Rate Setting Statement and Statements of Financial Activity for the Financial Year period ending 28 February 2013 as detailed in the following attachments:

DESCRIPTION	LINK
Rate Setting Statement – February 2013	<a href="#">6002A February 2013</a>
Statement of Financial Activity – February 2013	<a href="#">6002B February 2013</a>
Representation of Net Working Capital – February 2013	<a href="#">6002E February 2013</a>
Reconciliation of Net Working Capital – February 2013	<a href="#">6002F February 2013</a>
Notes on Rate Setting Statements reporting on variances of 10% or greater – February 2013	<a href="#">6002H February 2013</a>
Details of Budget Amendments requested – February 2013	<a href="#">N/A</a>
Summary of Rates Debtors – February 2013	<a href="#">6002L February 2013</a>
Graph Showing Rates Collections – February 2013	<a href="#">6002M February 2013</a>
Summary of General Debtors aged 90 Days Old or Greater – February 2013	<a href="#">6002N February 2013</a>
Detail of Debts Written Off for the Month – February 2013	<a href="#">N/A</a>

At 9.18pm the Deputy Mayor submitted the motion, which was declared

**CARRIED EN BLOC (12/0)**

**13.2 ITEMS FROM GOVERNANCE COMMITTEE MEETING – 3 APRIL 2013**

The following items from the Governance Committee Meeting of 3 April 2013 require consideration by the Council.

**C13/5267 - POLICY REVIEW – ELECTED MEMBERS ALLOWANCES, CLAIMS FOR EXPENSES AND CONFERENCE ATTENDANCE (REC) (ATTACHMENT)**

Ward	: All
Category	: Policy
Subject Index	: General 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	: Numerous items have been provided to Council for either review or amendment of current policies. C09/5097 – Ordinary Meeting of the Council – December 2009 C12/6243 - Ordinary Meeting of the Council – 21 August 2012
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Jeff Clark Governance & Compliance Program Manager

**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 to note.</i>

**C13/5267 - POLICY REVIEW – ELECTED MEMBERS ALLOWANCES, CLAIMS FOR EXPENSES AND CONFERENCE ATTENDANCE (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Policies that are defined as Council Policy require the approval of Council whereas Operational Policies are approved by the Chief Executive Officer.
- This policy has been amended principally to adjust the values of expense claims in recognition of Consumer Price Index movements.
- The amendment to legislation concerning the provision of a Mayoral vehicle and removal of access to health and fitness benefits has been recognised in this report.

**BACKGROUND**

The City of Melville has Council Policies of which the majority have been reviewed. Officers have reviewed this policy that relates to Elected Members Allowances, Claims for Expenses and Conference Attendance provisions and have now brought this reviewed policy, with minor amendments and amendments required by legislative change, to Council for consideration. A two yearly review cycle has been implemented to ensure all policies remain current.

**DETAIL**

All policies are held under one of two categories being, 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
- Termination 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.

Where applicable, procedures will be prepared for some policies to define a sequence of activities, tasks or steps that, when undertaken in the sequence laid down, produces the described result, product or outcome.

**C13/5267 - POLICY REVIEW – ELECTED MEMBERS ALLOWANCES, CLAIMS FOR EXPENSES AND CONFERENCE ATTENDANCE (REC) (ATTACHMENT)**

This report provides comment on one policy from the Chief Executive Officer (CEO) which is provided as an attachment

[5267 CP-013 Elected Members Allowances, Claims for Expenses & Conference Attendance](#)

This policy has received recommended adjustments to the value of fees and claims to recognise the movement in the Consumer Price Index for Perth All Groups (CPI). The recommended adjustments will be identified individually in this report. It is noted that:

- The delegation to the CEO to approve expenses and allowances has been expanded to permit the CEO to approve expenses incurred by Elected Members in attending Civic Functions.
- At the time of replacement of a laptop/notebook computer that has been used by an Elected Member, should the Elected Member wish to purchase the machine, the minimum value has been increased from \$100 to \$250 to recognise the appropriate disposal value of the computer. The policy has been clarified to make it clear that any City of Melville software and data/information will be cleared from the computer and it will be restored to factory settings.
- Clarification on the provision of child minding expenses and other carer expenses has been included. Specifically the clauses note the attendance at functions or meetings as a Council designated representative.
- A new provision associated with the payment of discretionary expenses requiring that claims be provided to the CEO in time to be included in the accounts for the financial year in which the expense was incurred. This provision will assist the City's officers to appropriately report all expenses in the financial statements for the financial year that the expense was incurred.
- Advice has been received from the Department of Local Government that confirmed the City's provision of reimbursement of membership fees to a recreation centre is not permitted under the current legislation and this clause has been removed from the policy.
- The Annual Expense Limits have been increased to adjust for CPI and the following adjustments are recommended:
  - Mayor – other discretionary expenses increased by \$500.
  - Deputy Mayor - other discretionary expenses increased by \$220.
  - Councillor - other discretionary expenses increased by \$170.
  - Special Capital Office Allocation
    - All Elected Members - in the year after first elected - increased by \$100 per annum
    - thereafter increased by \$60
  - Mayoral Vehicle

**C13/5267 - POLICY REVIEW – ELECTED MEMBERS ALLOWANCES, CLAIMS FOR EXPENSES AND CONFERENCE ATTENDANCE (REC) (ATTACHMENT)**

This clause has been amended to accord with changes to the Local Government (Administration) Regulations 1996 concerning the City's provision of a Mayoral vehicle upon request.

- The Conference/Congress/Seminar/Training Course Attendance has been increased from \$4,500 to \$4,750.

The Summary of Expenses and Allowances has been amended to include the changes noted above.

**PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Not applicable.

**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**

The increased expense reimbursements will be provided for in future budgets whereas the expenses of providing a Mayoral vehicle was addressed during the 2012/2013 Mid Year Budget Review.

**C13/5267 - POLICY REVIEW – ELECTED MEMBERS ALLOWANCES, CLAIMS FOR EXPENSES AND CONFERENCE ATTENDANCE (REC) (ATTACHMENT)**

**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. One policy refers to environmental considerations when the purchase of goods or services occurs.

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

**POLICY IMPLICATIONS**

All Council Policies are generally reviewed every two years and this policy varies relatively minor amendments to Council Policy CP-013 are recommended as a consequence of the review.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

**CONCLUSION**

This policy has been reviewed by senior officers and their recommended amendments are consistent with the current provisions of the Local Government Act 1995 and Regulations.

**C13/5267 - POLICY REVIEW – ELECTED MEMBERS ALLOWANCES, CLAIMS FOR EXPENSES AND CONFERENCE ATTENDANCE (REC) (ATTACHMENT)****COMMITTEE RESOLUTION (5267)****APPROVAL**

That the Governance Committee recommend to the Council that the amended policy CP-013 Elected Members Allowances, Claims for Expenses and Conference Attendance subject to the following amendments be approved.

1. That in Point 10 of the Elected Members Allowances, Claims for Expenses and Conference Attendance policy delete the words “lowest available” and insert “an”.
2. Point 11 to be reworded to read “Accommodation reimbursement shall be on the basis of an appropriate room in an appropriate standard hotel recommended by the Conference organisers or one located within close proximity to the conference facility.”
3. Under the heading Discretionary Expenses dot point 3 after the word “carer” insert the words “or support person”.
4. Under the heading Discretionary Expenses in the last paragraph, after the words “provided to the CEO” delete the words “in sufficient time” and insert “by mid July”.

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION (5267)****APPROVAL**

**That the amended policy CP- 013 Elected Members Allowances, Claims for Expenses and Conference Attendance be approved.**

At 9.17pm the Deputy Mayor submitted the motion, which was declared

**CARRIED EN BLOC (12/0)**

**C13/5270 - POLICY REVIEW – CIVIC AND CEREMONIAL FUNCTIONS (REC)  
(ATTACHMENT)**

Ward	: All
Category	: Policy
Subject Index	: General 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	: Numerous items have been provided to Council for either review or amendment of current policies. C09/5097 – Ordinary Meeting of the Council – December 2009 C12/6243 - Ordinary Meeting of the Council – 21 August 2012
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Jeff Clark Governance & Compliance Program Manager

**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 to note.</i>

**C13/5270 - POLICY REVIEW – CIVIC AND CEREMONIAL FUNCTIONS (REC)  
(ATTACHMENT)****KEY ISSUES / SUMMARY**

- Policies that are defined as Council Policy require the approval of Council whereas Operational Policies are approved by the Chief Executive Officer.
- This policy has been amended to include a Policy Scope, provide flexibility for the Annual Dinner in a non-election year and acknowledge that the Meals on Wheels service has now been outsourced.
- Other minor amendments and renumbering of clauses has occurred.
- The amended policy is referred for consideration by the Governance Committee and subsequent adoption by the Council

**BACKGROUND**

The City of Melville has Council Policies of which the majority have been reviewed. Officers have reviewed this policy that relates to Elected Members Allowances, Claims for Expenses and Conference Attendance provisions and have now brought this reviewed policy, with minor amendments and amendments required by legislative change, to Council for consideration. A two yearly review cycle has been implemented to ensure all policies remain current.

**DETAIL**

All policies are held under one of two categories being, 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
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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.

Where applicable, procedures will be prepared for some policies to define a sequence of activities, tasks or steps that, when undertaken in the sequence laid down, produces the described result, product or outcome.

**C13/5270 - POLICY REVIEW – CIVIC AND CEREMONIAL FUNCTIONS (REC)  
(ATTACHMENT)**

This report provides comment on one policy from the Chief Executive Officer (CEO) which is provided as an attachment

**[5270 CP- 016 Civic and Ceremonial Functions](#)**

This policy has been amended to include a Policy Scope and amendments that are identified below;

- 1 Clause 1 has been amended in the section headed “Annual Civic Dinner” to remove the requirement to hold a function in July and have the date of the function held “at a date to be determined by the Mayor” to permit flexibility should there be other circumstances that suggest another date is more suitable.
- 2 Clause 2 has been deleted to remove an annual Christmas Dinner that was to occur in November or December of a non-election year. There will be a Civic Dinner Function as noted in clause 1 of the Policy. The subsequent clauses have been renumbered.
- 3 The reference to “3. Annual Meals on Wheels Volunteers Appreciation Dinner” has been deleted as the service has been outsourced.
- 4 The following sections have been renumbered as a consequence of the deletion of clause 3.
- 5 In clause 7. Mayoral Receptions, the reference to Applecross and Bicton/Palymra RSL Clubs has been deleted as clause 6 provides that refreshments will be offered to all attendees.
- 6 Clause 9 has been amended to require the Governance Committee to recommend to the Council rather than exercise a “power or duty” which would then require Governance Committee meetings to be open to the public.
- 7 Clause 11 has been amended for the same reason as above.

**PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH OTHER AGENCIES / CONSULTANTS**

Not applicable.

**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 will be a reduced expense by not providing a Meals on Wheels Volunteer function and holding only one Civic Dinner in a non-election year. There are no other financial implications.

**C13/5270 - POLICY REVIEW – CIVIC AND CEREMONIAL FUNCTIONS (REC)  
(ATTACHMENT)**

**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. One policy refers to environmental considerations when the purchase of goods or services occurs.

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

**POLICY IMPLICATIONS**

All Council Policies are generally reviewed every two years and this policy varies relatively minor amendments to Council Policy CP-016 which are recommended as a consequence of the review.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

**CONCLUSION**

This policy has been reviewed by senior officers and their recommended amendments are consistent with the current provisions of the Local Government Act 1995 and Regulations.

**OFFICER RECOMMENDATION & COMMITTEE RESOLUTION (5270) APPROVAL**

**That the Governance Committee recommend to the Council that the amended policy 5270 CP- 016 Civic and Ceremonial Functions be approved.**

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION (5270) APPROVAL**

**That the amended policy 5270 CP- 016 Civic and Ceremonial Functions be approved.**

At 9.18pm the Deputy Mayor submitted the motion, which was declared

**CARRIED EN BLOC (12/0)**

**M13/5289 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW  
(REC) (CONFIDENTIAL ATTACHMENT)**

Item No. M13/5289  
 Member Dr S Silcox  
 Type of Interest Interest under Code of Conduct  
 Nature of Interest Performance Review relates to position of Chief Executive Officer  
 Request Not Required  
 Decision of Council Not Required

Ward : All  
 Category : Operational  
 Subject Index : Personnel file  
 Customer Index : Personnel file  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : M13/5274 – Ordinary Meeting of Council – 19 March 2013 – Chief Executive Officer Performance Review  
 Works Programme : Not applicable  
 Funding : Not applicable  
 Responsible Officer : 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 to note.</i>

**M13/5289 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW  
(REC) (CONFIDENTIAL ATTACHMENT)****KEY ISSUES / SUMMARY**

- The Governance Committee has been determined through Council to be the reviewers of the Chief Executive Officer's performance.
- The Council has established the process for the performance review.
- The Governance Committee are to determine the survey to be used, and recommend the Performance Review Consultant to be involved in the process.

**BACKGROUND**

On 20 March 2008 Dr Shayne Silcox commenced in the role of Chief Executive Officer (CEO) at the City of Melville. The last performance review was finalised in May 2012, and in accordance with Clause 7 of the CEO contract there is to be a Performance Review every 12 months.

**DETAIL**

The review process endorsed by Council on 19 March 2013 is detailed as attachment [5274 Chief Executive Officer Performance Review](#). As indicated in the process the Governance Committee are to determine the survey and recommend the Performance Review Consultant for the CEO performance review process.

The survey for the CEO performance review provides feedback opportunities to the Council on performance over the past twelve months. A copy of the survey tool reviewed in April 2012 is attached [5289 CEO Performance review Elected Member Survey](#).

The survey endorsed by the Governance Committee will be distributed to Elected Members, with a summary of the feedback from the survey consolidated into a report, by the Performance Review Consultant. Meetings for the Elected Members to meet with the Performance Review Consultant and submit their surveys and discuss potential future performance criteria will be scheduled a number of days after the survey is distributed.

It will be the role of Elected Members to ensure feedback is specific, fair and constructive, and the Performance Review Consultant will be asked to clarify any comments made if so required so that feedback to the CEO can be beneficial.

**M13/5289 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW  
(REC) (CONFIDENTIAL ATTACHMENT)**

The role of the Performance Review Consultant is to assist in discussions between Elected Members, His Worship the Mayor and the CEO in all aspects of the performance discussion and future performance criteria, as well as the salary package review. The Performance Review Consultant will also be completing a Performance Development Plan for the CEO.

Ten providers were invited to quote and seven responses were received for the consideration of the Governance Committee, the quotations were forwarded to Elected Members on 28 March 2013 under confidential cover. Three of the ten declined to put in a quotation as they were unavailable during the period of the performance review process.

**PUBLIC CONSULTATION/COMMUNICATION**

Not applicable.

**CONSULTATION WITH OTHER AGENCIES/CONSULTANTS**

Consultants have been contacted to provide quotations for the role of Performance Review Consultant in the CEO performance review.

**STATUTORY AND LEGAL IMPLICATIONS**

Section 5.38 of the Local Government Act 1995 states the need to review a CEO's performance at least once a year in relation to every year of employment.

Section 5.23 (2) of the Local Government Act 1995 states that a meeting by a Council or Committee, or part of a meeting, may be closed to members of the public if a matter affecting an employee is being dealt with.

**FINANCIAL IMPLICATIONS**

The cost of a Consultant to assist with the Performance Review process is within the current operational budget.

**M13/5289 – CITY OF MELVILLE – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW  
(REC) (CONFIDENTIAL ATTACHMENT)**

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

<b>Risk Statement</b>	<b>Level of Risk</b>	<b>Risk Mitigation Strategy</b>
That the Consultant will not assist adequately	Minor consequences which are unlikely, resulting in a <b>Low</b> level of risk	Defined process and requirements have been clearly articulated to providers and references have been obtained.

**POLICY IMPLICATIONS**

Not applicable

**ALTERNATE OPTIONS & THEIR IMPLICATIONS**

Not applicable as the requirements for a performance review are mandatory.

**CONCLUSION**

The Governance Committee are to endorse the survey and also recommend the Performance Review Consultant for the CEO performance review process. Once these decisions have been made the process will continue, according to the Council endorsed process detailed in the attachment [5274 Chief Executive Officer Performance Review](#).

**OFFICER RECOMMENDATION & COMMITTEE RESOLUTION (5289) APPROVAL**

1. That the survey for the Chief Executive Officer performance review [5289 CEO Performance Review Elected Member Survey](#), as amended, be endorsed.
2. That the Governance Committee's recommendation to appoint the Western Australian Local Government Association (WALGA) as the Performance Review Consultant for the Chief Executive Officer performance review be submitted to the Council for adoption.

**COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION (5289) APPROVAL**

1. That the survey for the Chief Executive Officer performance review [5289 CEO Performance Review Elected Member Survey](#), as amended, be endorsed.
2. That the Council appoint the Western Australian Local Government Association (WALGA) as the Performance Review Consultant for the Chief Executive Officer performance review.

At 9.18pm the Deputy Mayor submitted the motion, which was declared

**CARRIED EN BLOC (12/0)**

**14. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****15. EN BLOC ITEMS**

At 9.19pm Cr Willis moved, seconded Cr Kinnell -

**That the recommendations for items P13/3378, P13/3379, C13/5000, C13/6001, C13/6002, C13/5267, C13/5270 and M13/5289 be carried En Bloc.**

At 9.20pm the Deputy Mayor submitted the motion, which was declared

**CARRIED (12/0)**

**16. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL**

Nil.

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

At 9.20pm Cr Barton left the meeting and returned at 9.24pm.

At 9.21pm Cr Robartson moved, seconded Cr Willis -

**That the meeting be closed to the public to permit discussion on a confidential matter, Confidential Item C13/6057 - Blue Gum Collateralised Debt Obligation – Recovery of Losses covered under Section 5.23 (d) of the Local Government Act 1995, legal advice obtained, or which may be obtained, by the local government and which relates to a matter to be discussed at the meeting;**

At 9.23pm the Deputy Mayor submitted the motion, which was declared

**CARRIED (11/0)**

At 9.24pm Cr Barton returned to the meeting.

**Late & Confidential Item C13/6057 - Blue Gum Collateralised Debt Obligation – Recovery of Losses**

At 9.35pm Cr Robartson moved, seconded Cr Willis -

**That the Council by Absolute Majority decision support the action of the Chief Executive Officer as contained in Confidential Attachment “A”.**

At 9.45pm the Deputy Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (12/0)**

Confidential Attachment A was distributed to Elected Members on Friday 19 April 2013 under confidential cover.

At 9.46pm Cr Reynolds moved, seconded Cr Taylor-Rees -

**That the meeting come out from behind closed doors and the public be invited back into the meeting.**

At 9.47pm the Deputy Mayor submitted the motion, which was declared

**CARRIED (12/0)**

No members of the public returned to the meeting.

**18. CLOSURE**

There being no further business to discuss the Deputy Mayor declared the meeting closed at 9.52pm.