City of Melville

MINUTES

OF THE

ORDINARY MEETING OF COUNCIL

HELD ON

21 JUNE 2011

AT 6.30PM IN THE COUNCIL CHAMBERS

MELVILLE CIVIC CENTRE

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CONTENTS PAGE

Item	Description	Page Number
ITEMS FROM FINANCIAL MANAGEMENT, AUDIT, RISK & COMPLIANCE COMMITTEE MEETING 30 MAY 2011		
M11/5178	Annual Review of Internal Audit Plan	8
M11/5180	Internal Audit Report Value for Money	11
URBAN PLANNING		
P11/3216	Rationalisation of Seating Numbers within the existing Restaurant and Retrospective Approval for the Construction of a Storage Shed at Lot 16 (356 & 358) Marmion Street, Melville	15
P11/3217	Change of Use from Restaurant to use not listed (Small Bar) at Units 1 & 2, 45 Ardross Street, Applecross	28
P11/3218	Stage Five Review of Urban Planning Policies – Car Parking	43
P11/3219	Stage Five Review of Urban Planning Policies – Energy Efficiency and Highly Reflective Roofing	51
P11/3220	Stage Five Review of Urban Planning Policies – Precinct and Local Area Policies	58
P11/3221	Stage Five Review of Urban Planning Policies – Residential Development and Incidental Structures	66
TECHNICAL SERVICES		
Nil		
COMMUNITY DEVELOPMENT		
Nil		
CORPORATE SERVICES		
C11/5186	Amendments to the City of Melville Local Government Property Local Law 2010	74
C11/5187	Review of City of Melville Delegated Authority Manual	79
C11/5000	Common Seal	86
C11/6000	Investment Statements April 2011	90
C11/6001	Schedule of Accounts April 2011	104
C11/6002	Financial Statements April 2011	108
MANAGEMENT SERVICES		
M11/5188	Chief Executive Officer Contract	116

10 Almondbury Road Booragoon WA 6154
Postal Address: Locked Bag 1, Booragoon WA 6154
Tel: 08 9364 0666
Fax: 08 9364 0285
Email: melinfo@melville.wa.gov.au
Web: www.melvillecity.com.au

City of Melville

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, 21 JUNE 2011.

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1. OFFICIAL OPENING

The Presiding Member welcomed those in attendance to the meeting and declared the meeting open at 6:30pm. Mr J Clark the Governance and Compliance Program Manager read aloud the Disclaimer and then His Worship the Mayor, Russell Aubrey, read aloud the 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

His Worship the Mayor, Russell Aubrey

COUNCILLORS	WARD
Cr R Subramaniam	Bull Creek/Leeming
Cr N Pazolli, Cr P Reidy	Applecross/Mount Pleasant
Cr A Nicholson, Cr A Ceniviva	City
Cr J Barton, Cr G Wieland	Bicton/Attadale
Cr C Halton, Cr B Kinnell	Palmyra/Melville/Willagee
Cr N Foxton	University

3. IN ATTENDANCE

Dr S Silcox (Until 9pm)	Chief Executive Officer
Mr M Tieleman (Until 9pm)	Director Corporate Services
Ms C Young (Until 9pm)	Director Community Development
Mr S Cope (Until 9pm)	Director Urban Planning
Mr J Christie (Until 9pm)	Director Technical Services
Mr L Hitchcock	Executive Manager Legal Services
Ms K Johnson (from 9.00pm)	Executive Manager Organisational Development
Mr P Prendergast (Until 9pm)	Manager Planning and Development Services
Mr G Ponton (from 8.20pm to 8.33pm)	Manager Strategic Urban Planning
Mr B Taylor	Manager Information, Technology & Support
Mr J Clark	Governance & Compliance Program Manager
Ms C Rourke (Until 9pm)	Minute Secretary

At the commencement of the meeting there were 22 members of the public and 2 members from the Press in the Public Gallery.

4. APOLOGIES AND APPROVED LEAVE OF ABSENCE

4.1 APOLOGIES

Deputy Mayor Cr M Reynolds	University Ward

4.2 APPROVED LEAVE OF ABSENCE

Cr C Robartson	Bull Creek/Leeming Ward

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

At 6.31pm Cr Kinnell left the meeting.

6. QUESTION TIME

6.1 Committee of 'Save Bicton Park Community Action Group'

Question 1

"*At the Special Meeting of Electors held on 7th October 2010 6 Motions relating to Western Power's expansion in the City of Melville were passed and carried unanimously. In this respect please advise what active advocacy the City of Melville has undertaken with Western Power re a land swap or acquisition of the Bicton site?*"

Response

The City of Melville has ongoing liaison with Western Power and has made proposals of alternative sites to Western Power. The City has been advised that Western Power is unlikely to take action on proposals prior to 2016. Western Power's website advises that *"Western Power will be deferring its investigations to determine a preferred solution, as many variables may change within the longer time horizon involved"*

Question 2

"What progress is being made by the City of Melville with Western Power and who is the City of Melville representative dealing with this matter?"

Response

The response to Question 1 confirms the response. The Officer representing the City of Melville is a member of the Technical Services Directorate.

Question 3

"Should Western Power be willing to sell this land, does the City of Melville have first option to purchase and would the City of Melville consider pursuing this option?"

Response

The City of Melville does not have a contractual agreement with Western Power concerning the site at Lot 58 Murray Road, Bicton.

7. AWARDS AND PRESENTATIONS

Nil

8. CONFIRMATION OF MINUTES

8.1 ORDINARY MEETING OF COUNCIL – 17 MAY 2011
Min_17_May_2011

COUNCIL RESOLUTION

At 6.37pm Cr Wieland moved, seconded Cr Subramaniam -

That the Minutes of the Ordinary Meeting of Council held on Tuesday, 17 May 2011, be confirmed as a true and accurate record.

At 6.37pm the Mayor submitted the motion, which was declared

CARRIED (10/0)

8.2 NOTES OF AGENDA BRIEFING FORUM – 7 JUNE 2011
Notes_7_June_2011

COUNCIL RESOLUTION

At 6.37m Cr Reidy moved, seconded Cr Halton -

That the Notes of Agenda Briefing Forum held on Tuesday, 7 June 2011, be received.

At 6.37pm the Mayor submitted the motion, which was declared

CARRIED (10/0)

At 6.38pm Cr Kinnell returned to the meeting.

8.3 FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE (FMARC) – 30 MAY 2011

COUNCIL RESOLUTION

At 6.38pm Cr Reidy moved, seconded Cr Subramaniam -

That the Minutes of the Financial Management, Audit, Risk & Compliance Committee Meeting held on Monday 30 May 2011 be noted.

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

At 6.38pm the Mayor submitted the motion, which was declared

CARRIED (11/0)

9. DECLARATIONS OF INTEREST

9.1 FINANCIAL INTERESTS

- C11/5187 Cr Reidy
- M11/5188 Dr S Silcox – Chief Executive Officer

9.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

- P11/3216 Cr Halton
- P11/3218 Cr Ceniviva

10. APPLICATIONS FOR NEW LEAVES OF ABSENCE

At 6.40pm Cr Kinnell moved, seconded Cr Foxton -

That the application for new leaves of absence submitted by Cr Barton, Cr Ceniviva, Cr Halton and Cr Wieland on 21 June 2011 be granted.

At 6.40pm the Mayor submitted the motion, which was declared

CARRIED (11/0)

11. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

- M11/5188 Chief Executive Officer Contract

The Presiding Member advised the meeting that in accordance with section 5.23(2) (a), (c) & (d) of the Local Government Act 1995 any discussion regarding Item M11/5188 – Chief Executive Officer Contract, would need to be discussed confidentially behind closed doors.

12. PETITIONS

12.1 Petition – Removal of Diesel Generators at Winthrop Park

At 6.41pm Mr L Trebse, Lead Petitioner, presented a deputation relating to the petition.

At 7.00pm, after general discussion and questions from Elected Members, Mr Trebse returned to the public gallery.

A petition signed by 71 residents was received by the City of Melville on Wednesday, 8 June 2011. The petition reads as follows –

"We, the undersigned, all being Electors of the City of Melville, do humbly pray that diesel generators providing portable lighting at Winthrop Park be removed. The diesel generators are causing a low frequency hum that is audible into all houses on Winthrop Drive, Raine Terrace, Chesters Way and Shacklock Crescent. Residents have had their peace, privacy and enjoyment of Winthrop Park and its surrounds violated."

COUNCIL RESOLUTION

At 7.08pm Cr Subramaniam moved, seconded Cr Foxton -

1. That the petition bearing 71 signatures be tabled and noted.

2. That the lead petitioner be advised that;

2.1 The Council has noted the petition, and that Officers have worked with the Melville Soccer Club to further reduce their usage at Winthrop Oval until early July 2011.

2.2 Measures were put in place as a response to the reduced water allocation required by Water Corporation Western Australia, at Len Shearer Reserve which forced the temporary relocation of the Melville Soccer Club to Winthrop Oval.

2.3 An original temporary usage of five nights per week at Winthrop Oval has now been reduced to three nights (one evening to 9pm and two evenings to 7.30pm).

2.4 Officers have responded to several petitioners with this information.

2.5 From 1st July 2011 no lights will operate from Winthrop Oval.

At 7.10pm the Mayor submitted the motion, which was declared

CARRIED (11/0)

12.2 Petition – Change of Use from Shop to Wine/Small Bar 360 Marmion Street, Melville

A petition signed by 191 residents and 65 non residents was received by the City of Melville on Friday, 3 June 2011. The petition reads as follows –

"We, the undersigned, all being Electors of the City of Melville, do humbly pray that 360 Marmion Street, Melville 6156 should be allowed Planning Approval for Change of Use from Shop to Wine/Small Bar and support this concept in the area."

PETITIONS CONTINUED.

COUNCIL RESOLUTION

At 7.11pm Cr Reidy moved, seconded Cr Halton -

That the petition bearing 256 signatures be tabled and acknowledged in writing to the lead petitioner. The lead petitioner will be advised that:

1. **The matter is the subject of a current Development Application.**
2. **The details of which will be referred to the City of Melville Development Advisory Unit in due course.**
3. **And may be the subject of a subsequent report to Council.**
4. **The expression of support raised by the petitioners will be taken into consideration before a decision on the application is taken.**

At 7.13pm the Mayor submitted the motion, which was declared

CARRIED (11/0)

12.3 Petition – Proposed Development at 20 Bridges Road, Melville

A petition signed by 767 residents and 14 non residents was received by the City of Melville on Monday 20 June 2011. The petition reads as follows -

"We, the undersigned, all being Electors of the City of Melville, do humbly pray that our Councillors take note of the objections of the ratepayers and tenants of the City of Melville in regard to the proposed development of 20 Bridges Road Melville on the following grounds.

1) The residents were not consulted prior to the enactment of the building limitations upon which the proposal to build 18 flats at 20 Bridges Road depends, namely Multi Unit Housing Code (Nov 2010) Statement of Policy 3.1 and CPS5.

2) Flat development was not envisaged under R25/40 Codes, which was primarily intended for infill townhouse type developments.

3) The bulk and scale of the proposed dwellings (flats) is inconsistent with the developments in this area and is deficient in many areas of performance criteria, set by the legislation, namely in areas of building size, height, street side and rear set back, open space, landscaping, streetscape, site planning and design and building design."

COUNCIL RESOLUTION

At 7.15pm Cr Kinnell moved, seconded Cr Halton -

That the petition bearing 781 signatures be tabled, noted and the lead petitioner advised that the matter will be taken into consideration as part of the determination of the current planning application reference DA-2011-414.

At 7.16pm the Mayor submitted the motion, which was declared

CARRIED (11/0)

13. REPORTS OF THE CHIEF EXECUTIVE OFFICER

13. 1 FINANCIAL MANAGEMENT, AUDIT, RISK & COMPLIANCE COMMITTEE – 30 MAY 2011

The following items were presented by the Presiding Member of the Financial Management, Audit, Risk & Compliance Committee.

13.1.1 ITEMS REQUIRING COUNCIL RESOLUTION

M11/5178 - ANNUAL REVIEW OF INTERNAL AUDIT PLAN (REC) (ATTACHMENT)

Ward	:	All
Category	:	Operational
Subject Index	:	Internal Audit Report
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	:	C10/6031 Annual Review of Audit Plan (May 2010) C09/5077 Annual Review of Audit Plan (August 2009) C08/5031 Four Year Strategic Audit Plan (October 2008)
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Ken Wan Process Improvement Auditor

AUTHORITY / DISCRETION

		DEFINITION
☐	Advocacy	*when the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☒	**Executive**	***the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.***
☐	Legislative	*includes adopting local laws, town planning schemes & policies.*
☐	Review	*when the Council review decisions made by Officers.*
☐	Quasi-Judicial	*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.*

M11/5178 - ANNUAL REVIEW OF INTERNAL AUDIT PLAN (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

This report presents the annual review of the internal audit plan and notes significant auditable areas covering financial, operational, compliance and governance processes are risk weighted and audit resources are allocated to those areas with higher risks.

BACKGROUND

A risk based audit plan covering areas of high risks in terms of consequence and likelihood relating to the achievement of corporate objectives is prepared and reviewed at least once every 12 months by the Process Improvement Auditor with input from the Executive Management Team.

DETAIL

Attachments: **5178 Audit Plan** and **5178 Internal Audit Control Matrix**. These attachments provide specific detail as to the extent of each auditable area.

Three new items have been added being item 32-carry forward expenditure, item 33-integrity of performance reporting and item 40-tendering process. They are added as a result of requests from the Executive Management Team.

There have been no other changes in the auditable areas since the last review by the Executive Management Team and the Financial Management, Audit, Risk & Compliance Committee in May 2010. All auditable areas have been reviewed and considered relevant to the City's activities.

PUBLIC CONSULTATION/COMMUNICATION

No external consultation has been carried out.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

No such consultation has been carried out.

STATUTORY AND LEGAL IMPLICATIONS

There is no specific legal requirement to have an internal audit function for a local government. However, an amendment to the Local Government Act 1995 in 2005 introduced a requirement that all local governments establish an audit committee. Such committees are to provide an independent oversight of the financial systems of a local government on behalf of the Council. As such, the committee will operate to assist the Council to fulfil its corporate governance, stewardship, leadership and control responsibilities in relation to the local government's financial reporting and audit responsibilities.

M11/5178 - ANNUAL REVIEW OF INTERNAL AUDIT PLAN (REC) (ATTACHMENT)

For an audit committee to be effective, it is the best practice to have an internal audit function to assist it to discharge its responsibilities in areas such as internal control, risk management, and financial reporting.

FINANCIAL IMPLICATIONS

There are no financial implications in this report as the items added to the internal audit scope will be conducted within the funds identified in the Draft 2011/2012 Budget.

STRATEGIC AND RISK MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk	Risk Mitigation Strategy
Internal audit resources not allocated to areas of the highest audit significance to the City.	**Low**	All auditable areas are reviewed and approved by both the Executive Management Team and the Financial Management, Audit, Risk and Compliance Committee annually to ensure internal audit resources are appropriately allocated.

POLICY IMPLICATIONS

There are no specific policy implications, except where it can be determined that a matter may be subject to policy change.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

CONCLUSION

The items identified in the audit plan will cover all high risk areas and they have been reviewed and accepted by Executive Management Team.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION (5178)
APPROVAL

That the annual review of the Internal Audit Plan for 2011 be presented to the Council for approval.

At 7.17pm the Mayor submitted the motion, which was declared

CARRIED EN BLOC (11/0)

M11/5180 - INTERNAL AUDIT REPORT – VALUE FOR MONEY (REC) (ATTACHMENT)

The report on Value for Money was presented to the Financial Management, Audit, Risk and Compliance Committee on 30 May 2011. Due to the comprehensive examination of the City's functions and systems within the report, the Chief Executive Officer has brought the report for the attention of the Council. The report examines how well the City of Melville manages to deliver Value for Money and sustainable outcomes for the community.

Ward	:	All
Category	:	Operational
Subject Index	:	Internal Audit Report
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	:	Not Applicable
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Ken Wan Process Improvement Auditor

AUTHORITY / DISCRETION

		DEFINITION
☐	Advocacy	*when the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
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M11/5180 – INTERNAL AUDIT REPORT – VALUE FOR MONEY (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

Value for Money (VFM) is about obtaining the maximum benefit over time with the resources available. The use of resources assessment considers how well organisations are managing and using their resources to deliver value for money and better and sustainable outcomes for local people. The assessment comprises three themes. These focus on the importance of sound and strategic financial management, strategic commissioning and good governance, and the effective management of natural resources, assets and people.

Overall, the COM has scored well above average in all categories in the VFM audit and it would be interesting to compare its results with other major local governments if data were available.

BACKGROUND

The concept of VFM auditing has gained wide acceptance in countries such as the UK, USA and Canada. VFM auditing is also referred to as operational auditing, performance auditing, and management auditing. Although these terms may not be exactly synonymous, they serve the purpose of distinguishing VFM auditing from the conventional audit of financial statements.

Central to the concept of VFM in public sector organisations is the principle that public funds should be put to the best possible use and that those who conduct public business should be accountable for the economical, efficient and effective management of the resources entrusted to them. Public sector managers have an obligation to demonstrate that resources such as people, assets and money are used as productively as possible in achieving the intended results.

The VFM audit framework was developed after extensive research into council performance measurement in Australia and overseas. Both the Chief Executive Officer (CEO) and the Process Improvement Auditor also visited the WA Department of Treasury and Finance to gain a better understanding of how the VFM audit should proceed. Some guidance notes were obtained and used during this audit.

This VFM framework is largely based on the VFM model used by the Audit Commission in the UK, which is an independent watchdog with statutory responsibilities (Audit Commission Act 1998) to regulate the audit of local governments and other public services, and to promote improvements in economy, efficiency and effectiveness to deliver better outcomes for all stakeholders.

This audit acts as a “health check”, giving confidence about what is being done and helping to focus attention on key priorities.

DETAIL

Refer to the Report for details **5180 Value for Money Internal Audit Report**

M11/5180 – INTERNAL AUDIT REPORT – VALUE FOR MONEY (REC) (ATTACHMENT)

PUBLIC CONSULTATION/COMMUNICATION

No external consultation has been carried out.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Both the CEO and the Process Improvement Auditor visited the WA Department of Treasury and Finance to gain a better understanding of how the VFM audit should proceed. Some guidance notes were obtained and used during this audit.

STATUTORY AND LEGAL IMPLICATIONS

Section 3.18 of the Local Government Act 1995 requires a local government to satisfy itself that services and facilities that it provides-

a) integrate and coordinate with any provided by the Commonwealth, the State or any public body;
b) do not duplicate, to an extent that the local government considers inappropriate, services or facilities provided by the Commonwealth, the State or any other body or person, whether public or private; and
c) are managed efficiently and effectively.

Section 5(2) of the Local Government (Financial Management) Regulations 1996 requires the CEO of a local government to ensure the resources of the local government are effectively and efficiently managed.

FINANCIAL IMPLICATIONS

There are no financial implications for the Council in regards to this audit.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk	Risk Mitigation Strategy
Lack of proper monitoring and review could result in not delivering value for money to the community.	**Medium**	Continuous and robust review of Council activities with emphasis on economy, efficiency and effectiveness.

POLICY IMPLICATIONS

There are no specific policy implications, except where it can be determined that a matter may be subject to policy change.

M11/5180 – INTERNAL AUDIT REPORT – VALUE FOR MONEY (REC) (ATTACHMENT)

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

CONCLUSION

This internal audit review provides an opportunity for the Council and Management to further deliver value for money for the community.

OFFICER & COMMITTEE RECOMMENDATION & COUNCIL RESOLUTION (5180)
NOTING

That the Internal Audit Report regarding Value for Money be noted.

At 7.17pm the Mayor submitted the motion which was declared
CARRIED EN BLOC (11/0)

14. REPORTS OF THE CHIEF EXECUTIVE OFFICER

The Presiding Member advised 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 a part of 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. This on it's part requires the application of the relevant facts to the appropriate statutory regime.

P11/3216 - RATIONALISATION OF SEATING NUMBERS WITHIN THE EXISTING RESTAURANT AND RETROSPECTIVE APPROVAL FOR THE CONSTRUCTION OF A STORAGE SHED AT LOT 16 (356 & 358) MARMION STREET, MELVILLE (AMREC) (CONFIDENTIAL ATTACHMENT)

Disclosure of Interest

Item No.	P11/3216
Elected Member/Officer	Cr C Halton
Type of Interest	Interest under Code of Conduct
Nature of Interest	Association with owner
Request	To Stay, Discuss and Vote
Decision of Council	Not Applicable

Ward	:	Palmyra/Melville/Willagee
Category	:	Operational
Application Number	:	DA-2011-128
Property	:	Blend Cafe Pizza Bar, 356-358 Marmion Street, MELVILLE WA 6156
Proposal	:	Rationalisation of Restaurant Seating Numbers
Applicant	:	Mr T N Widger
Owner	:	Mr R A Forbes
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Responsible Officer	:	Peter Prendergast Manager Planning and Development Services
Previous Items	:	DA-2010-717 Extension of approved trading hours to open all day Sunday. DA-2009-1186 Change of Use from Take Away to Restaurant (Café).

P11/3216 - RATIONALISATION OF SEATING NUMBERS WITHIN THE EXISTING RESTAURANT AND RETROSPECTIVE APPROVAL FOR THE CONSTRUCTION OF A STORAGE SHED AT LOT 16 (356 & 358) MARMION STREET, MELVILLE (AMREC) (CONFIDENTIAL ATTACHMENT)

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P11/3216 - RATIONALISATION OF SEATING NUMBERS WITHIN THE EXISTING RESTAURANT AND RETROSPECTIVE APPROVAL FOR THE CONSTRUCTION OF A STORAGE SHED AT LOT 16 (356 & 358) MARMION STREET, MELVILLE (AMREC) (CONFIDENTIAL ATTACHMENT)

KEY ISSUES / SUMMARY

- This application requires referral to Council for consideration and determination as it involves the exercise of discretion in respect of the Council Car Parking Policy.
- Development approval is sought to rationalize the seating numbers within the existing restaurant located at 356 and 358 Marmion Street, Melville.
- The proposed rationalisation is to allow the 356 Marmion Street tenancy to operate with 50 seats in lieu of the existing authorized 20 seats. This will be during the day time trading period only at which time the adjoining tenancy at 358 Marmion Street is closed.
- After 6pm Monday to Friday and on Sunday all day, 356 and 358 Marmion Street are proposed to be operated with a maximum of 100 seats.
- Retrospective development approval is also sought for the construction of a storage shed built within the rear yard of the site.
- Two individual and one multi signatory submissions were received during the advertising period, objecting to the proposal on car parking grounds.
- The storage shed complies with all of the relevant Community Centre Precinct requirements.
- The proposed rationalisation of the seating numbers does not satisfy the relevant provisions contained within the Community Planning Scheme No. 5 (CPS5), and Council policy with regard to car parking.
- The proposed rationalisation of seating numbers is supported on the basis that 358 Marmion Street will be closed during the day and its existence therefore frees up the car parking bays that would ordinarily be utilised if the tenancy were operational during the day time trading period.
- For the purposes of consistency, and in common with the decision made in respect of DA-2010-717, also in respect of the Blend Café and Restaurant, it is recommended that a temporary planning approval of 12 months be granted to allow a review of the car parking at the centre to be undertaken.

P11/3216 - RATIONALISATION OF SEATING NUMBERS WITHIN THE EXISTING RESTAURANT AND RETROSPECTIVE APPROVAL FOR THE CONSTRUCTION OF A STORAGE SHED AT LOT 16 (356 & 358) MARMION STREET, MELVILLE (AMREC) (CONFIDENTIAL ATTACHMENT)

BACKGROUND

Planning approval was initially granted on 30 July 2008 for the change of use of 356 Marmion Street to a restaurant (known as Blend Café). This was subject to a condition to restrict the number of seated patrons to 20.

In December 2009, approval was granted for the change of use to Restaurant of the adjoining tenancy at 358 Marmion Street. This approval restricted opening hours to after 6pm only daily, with a maximum seating capacity for 100 patrons. There was no restriction imposed with respect to closing times.

The restaurant use operated across both tenancies as one business, with the intention that its day time operations would be limited to the 356 Marmion Street tenancy only, which would operate with an approved 20 seats capacity. After 6pm, it was envisaged that the use could collectively operate across both tenancies with up to 120 seated patrons.

P11/3216 - RATIONALISATION OF SEATING NUMBERS WITHIN THE EXISTING RESTAURANT AND RETROSPECTIVE APPROVAL FOR THE CONSTRUCTION OF A STORAGE SHED AT LOT 16 (356 & 358) MARMION STREET, MELVILLE (AMREC) (CONFIDENTIAL ATTACHMENT)

The restaurant grew in popularity, partly because it provided a facility within the centre that had previously been absent, and for which there was clearly a significant demand. This growth in the popularity of the restaurant led to conflict between staff and customer demands and the operational limitations that had been imposed on the use by the two planning approvals issued at that time. This conflict was particularly evident of Sundays, which led to the submission of a planning application for the all day opening of the use on Sundays across both tenancies. This application was considered and approved by Council in March 2011, subject to a restriction on the number of seated patrons to 100.

This approval was granted for an initial 12 month period only, designed to enable a car parking study of the Council owned car parking facility to the front of this centre to be initiated and concluded. Notwithstanding the latter, the approval recognises that the use can operate outside normal retail opening hours without prejudice to other users within the Shopping Centre.

The Redwood Shopping centre contains nine other commercial tenancies including a supermarket, liquor outlet, butcher, beautician, two shops, café and take away.

No parking exists within the Centre, however the City owns the adjacent car parking area to the south of the centre located between it and Marmion Street. This car park comprises part of the Marmion Street road reserve.

A storage shed has been constructed to the rear of 356 and 358 Marmion Street. As this building is not fully sited within the subject lot, the current application includes a proposal to reduce its size. In that way it will be sited wholly within the subject lot, and its retention can be supported on that basis.

Scheme Provisions

MRS Zoning	:	Urban
CPS 5 Zoning	:	Community Centre
R-Code	:	N/A
Use Type	:	Restaurant
Use Class	:	'P' Use – use is permitted

Site Details

Lot Area	:	137sqm
Retention of Existing Vegetation	:	N/A
Street Tree(s)	:	N/A
Street Furniture (drainage pits etc)	:	N/A
Site Details	:	See above aerial photograph

P11/3216 - RATIONALISATION OF SEATING NUMBERS WITHIN THE EXISTING RESTAURANT AND RETROSPECTIVE APPROVAL FOR THE CONSTRUCTION OF A STORAGE SHED AT LOT 16 (356 & 358) MARMION STREET, MELVILLE (AMREC) (CONFIDENTIAL ATTACHMENT)

DETAIL

Development Requirements

The proposal satisfies all of the applicable provisions contained within CPS5 and Council policy with the exception of those matters outlined below.

Development Requirement	Required/ Allowed	Proposed	Comments	Delegation to approve variation	Plan Notation
Car Parking	**For the Blend Café and Restaurant use, one bay per four patrons at capacity, plus one bay per staff member. Based on a capacity of 50 seats, and with five staff present, 17 bays area required.** **For the Redwood Centre as a whole, the total parking requirement is 158 bays.**	**No dedicated on-site parking available for any of the retail uses located within the Redwood Centre. The Centre does rely on the existence of the adjacent Council owned car parking facility, which has 72 bays.**	**Does not comply**	**Council**	

P11/3216 - RATIONALISATION OF SEATING NUMBERS WITHIN THE EXISTING RESTAURANT AND RETROSPECTIVE APPROVAL FOR THE CONSTRUCTION OF A STORAGE SHED AT LOT 16 (356 & 358) MARMION STREET, MELVILLE (AMREC) (CONFIDENTIAL ATTACHMENT)

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required:	Yes
Neighbour's Comment Supplied:	Yes
Reason:	Variation to CPS5 provision
Support/Object:	Three Objections (One submission signed by seven shop owners)

No of Submissions Received	Summary of Submissions	Support/ Objection	Officer's Comment	Action (Uphold / Not uphold)
Three separate letters of submission were received.	Blend Café should maintain its current seating of 20 to ensure that businesses are not impacted upon by the demand for parking generated by the use.	Objection	The proposed rationalisation will allow up to 50 seats to be occupied within 356 Marmion Street during the day when 358 Marmion Street is closed. The additional car parking demand generated by the increased patron numbers in 356 Marmion St is compensated for by the fact that 358 is closed during the day, and as such does not generate any car parking demand.	Not uphold
	Non-compliance with conditions of approval	Objection	This matter has been investigated by Council officers and the Applicant has been reminded of their conditions of planning approval. Any future breaches of the conditions of planning approval will be dealt with accordingly.	Not uphold

P11/3216 - RATIONALISATION OF SEATING NUMBERS WITHIN THE EXISTING RESTAURANT AND RETROSPECTIVE APPROVAL FOR THE CONSTRUCTION OF A STORAGE SHED AT LOT 16 (356 & 358) MARMION STREET, MELVILLE (AMREC) (CONFIDENTIAL ATTACHMENT)

REFERRALS TO GOVERNMENT AGENCIES

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

Should the Council refuse to grant consent for the development, 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 anticipated financial implications.

STRATEGIC, RISK & ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no anticipated strategic, risk or environmental management implications.

POLICY IMPLICATIONS

Policy 06-PL-024: Car Parking (Non-Residential): This policy exists to control the provision of car parking associated with non-residential development throughout the City. Under the provisions of this policy, a 'Restaurant' use requires '1 bay per 4 patrons at capacity, plus 1 bay per staff member'. No dedicated on-site car parking is available for the subject Restaurant use, nor is there any provision for any of the other tenancies located within this centre. There is however 72 City of Melville car parking bays located immediately adjacent to the centre. These bays operate as the de facto shopping centre car park, although the total numbers of bays available are not for the exclusive use of the shops.

Despite the existence of this car parking facility, there is insufficient car parking for the centre as a whole, when judged against the requirements of Policy 06-PL-024, which requires the provision of 158 bays for the centre overall.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

This application may be refused by the Council due to the on-site car parking variation, although such a decision may result in an appeal to the State Administrative Tribunal.

P11/3216 - RATIONALISATION OF SEATING NUMBERS WITHIN THE EXISTING RESTAURANT AND RETROSPECTIVE APPROVAL FOR THE CONSTRUCTION OF A STORAGE SHED AT LOT 16 (356 & 358) MARMION STREET, MELVILLE (AMREC) (CONFIDENTIAL ATTACHMENT)

COMMENT

As outlined above, approval has previously been granted to operate 356 Marmion Street as a Restaurant for up to 20 patrons at a time. No conditions were imposed on this tenancy regarding hours of operation.

No. 358 Marmion Street has also obtained approval to operate as an extension to the existing restaurant use with a maximum number of 100 patrons open after 6pm daily.

A further temporary approval has been granted to operate both 356 and 358 Marmion Street all day on a Sunday with a maximum of 100 patrons.

Planning approval is now sought to increase the authorised seating capacity of No 356 from 20 to 50 patrons, and to permit No 358 to operate with 50 patrons. The tenancy at 358 will remain closed for trading except on Sundays, and daily after 6pm. The existing capacity of 100 patrons will be reduced to 50.

Subject to the approval of this proposal, the Blend Café and Restaurant would operate with a combined maximum seating capacity of 100 seats. At present the capacity is 120 seats, based on 20 seats in No 356, and 100 seats in No 358.

The initial approval in 2008 for the change of use of 356 to a restaurant was restricted to a seating capacity of 20 patrons, as at that time the sanitary facilities were such that no more than 20 patrons could be supported.

Since then, the applicant has provided dedicated male and female toilets, located in a new building to the rear of the premises. The subsequent change of use of the premises at No 358 to allow an additional 100 seated patrons in 2009 reflects the fact that the sanitary facilities at the premises had been upgraded. It follows therefore that the current proposal to increase the seating capacity of No 356 from 20 to 50 is not encumbered by the lack of sanitary facilities. On that basis, and given there is no new or additional change of use being sought, the main issue for consideration in the determination of the current application relates to the availability of car parking to service the needs of customers and staff.

Car Parking

At present, during the standard daytime business trading period, the Blend Café and Restaurant does not trade from No 358 (except on Sundays), relying solely on trading from No 356. This means that the demand for car parking that would otherwise emanate from any form of trading activity from the No 358 tenancy, does not materialise.

P11/3216 - RATIONALISATION OF SEATING NUMBERS WITHIN THE EXISTING RESTAURANT AND RETROSPECTIVE APPROVAL FOR THE CONSTRUCTION OF A STORAGE SHED AT LOT 16 (356 & 358) MARMION STREET, MELVILLE (AMREC) (CONFIDENTIAL ATTACHMENT)

In reality, and notwithstanding the overall shortage of any dedicated off street car parking at the Redwood Shopping Centre per se, the restriction on seating capacity of 20 patrons is considered to be onerous and potentially of prejudice to the successful operations of the applicant's business activity.

By way of example, if the No 356 and No 358 tenancies operated as separate retail shops, then under the provisions of the Council's Non Residential Car Parking Policy, the demand for car parking generated by each of the uses would be approximately 17 bays.

Based on a seating capacity of 20 patrons, the car parking requirement for a restaurant use is five bays, (one bay per four seated patrons) which, with a staff car parking requirement of one bay per staff member, results in a requirement for 10 bays based on there being five staff members.

If the authorised seating capacity at No 356 is increased to 50 seated patrons, the resultant car parking requirement would be 12.5 bays for customers, plus the staff car parking requirement. Using this example, it can be seen that there is capacity for the existing tenancy at No 356 to operate with a maximum of 50 seated patrons, as in doing so the demands generated by the use would be broadly similar to the scenario if both tenancies operated as separate retails outlets.

In reality, patrons of the Redwood Centre will likely take advantage of more than one of the retail services on offer whenever they visit the centre. In such cases, it can be seen that there is a degree of informal shared and reciprocal car parking taking place, such that the overall demand for car parking as required by the literal and somewhat crude interpretation of the Council's Car Parking policy already given, is reduced.

Despite this justification, and given the commitment previously offered by the City to initiate a Car Parking Study relative to the Council owned car park at the Centre, it is considered prudent that an increase to the seating capacity at No 356 from 20 seats to 50 seats be granted for an initial 12 month period only. This approach is consistent with the previous grant of temporary planning approval for the all day Sunday opening of both tenancies for 100 patrons, which was similarly limited to a 12 month period.

CONCLUSION

Retrospective planning approval for the storage shed and the rationalisation to the seating within 356 Marmion Street prior to 6pm, Monday to Saturday is recommended for approval subject to conditions.

P11/3216 - RATIONALISATION OF SEATING NUMBERS WITHIN THE EXISTING RESTAURANT AND RETROSPECTIVE APPROVAL FOR THE CONSTRUCTION OF A STORAGE SHED AT LOT 16 (356 & 358) MARMION STREET, MELVILLE (AMREC) (CONFIDENTIAL ATTACHMENT)

OFFICER RECOMMENDATION (3216) **ABSOLUTE MAJORITY**

At 7.19pm Cr Kinnell moved, seconded Cr Halton –

That the proposed rationalisation of seating numbers within the existing restaurant and the retention of an existing storage shed at Blend Café, Lot 16 (356 & 358) Marmion Street, Melville, be approved with an Absolute Majority decision of the Council, subject to the following conditions and advice notes:

CONDITIONS:

1. **There must be no more than 50 seated patrons within the restaurant tenancy at 356 Marmion Street at any time.**

2. **Between 6.00pm and closing, Monday to Saturday inclusive, a maximum of 100 seated patrons may be accommodated across the whole tenancy.**

3. **Both 356 and 358 Marmion Street tenancies can operate all day Sunday with a maximum of 100 patrons.**

4. **The rationalisation of seating within the whole tenancy is hereby approved for a period of 12 months only from the date of issue. Should the applicant seek to continue to operate on the basis of this approval beyond the 12 month period referred to, an application for renewal must be submitted to and approved by the Council.**

5. **The storage shed hereby approved must be modified and brought into compliance with this planning approval within 28 days of the date of issue of this permission.**

ADVICE NOTES:

1. **Reference to the "whole tenancy" in this approval refers to that part of the restaurant use located at 356 Marmion Street, and that part located at 358 Marmion Street.**

2. **The restrictions imposed by this approval in respect of maximum number of seated patrons refers to patrons seated both inside and outside of the restaurant. No additional seating capacity can be generated via the use of alfresco dining.**

P11/3216 - RATIONALISATION OF SEATING NUMBERS WITHIN THE EXISTING RESTAURANT AND RETROSPECTIVE APPROVAL FOR THE CONSTRUCTION OF A STORAGE SHED AT LOT 16 (356 & 358) MARMION STREET, MELVILLE (AMREC) (CONFIDENTIAL ATTACHMENT)

Amendment

At 7.19pm Cr Kinnell moved, seconded Cr Halton –

The following point 6 be added to the Officer Recommendation –

6. Within 30 days of the date of this approval, a House Management Policy is to be submitted which incorporates a noise management plan that addresses the impact of all noise sources including noise associated with rubbish disposal on nearby noise sensitive premises.

At 7.19pm the Mayor submitted the amendment which was declared

CARRIED (11/0)

Reasons for Amendment

This condition was recommended by Cr Kinnell at the Agenda Briefing Forum in response to complaints that he has received in the past relating to the noise associated with the disposal of glass bottles at the rear of the property.

COUNCIL RESOLUTION (3216)

ABSOLUTE MAJORITY

At 7.21pm the Mayor submitted the substantive motion as amended -

That the proposed rationalisation of seating numbers within the existing restaurant and the retention of an existing storage shed at Blend Café, Lot 16 (356 & 358) Marmion Street, Melville, be approved with an Absolute Majority decision of the Council, subject to the following conditions and advice notes:

CONDITIONS:

1. There must be no more than 50 seated patrons within the restaurant tenancy at 356 Marmion Street at any time.

2. Between 6.00pm and closing, Monday to Saturday inclusive, a maximum of 100 seated patrons may be accommodated across the whole tenancy.

3. Both 356 and 358 Marmion Street tenancies can operate all day Sunday with a maximum of 100 patrons.

P11/3216 - RATIONALISATION OF SEATING NUMBERS WITHIN THE EXISTING RESTAURANT AND RETROSPECTIVE APPROVAL FOR THE CONSTRUCTION OF A STORAGE SHED AT LOT 16 (356 & 358) MARMION STREET, MELVILLE (AMREC) (CONFIDENTIAL ATTACHMENT)

4. **The rationalisation of seating within the whole tenancy is hereby approved for a period of 12 months only from the date of issue. Should the applicant seek to continue to operate on the basis of this approval beyond the 12 month period referred to, an application for renewal must be submitted to and approved by the Council.**

5. **The storage shed hereby approved must be modified and brought into compliance with this planning approval within 28 days of the date of issue of this permission.**

6. ***Within 30 days of the date of this approval, a House Management Policy is to be submitted which incorporates a noise management plan that addresses the impact of all noise sources including noise associated with rubbish disposal on nearby noise sensitive premises.***

ADVICE NOTES:

1. **Reference to the "whole tenancy" in this approval refers to that part of the restaurant use located at 356 Marmion Street, and that part located at 358 Marmion Street.**

2. **The restrictions imposed by this approval in respect of maximum number of seated patrons refers to patrons seated both inside and outside of the restaurant. No additional seating capacity can be generated via the use of alfresco dining.**

At 7.21pm the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (11/0)

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

Ward	:	Applecross/Mt Pleasant
Category	:	Operational
Application Number	:	DA-2011-117
Property	:	Jacs Applecross, Unit 1 & 2, 45 Ardross Street, Applecross WA 6153
Proposal	:	Change of Use from Restaurant to Use Not Listed (Small Bar)
Applicant	:	Mr P Cockman
Owner	:	Mr G R Hunt
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	None
Responsible Officer	:	Peter Prendergast Manager Planning and Development Services

AUTHORITY / DISCRETION

		DEFINITION
☐	Advocacy	*when Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☐	Executive	*the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
☐	Legislative	*includes adopting local laws, town planning schemes & policies.*
☐	Review	*when Council review decisions made by Officers.*
☒	**Quasi-Judicial**	***when 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.***

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

KEY ISSUES / SUMMARY

- This application is referred to Council for its consideration and determination at the request of Cr Pazolli, and in accordance with the provisions of the Council's Development Advisory Unit Policy Reference CP-044.
- Development approval is sought for a change of use from Restaurant to a Use Not Listed (Small Bar).
- A Use Not Listed is a 'D' use within the 'Community Centre' Precinct and as such is not permitted unless Council exercises discretion and grants approval.
- The application was advertised in accordance with Community Planning Scheme No. 5 (CPS5). Fifteen letters of objection and six letters of support were received. In addition two petitions, one in support containing 382 signatures, and one in objection containing 29 signatures have been received. The applicant has also submitted a Public Interest Assessment which includes 67 questionnaires detailing support for the proposed Small Bar.
- The subject premises are presently utilised as a Restaurant with a liquor licence which allows the sale of liquor without a meal, however all patrons must be seated and can consume alcohol via table service only.
- The proposed change of use will allow the consumption of alcohol while standing within the premises and will enable patrons to order and consume alcohol whilst standing.
- The proposal is considered to satisfy all of the relevant provisions contained within the Community Planning Scheme No. 5 (CPS5).
- The proposal is recommended for conditional approval.

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

BACKGROUND

In March 2010 an Extended Trading Permit (ETP) was granted which allows the consumption of alcohol without the purchase of a meal. The ETP does not apply to the alfresco dining area situated within the public domain.

The Restaurant currently operates five days a week (Wednesday to Sunday).

The subject application was considered by the Development Advisory Unit (DAU) on 10 May 2011. The recommendation of the DAU was to approve the application. The application was 'called up' by Councillor Pazolli for the following reason:

'the Use Not Listed is a "D" use within the Community Centre Precinct and is not permitted unless Council exercises discretion and grants approval. Given this discretion it is imperative that the full Council decides on the provision of this discretion rather than through delegation of that responsibility through the DAU'.

Scheme Provisions

MRS Zoning	:	Urban
CPS 5 Zoning	:	Community Centre
R-Code	:	Not Applicable
Use Type	:	Use Not Listed
Use Class	:	'D' use not permitted unless Council exercises discretion and grants approval.

Site Details

Lot Area	:	1,011sqm
Retention of Existing Vegetation	:	Not Applicable
Street Tree(s)	:	Not Applicable
Street Furniture (drainage pits etc)	:	Not Applicable
Site Details	:	Refer to Photo Above

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

DETAIL

The proposal is considered to satisfy all of the relevant provisions contained within CPS5 and Council policy.

PUBLIC CONSULTATION/COMMUNICATION

Advertising Required: Yes
Comments Supplied: Yes
Reason: Use Not Listed is a 'D' use
Support/Object: Eight Object, five Support

Represent-actions received from	Summary of Submission	Support/ Objection	Officer's Comment	Action (Uphold/Not Uphold)
Alness Street, Applecross Ardross Street, Applecross Kintail Road, Applecross	The bar will become the main focus instead of the café/restaurant theme.	Object	The premises already have the ability to serve alcohol without a meal via table service. The proposed change to a Small Bar will maintain this situation, however patrons will now be able to visit the bar to order alcohol.	Not uphold
McLeod Road, Applecross Armstrong Road, Applecross Ardross Street, Applecross Gairloch Street, Applecross	It will affect the local peaceful family atmosphere with an influx of people of varying character from other suburbs. "Pubs and bars are associated with antisocial behaviour."	Object	The clientele of the premises is unlikely to change as a result of the proposal. In addition, it is considered that the restriction in patron numbers and the long standing reputation of the premises' management in delivering responsible service of alcohol will ensure antisocial behaviour is minimised.	Not uphold
Strome Road, Applecross.	There will be parking issues associated with more patrons.	Object	No change to the existing number of patrons are proposed, therefore car parking demand is not anticipated to change.	Not uphold

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

Represent-actions received from	Summary of Submission	Support/ Objection	Officer's Comment	Action (Uphold/Not Uphold)
Dr Janet Woollard, Member for Alfred Cove.	Noise will be an issue.	Object	The venue is required to comply with the Environmental Protection (Noise) Regulations 1997 when measured from any noise sensitive premises.	Advice Note
Alness Street, Applecross.	The area is already served by Bars.	Object	Market availability/demand are not material planning considerations for the determination of this proposal. It is noted however that notwithstanding the comments made, that a number of people have registered their support of the application.	Not Uphold
Tain Street, Applecross.				
Tweeddale Road, Applecross.				
Ardross Street, Applecross.	The proposal is a small step away from a Night Club.	Object	A Small Bar is a specific liquor licence type differentiated from Tavern or Night Club licence types by virtue of a restriction of patron numbers.	Not Uphold
Helen Street, Applecross.				
Tain Street, Applecross.	Bars are better suited close to the Highway.	Object	The subject site is within the Community Centre Precinct of which restaurants and bars are permissible uses.	Not Uphold

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

Represent-actions received from	Summary of Submission	Support/ Objection	Officer's Comment	Action (Uphold/Not Uphold
	The Bar would be situated close to a Primary School, approximately 300m.	Object	The subject site is located within an established shopping area including supermarket, café, restaurants, consulting rooms and offices. The location is considered to be suitable with regard to the surrounding land uses.	Not Uphold
	The bar will have the potential to attract large groups of people.	Object	No additional patron numbers are sought by the proposed change of use. Furthermore, Small Bar licences are granted with a restriction on patron numbers.	Not Uphold
	It appears the reason for the change is only to make more money as profits from drink sales are more easily made.	Object	Financial reasons cannot be considered as part of the planning assessment.	Not Uphold
Ness Road, Applecross	It would improve the lifestyle of many people without any adverse ramifications.	Support	Noted	Uphold
Strome Road, Applecross	There are no Small Bars in Applecross. It would be a welcome addition to other amenities.	Support	Noted	Uphold

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

Represent-actions received from	Summary of Submission	Support/ Objection	Officer's Comment	Action (Uphold/Not Uphold
Kintail Road, Applecross (two submissions) Matheson Road	It would be mostly used late in the day when other shops are closed so parking will not be an issue.	Support	Noted	Uphold
Matheson Road, The Esplanade, Mount Pleasant.	The only other Bar in the area is Raffles where people have to drive to and pay for parking and it attracts a younger crowd.	Support	Noted	Uphold
	It would be good to have an amenity like this to increase the vibrancy of Applecross that you can walk to.	Support	Noted	Uphold
	Jac's is located in a commercial area, where these uses are allowed.	Support	Noted	Uphold
	Bars like Raffles do not provide an intimate setting, whereas this one would.	Support	Noted	Uphold
	Other Small Bar examples around Perth have successfully allowed older patrons to enjoy a drink and/or a meal in a quiet environment close to their homes.	Support	Noted	Uphold

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

Note: This summary is intended to provide an outline of the salient points raised by the consultation in respect of the proposed development. In the interests of completeness, full details of all submissions received in respect of this proposal are attached.

Petitions and Public Interest Assessment

In addition to the public consultation required by CPS5, two petitions have been received in response to the proposed development, one in support and containing 382 signatures, and one in opposition containing 29 signatures. The latter was submitted by Dr Janet Woollard who acts as lead petitioner in that regard.

The Applicant has also submitted a copy of their Public Interest Assessment which is required to be submitted with every application for a liquor licence to the Department of Racing, Gaming and Liquor. The Public Interest Assessment includes 67 completed questionnaires which detail support of the proposed Small Bar. The main recurring themes expressed in the questionnaires include:

- The Small Bar is in the public interest.
- The Small Bar will not cause disturbance, annoyance or offence to people who work or live in the locality.
- The Small Bar will not harm the amenity of the locality.
- Jac's management have a strong reputation for responsible service of alcohol, there is strong confidence that this reputation will continue.
- Irresponsible management has not been observed in the past.
- It is probable that the Bar will still attract the same high standard cliental as it currently does.
- There is a need for a place where you can have a quiet drink within walking distance to your home. Currently no venue of this nature exists in the area.
- The Small Bar will bring more people into the area and create more of a village community atmosphere.
- It would provide an alternative to the 'hustle and bustle' of Clancy's and Raffles.
- The most popular time of day will be late in the day when the shops are closed, so parking issues will not be a problem along Ardross Street.
- The restriction in patron numbers will ensure noise and antisocial behaviour will not be a concern.
- Small Bars are operating in other suburbs with a similar demographic with no issues, so there is no reason why issues would arise in Applecross.

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Environmental Heath Services

The City's Environmental Health Services have reviewed the subject application and have recommended a number of conditions and advice notes.

One of the recommended conditions is to require the submission of an acoustic report prepared by a suitably qualified Acoustic Consultant demonstrating that all noise related activities associated with the use are capable of complying with the *Environmental Protection (Noise) Regulations 1997*, when the noise is received at any noise sensitive premises.

A recommended footnote is to advise that a House Management Policy would be required detailing the procedures relating to the safe and legal service of alcohol prior to the issue of a Section 39 Certificate. The House Management Policy will need to incorporate proposed measures to address the potential impact of noise, including patron noise towards noise sensitive premises.

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

None of direct relevance to the assessment of this proposal.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

This application may be refused by Council however such a decision is not recommended as the proposal is considered to satisfy the relevant provisions contained within CPS5.

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

COMMENTS

As indicated above, planning approval is sought for a change of use from a Restaurant to a Use Not Listed (Small Bar) at 45 Ardross Street, Applecross.

The Applicant has stated that the main reason for the proposed change of use is to remove the restrictions associated with service of alcohol which currently exist under the Restaurant Licence and which do not apply to Small Bar licences.

The proposed Small Bar will operate five days a week (Wednesday to Sunday) identical to the existing Restaurant.

The planning approval associated with the existing Restaurant restricts the number of patrons as follows for car parking reasons:

a) Monday to Friday prior to 6pm and Saturdays prior to midday, a maximum of 48 patrons; and
b) Monday to Friday after 6pm, Saturdays after midday and on Sundays, a maximum of 68 patrons.

No increase to the number of patrons is sought as part of the current application.

Only minor alterations to the internal layout are proposed which include a small bar counter, space for two beer taps and a redesign of the service counter area.

The Applicant states that food service is to remain the main focus of the operation and the existing kitchen will remain as is, and not be reduced in any way

Land Use Matters

The subject site is situated within the Community Centre Precinct. Under the provisions of CPS5 the Small Bar use is a 'Use Not Listed' and classed as a 'D' use, which means the use is not permitted unless Council exercises discretion and grants approval.

The site is located within an established shopping centre which includes other restaurants, cafes, consulting rooms, shops and offices. The existing Restaurant use adds to variety of services located within the Centre, making it more viable and vital for those that frequent it. This viability is particularly enhanced by the existence of such food and drink uses, particularly where they include an area of alfresco seating, as is the case with the use in question. It is anticipated that the proposed change of use to Small Bar will have a positive impact on the continued viability and vitality of the Centre.

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

The proposed change of use will involve only minor changes to the operation of the business. At present, all liquor is served via table service, however the proposed change of use to Small Bar and the granting of a Small Bar licence by the Department of Racing, Gaming and Liquor will allow people to visit the bar to order drinks and allow the consumption of alcohol while standing within the premises.

Notwithstanding the above, although a Small Bar liquor licence allows patrons within alfresco dining areas located within property boundaries (i.e. not within the road reserve) to consume alcohol while standing, the applicant has indicated an acceptance of a condition of approval to require that all patrons located within the alfresco dining areas (within the site boundary and on the road reserve) be seated at the dining tables provided.

The minor changes to the operation of the business are such that no significant change to the clientele who frequent the premises is expected. Furthermore, the applicant has stated that the primary focus of the business will remain the service of food, complimented by the service of alcohol as is generally the case in the hospitality industry.

It should be noted that the current Restaurant has been operating with the Extended Trading Permit allowing liquor to be served without a meal for the last year and there are no reports of complaints being received regarding the operation of the premises in that manner.

As outlined above, the planning approval associated with the existing Restaurant places a restriction on the number of patrons for car parking reasons. The Applicant has stated that they do not intend to increase patron numbers and as such, it is recommended that the condition relating to the restriction in patron numbers be applied.

Due to the restrictions on patron numbers to 48 during weekdays and Saturday mornings, and 68 during weeknights, Saturday afternoons onward and Sundays; it is anticipated that the potential adverse impacts relating to the proposed Small Bar use such as noise and antisocial behaviour will be mitigated. Furthermore, as can be seen from the number of submissions in support of the application and the well supported petition submitted, many people are in favour of the application as it will increase the opportunity for socialising away from larger drinking venues.

It is considered that the change to a small bar in this case should be supported. This view is reached on the basis that the premises are located within a Local Centre, where the use can operate in principle in land use terms, without prejudice to residential amenity. In addition the premises are located some distance away from other large drinking venues, and as such will draw a different clientele from those venues. This, together with a restriction on the total number of patrons that can be catered for at any one time, adds strength to the argument that the use can be supported here, in planning and land use terms, without prejudice to amenity.

Car Parking

Car parking requirements for Restaurants and Bars under the City's Non-Residential Car Parking policy are based upon patron numbers. As the proposed patron numbers are not proposed to change, no additional car parking demand will result.

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

Liquor Licence changes

Should the subject application be approved the applicant will be able to make an application to the Department of Racing, Gaming and Liquor for a Small Bar licence. The only changes from how the business currently operates under their Restaurant Licence with an Extended Trading Permit and a Small Bar licence are:

- Staff will be able to serve patrons at the bar instead of table service.
- Patrons will be able to stand whilst drinking within the lot boundary.
- The kitchen will not have to be open at all times that alcohol is served.
- The premises will not always have to be set up and presented for dining.
- The venue will not be restricted to being advertised as a Restaurant only.

Amenity

The proposed development has been assessed in accordance with the amenity provisions of Clause 7.8 of CPS5. It is concluded that, notwithstanding the objections received to the contrary, the proposed change of use can be accommodated from these premises without detriment to the levels of amenity enjoyed by visitors to the Applecross Village Local Centre, or that enjoyed by residents of the adjoining residential areas. As such, the development can take place in accordance with the provisions of Clause 7.8 of CPS5.

CONCLUSION

It is recommended that planning approval for the change of use of the premises to a Use Not Listed (Small Bar) be conditionally approved.

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

OFFICER RECOMMENDATION (3217) **APPROVAL**

That the application for the change of use from a Restaurant to Use Not Listed (Small Bar) at Units 1 and 2, 45 Ardross Street, Applecross be approved subject to the following Conditions:

SPECIAL CONDITIONS

1. **Prior to the issue of a Section 40 Certificate, an Acoustic Report is to be prepared by a suitably qualified Acoustic Consultant which demonstrates that all noise related activities associated with the intended use (for example music, crowd control etc), are capable of complying with the *Environmental Protection (Noise) Regulations 1997*, when the noise is received at any noise sensitive premises. This report is to be undertaken to the satisfaction of the Manager Planning and Development Services. All recommended measures outlined within the report to ensure compliance with the regulations are to be implemented prior to the commencement of the Small Bar use hereby approved.**

2. **The use of the Alfresco Area for the consumption of food and/or drink, is restricted to use by seated patrons only.**

3. **Patron numbers are restricted to:**
   (a) **Monday to Friday prior to 6pm and Saturdays prior to midday, a maximum of 48 patrons; and**

   (b) **Monday to Friday after 6pm, Saturdays after midday and on Sundays, a maximum of 68 patrons.**

ADVICE NOTES

1 **A separate application for planning approval and a sign licence may be required for any new signage.**

2. **Prior to the issue of a Section 39 Certificate, a House Management Policy detailing the organisation's procedures relating to the Safe and Legal Service of Alcohol will need to be submitted to the satisfaction of the Manager, Health and Lifestyle Services. The House Management Policy shall incorporate a Noise Management Plan that addresses the impact of all noise sources including patron noise on nearby noise sensitive premises.**

3. **Detailed plans and specifications of all internal fixtures, finishes and fittings will need to be submitted to and approved by the Council's Environmental Health Services.**

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

COUNCIL RESOLUTION (3217) **APPROVAL**

Reject and Replace

At 7.21pm Cr Pazolli moved, seconded Cr Nicholson that the original Officer Recommendation be rejected and replaced with the following -

That consideration of this change of use application be deferred for consideration at a future meeting of Council.

At 7.34pm the Mayor submitted the motion, which was declared

LOST (3/8)

At 7.34pm Cr Ceniviva requested that the votes be recorded

For: Cr Barton, Cr Nicholson, Cr Pazolli

Against: Cr Ceniviva, Cr Foxton, Cr Halton, Cr Kinnell, Cr Reidy, Cr Subramaniam, Cr Wieland, His Worship the Mayor

Reasons for Reject and Replacement

Cr Pazolli provided the following explanation for the reject and replacement motion –

"Dr Janet Woollard MP has written to Council requesting a delay in consideration of this change of use to a small bar application. This is in order to give her an opportunity to address Council on the issue of alcohol and its impact on the amenity of the community. Dr Woollard is unable to address council at the June 21 meeting as much of what Dr Woollard wishes to discuss is contained in her current Parliamentary committee report on Alcohol which cannot be discussed publically until the report is first tabled in Parliament on June 23.

The application could be re-considered at the 28 June 2011 Special Council Meeting for the adoption of the 2011/12 budget. This would result in a nominal 1 week delay in determining the application but provide the Council with the benefit of being able to take into consideration the results of the parliamentary committee's investigation in arriving at its decision."

OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3217) **APPROVAL**

At 7.35pm Cr Ceniviva moved, seconded Cr Reidy -

That the application for the change of use from a Restaurant to Use Not Listed (Small Bar) at Units 1 and 2, 45 Ardross Street, Applecross be approved subject to the following Conditions:

P11/3217 - CHANGE OF USE FROM RESTAURANT TO USE NOT LISTED (SMALL BAR) AT UNITS 1 & 2, 45 ARDROSS STREET, APPLECROSS (REC) (CONFIDENTIAL ATTACHMENT)

SPECIAL CONDITIONS

1. **Prior to the issue of a Section 40 Certificate, an Acoustic Report is to be prepared by a suitably qualified Acoustic Consultant which demonstrates that all noise related activities associated with the intended use (for example music, crowd control etc), are capable of complying with the *Environmental Protection (Noise) Regulations 1997*, when the noise is received at any noise sensitive premises. This report is to be undertaken to the satisfaction of the Manager Planning and Development Services. All recommended measures outlined within the report to ensure compliance with the regulations are to be implemented prior to the commencement of the Small Bar use hereby approved.**

2. **The use of the Alfresco Area for the consumption of food and/or drink, is restricted to use by seated patrons only.**

3. **Patron numbers are restricted to:**
   (a) Monday to Friday prior to 6pm and Saturdays prior to midday, a maximum of 48 patrons; and

   (b) Monday to Friday after 6pm, Saturdays after midday and on Sundays, a maximum of 68 patrons.

ADVICE NOTES

1 **A separate application for planning approval and a sign licence may be required for any new signage.**

2. **Prior to the issue of a Section 39 Certificate, a House Management Policy detailing the organisation's procedures relating to the Safe and Legal Service of Alcohol will need to be submitted to the satisfaction of the Manager, Health and Lifestyle Services. The House Management Policy shall incorporate a Noise Management Plan that addresses the impact of all noise sources including patron noise on nearby noise sensitive premises.**

3. **Detailed plans and specifications of all internal fixtures, finishes and fittings will need to be submitted to and approved by the Council's Environmental Health Services.**

At 7.59pm the Mayor submitted the motion, which was declared

CARRIED (8/3)

At 7.59pm His Worship the Mayor requested that the votes be recorded.

Against	Cr Barton, Cr Nicholson, Cr Pazolli
For:	Cr Ceniviva, Cr Foxton, Cr Halton, Cr Kinnell, Cr Reidy, Cr Subramaniam, Cr Wieland, His Worship the Mayor

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

P11/3218 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – CAR PARKING (REC) (ATTACHMENT)

Disclosure of Interest

Item No.	P11/3218
Elected Member/Officer	Cr Ceniviva
Type of Interest	Interest under Code of Conduct
Nature of Interest	Common interest shared with Ratepayers in the City
Request	To Stay, Discuss and Vote
Decision of Council	Not Applicable

Ward	:	All
Category	:	Policy
Application Number	:	Not applicable
Subject Index	:	Policy and Policy Development
Customer Index	:	City of Melville
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item C10/5106 Ordinary Meeting of Council held 20 April 2010 – Review of Urban Planning Policies 2010 Item P10/3152 Ordinary Meeting of Council held 17 August 2010 – Adoption of Advertised Urban Planning Policies Item P10/3170 Ordinary Meeting of Council held 19 October 2010 – Amendment 43 to CPS5 – Former Carawatha Primary School site Item P10/3178 Special Meeting of Council held 9 November 2010 – Second Stage Review of Urban Planning Policies, Item P11/3188 Ordinary Meeting of Council held 15 March 2011 – Final Adoption of Urban Planning Policies (Stage 2) Item P11/3195 Ordinary Meeting of Council held 19 April 2011 – Stage 3 Review of Urban Planning Policies Item P11/3210 Ordinary Meeting of Council held 17 May 2011 – Stage 4 Review of Urban Planning Policies
Responsible Officer	:	Peter Prendergast Manager Planning and Development Services

P11/3218 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – CAR PARKING (REC) (ATTACHMENT)

AUTHORITY / DISCRETION

		DEFINITION
☐	Advocacy	*when the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☐	Executive	*the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
☒	**Legislative**	***includes adopting local laws, town planning schemes & policies.***
☐	Review	*when the Council review decisions made by Officers.*
☐	Quasi-Judicial	*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.*

KEY ISSUES / SUMMARY

- Community Planning Scheme No. 5 (CPS5) allows the Council to prepare and adopt planning policies and undertake regular policy reviews.
- Planning policies supplement CPS5 provisions and the requirements of the Residential Design Codes (R-Codes).
- The application of planning policies provides a sound basis for planning decisions and improves the validity of decisions when used in determining applications. Provided a policy is soundly based, it has similar status to CPS5 provisions when under review in the State Administrative Tribunal.
- This report relates to the fifth stage of the Urban Planning Policy Review, and focuses on the introduction of a new Non Residential Car Parking Policy, and the revoking of the existing Non Residential Car Parking Policy, as well as the existing "Bicycle Planning and End of Trip Facilities in Non Residential Areas" Policy and the "Collection of Cash-In-Lieu for Car Parking" Policy. This is pursuant to Clause 9.6(e) of CPS5.
- It is recommended that the Council adopt the new policy: Car Parking (Non-Residential) for public consultation in accordance with Clause 9.6(b) of CPS5 for a period of 21 days.
- It is also recommended that the Council resolve to revoke three existing policies: 06-PL-024 Car Parking (Non-Residential), 06-PL-017 Bicycle Planning and End of Trip Facilities in Non Residential Areas and 06-PL-027 Collection of Cash-In-Lieu for Car Parking pursuant to Clause 9.6(e) of CPS5.

P11/3218 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – CAR PARKING (REC) (ATTACHMENT)

BACKGROUND

CPS5 allows the Council to prepare and adopt planning policies to supplement CPS5 provisions and the requirements of the R-Codes.

Planning policies which address technical planning issues need to be adopted under CPS5 and require formal advertising for public comment for 21 days. Following consultation, the policies need to be adopted by the Council.

The Council initiated the first stage of a review of the existing urban planning policies on 20 April 2010 and following a 21 day consultation period, resolved on 17 August 2010 to adopt the advertised policies (with minor modifications).

The Council initiated the second stage of the Urban Policy Review on 9 November 2010 and following the 21 day advertising period, resolved on 15 March to adopt the advertised policies with the exception of the Crime Prevention Through Environmental Design Policy which was to be deferred at the request of the Council Officers to be included within the third stage of the review.

At its Ordinary Meeting on April 19, the Council resolved to initiate the third stage of the Urban Policy Review.

At its Ordinary Meeting on 17 May 2011, the Council resolved to initiate the fourth stage of the Urban Planning Policy Review.

DETAIL

Community Planning Scheme No. 5 Requirements

Clause 9.6(g) of CPS5 requires the Council to review planning policies adopted under CPS5 on an annual basis. Since the gazettal of CPS5 in 1999, various policies have been adopted and up to three reviews (of some policies) have taken place.

Whilst annual reviews have not always been undertaken in accordance with CPS5, legal advice indicates that the present policies are still applicable, however until they are reviewed they may not be given as much weight in an appeal as a recently reviewed policy.

Accordingly, a comprehensive review of all policies has been followed in recent months, a review process that has now reached Stage 5.

P11/3218 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – CAR PARKING (REC) (ATTACHMENT)

Policy Review

This report refers to the introduction of one new Policy for non residential car parking, and the revocation of three others.

New policy

- Car Parking (Non-Residential)

3218_Car_Parking_Policy_Non Residential

Revocation of existing policies:

- Car Parking (Non-Residential)
- Bicycle Planning and End of Trip Facilities in Non-Residential Areas
- Collection of Cash-In-Lieu for Car Parking

3218_06-PL-017_Bicycle_Planning_and_End_of_Trip_Facilities_in_Non_Residential_Areas
3218_06-PL-027_Collection_of_Cash-in-lieu_for_Car_Parking
3218_06-PL-024_Car_Parking_Non_Residential

PUBLIC CONSULTATION/COMMUNICATION

Public consultation is required for all Council Non-Statutory Planning Policies which are non-operational in nature. This is in accordance with Clause 9.6 of CPS5.

New Policy
Pursuant to Clause 9.6(b) of CPS5, should the Council resolve to adopt the draft new policy, it will be advertised via a notice in the local newspaper.

Revoked Policies
Clause 9.6(e) of CPS5 states that where the Council resolves to revoke an existing policy a formal notice of revocation is to be displayed in a local newspaper. Should the Council resolve to revoke the three existing policies mentioned above, a notice will be displayed in the local newspaper.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

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

STATUTORY AND LEGAL IMPLICATIONS

The review of the Council's policies will improve the validity of the policies in review situations by the State Administrative Tribunal. Once finally adopted by the Council, the reviewed policies in effect carry the power and weight of CPS5.

P11/3218 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – CAR PARKING (REC) (ATTACHMENT)

FINANCIAL IMPLICATIONS

There are no financial implications which result from this report other than advertising costs for consultation and adoption purposes.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

The implication of this and subsequent reports relating to the Policy Review is that the Council will have a revised set of Planning and Building Policies to firmly guide future development in the City.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

The Council could decide not to adopt the proposed Policy changes as recommended. This approach is not advocated in the interests of good governance.

COMMENTS

The proposed Car Parking Policy incorporates the content of the existing Policies relating to bicycle parking and collection of cash in lieu payments relating to car parking. The revised composite document also includes the following initiatives:

- Expanded Policy objective to acknowledge the role of non car based transport and to emphasise the need for protection of amenity;
- Identification of required standard of facilities where bicycle parking is provided;
- Clarification of specific cases where parking standards may be varied;
- Introduction of a new section allowing for up to a 20% parking concession where a site has good access to public transport;
- Clarification of limited parking concessions of up to 10% where a development includes bicycle parking;

P11/3218 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – CAR PARKING (REC) (ATTACHMENT)

- Review of provisions relating to the application, calculation and collection of cash in lieu of parking.
- Improved design consistency through reference to applicable Australian Standards.

CONCLUSION

In view of the above in relation to the fifth stage of the Urban Planning Policy review it is recommended that:

1 The new Policy initiative: Car Parking (Non-Residential) be advertised via a notice in the local newspaper for a period of 21 days in accordance with Clause 9.6(b) of CPS5.

2 That a notice be placed in a local newspaper to advise of the revocation of the following Policies: 06-PL-024 Car Parking (Non-Residential), 06-PL-017 Bicycle Planning and End of Trip Facilities in Non Residential Areas and 06-PL-027 Collection of Cash-In-Lieu for Car Parking in accordance with Clause 9.6(e) of CPS5.

OFFICER RECOMMENDATION (3218) **APPROVAL**

At 8.02pm Cr Ceniviva moved, seconded Cr Subramaniam –

A That the Council resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the Draft Council Policy: Car Parking (Non-Residential) for public consultation via notice in a local newspaper for a period of 21 days.

B That the Council resolve pursuant to Clause 9.6(e) of Community Planning Scheme No. 5 to place a notification in a local newspaper to advise that the following Policies have been revoked:

(i) 06-PL-024 Car Parking (Non-Residential)

(ii) 06-PL-017 Bicycle Planning and End of Trip Facilities in Non Residential Areas

(iii) 06-PL-027 Collection of Cash-In-Lieu for Car Parking

At 8.07pm Cr Kinnell left the meeting and returned at 8.12pm.

Amendment 1

At 8.03pm Cr Wieland moved, seconded Cr Nicholson -

That Part A of the Officer Recommendation be amended as follows:

A That the Council resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the Draft Council Policy: Car Parking (Non-Residential) for public consultation via notice in a local newspaper for a period of 21 days *subject to the deletion of proposed Category one and Category two parking concessions including appropriate amendments to the explanatory Note (a) and (b) as outlined in Table 2 of the draft Policy.*

At 8.16pm the Mayor submitted the amendment, which was declared

LOST (5/6)

P11/3218 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – CAR PARKING (REC) (ATTACHMENT)

At 8.20pm Mr Gavin Ponton, Manager Strategic Urban Planning, joined the meeting.

Amendment 2

At 8.21pm Cr Kinnell moved, seconded Cr Halton -

That Part A of the Officer Recommendation be amended by adding the following words after "period of 21 days"

"subject to the following modification to Note (c) associated with Table 2: Concessions for Alternative Transport Options:

The asterix (*) in Category 2 be recorded as relating to Note (c) and

Draft Council Policy: Car Parking (Non – Residential) be amended at Table 2: - Concessions for Alternative Transport Options: Note (c) to read –

(c) For the purpose of this Policy, High Frequency bus stops are designated stops on the following roads:
Canning Highway
Riseley Street
Marmion Street
Karel Avenue between Parry Avenue and South Street
South Street
Leach Highway"

At 8.29pm the Mayor submitted the amendment, which was declared

CARRIED (6/5)

Reasons for Amendment

Canning and Leach Highways are both Primary Distributor roads which provide for the movement of a large number of people through the City of Melville via private vehicle and public transport. Public transport is available along the entire length of both highways and they provide direct access to train stations on the Kwinana line. Consequently, it is considered that the proposal to extend the car parking concessions along the entire length of these highways is acceptable.

P11/3218 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – CAR PARKING (REC) (ATTACHMENT)

COUNCIL RESOLUTION (3218) **APPROVAL**

At 8.29pm the Mayor submitted the substantive motion as amended -

A That the Council resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the Draft Council Policy: Car Parking (Non-Residential) for public consultation via notice in a local newspaper for a period of 21 days *"subject to the following modification to Note (c) associated with Table 2: Concessions for Alternative Transport Options:*

The asterix (*) in Category 2 be recorded as relating to Note (c) and

Draft Council Policy: Car Parking (Non – Residential) be amended at Table 2: - Concessions for Alternative Transport Options: Note (c) to read –

(c) For the purpose of this Policy, High Frequency bus stops are designated stops on the following roads:
Canning Highway
Riseley Street
Marmion Street
Karel Avenue between Parry Avenue and South Street
South Street
Leach Highway

B That the Council resolve pursuant to Clause 9.6(e) of Community Planning Scheme No. 5 to place a notification in a local newspaper to advise that the following Policies have been revoked:
(iv) 06-PL-024 Car Parking (Non-Residential)
(v) 06-PL-017 Bicycle Planning and End of Trip Facilities in Non Residential Areas
(vi) 06-PL-027 Collection of Cash-In-Lieu for Car Parking

At 8.33pm the Mayor declared the motion

CARRIED (8/3)

At 8.33pm Mr G Ponton, Manager Strategic Urban Planning left the meeting.
At 8.33pm Cr Ceniviva left the meeting.

P11/3219 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – ENERGY EFFICIENCY AND HIGHLY REFLECTIVE ROOFING (REC) (ATTACHMENT)

Ward	:	All
Category	:	Policy
Application Number	:	Not applicable
Subject Index	:	Policy and Policy Development
Customer Index	:	City of Melville
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item C10/5106 Ordinary Meeting of Council held 20 April 2010 – Review of Urban Planning Policies 2010 Item P10/3152 Ordinary Meeting of Council held 17 August 2010 – Adoption of Advertised Urban Planning Policies Item P10/3170 Ordinary Meeting of Council held 19 October 2010 – Amendment 43 to CPS5 – Former Carawatha Primary School site Item P10/3178 Special Meeting of Council held 9 November 2010 – Second Stage Review of Urban Planning Policies, Item P11/3188 Ordinary Meeting of Council held 15 March 2011 – Final Adoption of Urban Planning Policies (Stage 2) Item P11/3195 Ordinary Meeting of Council held 19 April 2011 – Stage 3 Review of Urban Planning Policies Item P11/3210 Ordinary Meeting of Council held 17 May 2011 – Stage 4 Review of Urban Planning Policies
Responsible Officer	:	Peter Prendergast Manager Planning and Development Services

P11/3219 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – ENERGY EFFICIENCY AND HIGHLY REFLECTIVE ROOFING (REC) (ATTACHMENT)

AUTHORITY / DISCRETION

		DEFINITION
☐	Advocacy	*when the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☐	Executive	*the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
☒	**Legislative**	***includes adopting local laws, town planning schemes & policies.***
☐	Review	*when the Council review decisions made by Officers.*
☐	Quasi-Judicial	*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.*

KEY ISSUES / SUMMARY

- Community Planning Scheme No. 5 (CPS5) allows the Council to prepare and adopt planning policies and undertake regular policy reviews.
- Planning policies supplement CPS5 provisions and the requirements of the Residential Design Codes (R-Codes).
- The application of planning policies provides a sound basis for planning decisions and improves the validity of decisions when used in determining applications. Provided a policy is soundly based, it has similar status to CPS5 provisions when under review in the State Administrative Tribunal.
- This report relates to the fifth stage of the Urban Planning Policy Review.
- It is recommended that the Council adopt one modified policy: Energy Efficiency in Building Design for public consultation in accordance with Clause 9.6(b) of CPS5 for a period of 21 days.
- It is recommended that the Council resolve to revoke one existing policy: 06-PL-023 Highly Reflective Roofing Materials pursuant to Clause 9.6(e) of CPS5.

P11/3219 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – ENERGY EFFICIENCY AND HIGHLY REFLECTIVE ROOFING (REC) (ATTACHMENT)

BACKGROUND

CPS5 allows the Council to prepare and adopt planning policies to supplement CPS5 provisions and the requirements of the R-Codes.

Planning policies which address technical planning issues need to be adopted under CPS5 and require formal advertising for public comment for 21 days. Following consultation, the policies need to be adopted by the Council.

The Council initiated the first stage of a review of the existing urban planning policies on 20 April 2010 and following a 21 day consultation period, resolved on 17 August 2010 to adopt the advertised policies (with minor modifications).

The Council initiated the second stage of the Urban Policy Review on 9 November 2010 and following the 21 day advertising period, resolved on 15 March to adopt the advertised policies with the exception of the Crime Prevention Through Environmental Design Policy which was to be deferred at the request of Council Officers to be included within the third stage of the review.

At its Ordinary Meeting on April 19, the Council resolved to initiate the third stage of the Urban Policy Review.

At its Ordinary Meeting on 17 May 2011, the Council resolved to initiate the fourth stage of the Urban Planning Policy Review.

DETAIL

Community Planning Scheme No. 5 Requirements

Clause 9.6(g) of CPS5 requires the Council to review planning policies adopted under CPS5 on an annual basis. Since the gazettal of CPS5 in 1999, various policies have been adopted and up to three reviews (of some policies) have taken place.

Whilst annual reviews have not always been undertaken in accordance with CPS5, legal advice indicates that the present policies are still applicable, however until they are reviewed they may not be given as much weight in an appeal as a recently reviewed policy.

Accordingly, a comprehensive review of all policies has been followed in recent months, a review process that has now reached Stage 5.

P11/3219 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – ENERGY EFFICIENCY AND HIGHLY REFLECTIVE ROOFING (REC) (ATTACHMENT)

Policy Review

This report refers to the modification of an existing Council policy, and the revocation of one other.

Modified Policy:
Energy Efficiency in Building Design
3219_Energy_Efficiency_in_Building_Design_Policy

Revocation of an existing policy:
Highly Reflective Roofing Materials
3219_06-PL-023_Highly_Reflective_Roofing_Materials

PUBLIC CONSULTATION/COMMUNICATION

Public consultation is required for all Council Non-Statutory Planning Policies which are non-operational in nature in accordance with Clause 9.6 of CPS5.

Modified Policy
Pursuant to Clause 9.6(b) of CPS5, should the Council resolve to adopt the draft modified policy, it will be advertised via a notice in the local newspaper.

Revoked Policy
Clause 9.6(e) of CPS5 states that where the Council resolves to revoke an existing policy a formal notice of revocation is to be displayed in a local newspaper. Should the Council resolve to revoke the existing policy mentioned above, a notice will be displayed in the local newspaper.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

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

STATUTORY AND LEGAL IMPLICATIONS

The review of the Council's policies will improve the validity of the policies in review situations by the State Administrative Tribunal. Once finally adopted by the Council, the reviewed policy in effect carries the power and weight of CPS5.

FINANCIAL IMPLICATIONS

There are no financial implications which result from this report other than advertising costs for consultation and adoption purposes.

P11/3219 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – ENERGY EFFICIENCY AND HIGHLY REFLECTIVE ROOFING (REC) (ATTACHMENT)

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk	Risk Mitigation Strategy
Administration undertakes functions delegated by Council in a manner not in accordance with Council's objectives causing reputational risk.	**Minor** to **Major** 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 **Medium** level of risk	Periodic review mitigates against outdated legislative or other relevant references.

POLICY IMPLICATIONS

The implication of this and subsequent reports relating to the Policy Review is that the Council will have a revised set of Planning and Building Policies to firmly guide future development in the City.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

The Council could elect not to adopt the proposed Policy changes and initiatives for public consultation or modify the presented Policies.

The Council may also resolve not to revoke the subject Policies proposed for revocation.

It is inappropriate not to review the Policies as their relevance in the consideration of development matters would be diminished over time.

COMMENTS

The review of the Energy Efficiency in Building Design Policy provides for an improved format, acknowledgement of its relationship with the Building Code of Australia, reference to the role of landscaping and inclusion of energy saving initiatives such as solar power and grey water re-use.

Specifically the revised Policy:

- Includes a clarified objective promoting the encouragement of buildings which incorporate energy saving and environmentally sustainable initiatives;
- Simplified provisions with respect to building orientation and solar access;
- Encouragement of the use of waterwise landscaping and retention of existing trees;
- Acknowledgement of the role of the Building Code of Australia in requiring use of energy efficient measures and also encouraging specific design inclusions such as rainwater tanks, grey water systems and solar energy;

P11/3219 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – ENERGY EFFICIENCY AND HIGHLY REFLECTIVE ROOFING (REC) (ATTACHMENT)

- Identification of the energy efficiency of light coloured roofing materials, but recognising the need to consider potential amenity impacts associated with such materials, such as reflectivity and glare.
- Provides for the preparation of an Information Sheet to promote the content of the Policy and provide additional sources of information to the community.

As indicated above the Energy Efficiency in Building Design Policy proposes to include provisions supporting the use of light coloured roofing materials due to advantages in energy efficiency. In association with this revision it is proposed to revoke the existing Policy relating to Highly Reflective Roofing Materials. The intent of the reflective roofing Policy, to protect the amenity of nearby properties from potential adverse impacts of glare, is proposed to be maintained through new wording in the Energy Efficiency policy requiring regard to be had to potential impacts of glare when light coloured roofing is considered.

CONCLUSION

In view of the above in relation to the fifth stage of the Urban Planning Policy review it is recommended that:

1. The modified Policy 06-PL-021 Energy Efficiency in Building Design be advertised via a notice in the local newspaper for a period of 21 days in accordance with Clause 9.6(b) of CPS5.
2. That a notice be placed in a local newspaper to advise of the revocation of the following Policy: 06-PL-023 Highly Reflective Roofing Materials in accordance with Clause 9.6(e) of CPS5.

At 8.34pm Cr Ceniviva returned to the meeting.

OFFICER RECOMMENDATION (3219) **APPROVAL**

At 8.35pm Cr Barton moved, seconded Cr Reidy -

A. That the Council resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the Draft Council Policy 06-PL-021 Energy Efficiency in Building Design for public consultation via notice in a local newspaper for a period of 21 days.

B. That the Council resolve pursuant to Clause 9.6(e) of Community Planning Scheme No. 5 to place a notification in a local newspaper to advise that the Policy 06-PL-023 Highly Reflective Roofing Materials has been revoked.

P11/3219 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – ENERGY EFFICIENCY AND HIGHLY REFLECTIVE ROOFING (REC) (ATTACHMENT)

Amendment

That the Officer Recommendation be amended by deleting the existing Part B and replacing it with the following -

At 8.36pm Cr Barton moved, seconded Cr Reidy -

B. That the Policy 06-PL-023 Highly Reflective Roofing Materials be deferred for consideration to a future meeting of Council.

At 8.37pm the Mayor submitted the amendment which was declared

CARRIED (11/0)

Reasons for Amendment

The amendment is proposed as further investigation into the options Council has with regard to the use and mitigation of highly reflective roofing materials is required.

COUNCIL RESOLUTION (3219) **APPROVAL**

At 8.37pm the Mayor submitted the substantive motion as amended -

A. That the Council resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the Draft Council Policy 06-PL-021 Energy Efficiency in Building Design for public consultation via notice in a local newspaper for a period of 21 days.

B. That the Policy 06-PL-023 Highly Reflective Roofing Materials be deferred for consideration to a future meeting of Council.

At 8.37pm the Mayor declared the motion

CARRIED (11/0)

P11/3220 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – PRECINCT AND LOCAL AREA POLICIES (REC) (ATTACHMENT)

Ward	:	All
Category	:	Policy
Application Number	:	Not applicable
Subject Index	:	Policy and Policy Development
Customer Index	:	City of Melville
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item C10/5106 Ordinary Meeting of Council held 20 April 2010 – Review of Urban Planning Policies 2010 Item P10/3152 Ordinary Meeting of Council held 17 August 2010 – Adoption of Advertised Urban Planning Policies Item P10/3170 Ordinary Meeting of Council held 19 October 2010 – Amendment 43 to CPS5 – Former Carawatha Primary School site Item P10/3178 Special Meeting of Council held 9 November 2010 – Second Stage Review of Urban Planning Policies, Item P11/3188 Ordinary Meeting of Council held 15 March 2011 – Final Adoption of Urban Planning Policies (Stage 2) Item P11/3195 Ordinary Meeting of Council held 19 April 2011 – Stage 3 Review of Urban Planning Policies Item P11/3210 Ordinary Meeting of Council held 17 May 2011 – Stage 4 Review of Urban Planning Policies
Responsible Officer	:	Peter Prendergast Manager Planning and Development Services

P11/3220 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – PRECINCT AND LOCAL AREA POLICIES (REC) (ATTACHMENT)

AUTHORITY / DISCRETION

		DEFINITION
☐	Advocacy	*when the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☐	Executive	*the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
☒	**Legislative**	***includes adopting local laws, town planning schemes & policies.***
☐	Review	*when the Council review decisions made by Officers.*
☐	Quasi-Judicial	*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.*

KEY ISSUES / SUMMARY

- Community Planning Scheme No. 5 (CPS5) allows the Council to prepare and adopt planning policies and undertake regular policy reviews.
- Planning policies supplement CPS5 provisions and the requirements of the Residential Design Codes (R-Codes).
- The application of planning policies provides a sound basis for planning decisions and improves the validity of decisions when used in determining applications. Provided a policy is soundly based, it has similar status to CPS5 provisions when under review in the State Administrative Tribunal.
- This report relates to the fifth stage of the Urban Planning Policy Review.
- It is recommended that the Council adopt eight modified policies: Heathcote Heritage Precinct Signage Strategy, Reynolds Road Local Area Policy, Mixed Business Frame Precinct Additional Development Requirements, Mixed Business Precinct Additional Development Requirements, City Centre Frame Precinct Urban Design Guidelines, Canning Highway Precinct Design Guidelines, Community Concept Plan and Chemists in Medical Centres for public consultation in accordance with Clause 9.6(b) of CPS5 for a period of 21 days.
- It is recommended that the Council resolve to revoke one existing policy: 28-PL-008 Milroy Street Design Guidelines pursuant to Clause 9.6(e) of CPS5.

P11/3220 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – PRECINCT AND LOCAL AREA POLICIES (REC) (ATTACHMENT)

BACKGROUND

CPS5 allows the Council to prepare and adopt planning policies to supplement CPS5 provisions and the requirements of the R-Codes.

Planning policies which address technical planning issues need to be adopted under CPS5 and require formal advertising for public comment for 21 days. Following consultation, the policies need to be adopted by the Council.

The Council initiated the first stage of a review of the existing urban planning policies on 20 April 2010 and following a 21 day consultation period, resolved on 17 August 2010 to adopt the advertised policies (with minor modifications).

The Council initiated the second stage of the Urban Policy Review on 9 November 2010 and following the 21 day advertising period, resolved on 15 March to adopt the advertised policies with the exception of the Crime Prevention Through Environmental Design Policy which was to be deferred at the request of the Council Officers to be included within the third stage of the review.

At its Ordinary Meeting on April 19, the Council resolved to initiate the third stage of the Urban Policy Review.

At its Ordinary Meeting on 17 May 2011, the Council resolved to initiate the fourth stage of the Urban Planning Policy Review.

DETAIL

Community Planning Scheme No. 5 Requirements

Clause 9.6(g) of CPS5 requires the Council to review planning policies adopted under CPS5 on an annual basis. Since the gazettal of CPS5 in 1999, various policies have been adopted and up to three reviews (of some policies) have taken place.

Whilst annual reviews have not always been undertaken in accordance with CPS5, legal advice indicates that the present policies are still applicable, however until they are reviewed they may not be given as much weight in an appeal as a recently reviewed policy.

Accordingly, a comprehensive review of all policies has been followed in recent months, a review process that has now reached Stage 5.

Policy Review

This report refers to the proposed modification of eight existing Council Policies, and the revocation of one other, the “Milroy Street Design Guidelines”.

P11/3220 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – PRECINCT AND LOCAL AREA POLICIES (REC) (ATTACHMENT)

Modified policies

- Heathcote Heritage Precinct Signage Strategy
- Reynolds Road Local Area Policy
- Mixed Business Frame Precinct Additional Development Requirements
- Mixed Business Precinct Additional Development Requirements
- City Centre Frame Precinct Urban Design Guidelines
- Canning Highway Precinct Design Guidelines
- Community Concept Plan
- Chemists in Medical Centres

Revocation of an existing policy:

- Milroy Street Design Guidelines

PUBLIC CONSULTATION/COMMUNICATION

Public consultation is required for all Council Non-Statutory Planning Policies which are non-operational in nature in accordance with Clause 9.6 of CPS5.

Modified Policies
Pursuant to Clause 9.6(b) of CPS5, should the Council resolve to adopt the proposed modified policies, they will be advertised via a notice in the local newspaper.

Revoked Policies
Clause 9.6(e) of CPS5 states that where the Council resolves to revoke an existing policy a formal notice of revocation is to be displayed in a local newspaper. Should the Council resolve to revoke the existing policy mentioned above, a notice will be displayed in the local newspaper.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS
Clause 9.6(b) (ii) of CPS5 requires the Council to advise the Western Australian Planning Commission (WAPC) of any policy proposal which affects the interests of the WAPC. The proposed policies and modification do not have regional significance therefore the WAPC need not be consulted.

STATUTORY AND LEGAL IMPLICATIONS

The review of the Council's policies will improve the validity of the policies in review situations by the State Administrative Tribunal. Once finally adopted by the Council, the reviewed policies in effect carry the power and weight of CPS5.

FINANCIAL IMPLICATIONS

There are no financial implications which result from this report other than advertising costs for consultation and adoption purposes.

P11/3220 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – PRECINCT AND LOCAL AREA POLICIES (REC) (ATTACHMENT)

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

The implication of this and subsequent reports relating to the Policy Review is that the Council will have a revised set of Planning and Building Policies to firmly guide future development in the City.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

The Council could decide not to adopt the proposed Policy changes as recommended. This approach is not advocated in the interests of good governance.

COMMENTS

Modified Policies

Canning Highway Precinct Design Guidelines
3220_Canning_Highway_Precinct_Design_Guidelines

This policy applies to the development of properties contained within the Canning Highway precinct. Only minor changes are proposed to this policy to make the provisions more prescriptive and formatted in accordance with the current Council policy template.

City Centre Frame Precinct Urban Design Guidelines
3220_City_Centre_Frame_Urban_Designs_Guidelines_Policy
This policy applies to the City Centre Frame precinct located along Almondbury Road and Riseley Street, opposite Garden City shopping centre. Only minor formatting and wording changes are proposed to this policy, as the provisions are still considered applicable to the development of this precinct.

P11/3220 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – PRECINCT AND LOCAL AREA POLICIES (REC) (ATTACHMENT)

Mixed Business Precinct Additional Development Requirements
Mixed Business Frame Precinct Additional Development Requirements
3220_Mixed_Business_Precinct_Additional_Development_Requirements_Policy
3220_Mixed_Business_Frame_Precinct_Additional_Development_Requirements_Policy

Part 4 of CPS5 states that the additional development requirements contained within these policies apply to the Mixed Business Precinct and the Mixed Business Frame Precinct. Only minor changes are proposed to these policies to make the existing provisions more prescriptive and remove those provisions which duplicate or conflict with CPS5 or other Council policy provisions. The intent of the policy provisions of these documents remains unaltered.

Reynolds Road Local Area Policy
3220_Reynolds_Road_Local_Area_Policy
This policy pertains to the commercial properties which are located at the intersection of Reynolds Road and Canning Highway.

The primary change proposed to this policy is the identification of the properties which the policy relates to, as the present policy is ambiguous. The addresses of the applicable properties are now included.

Provisions which duplicate CPS5 or other Council policy criteria, such as plot ratio, density and signage have been removed from the policy. The remaining changes to the policy include minor wording changes to make the existing provisions more prescriptive, as well as formatting changes.

Heathcote Heritage Precinct Signage Strategy
3220_Heathcote_Heritage_Precinct_Signage_Strategy_Policy

This policy functions as a signage strategy to provide guidance to the hierarchy and implementation of signage within the Heathcote Heritage Precinct. Whilst signage strategies are not ordinarily adopted as planning policies, due to the heritage importance of Heathcote, the strategy was adopted as a policy in 2003.

Only minor changes are proposed to this policy including minor wording changes and formatting. The intent of the policy remains intact.

Chemists in Medical Centres
3220_Chemists_in_Medical_Centres_Policy
This policy applies to proposals which seek to develop or change the use of land to operate a Chemist in conjunction with a Medical Centre within the Mixed Business, Commercial Centre Frame and Mixed Business Frame precincts. Only minor changes to this policy are proposed including minor text changes, and formatting changes. The intent of the existing policy remains intact.

P11/3220 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – PRECINCT AND LOCAL AREA POLICIES (REC) (ATTACHMENT)

Community Concept Plan
3220_Community_Concept_Plan_Policy

The Community Concept Plan was adopted as a Council policy in 1999 following the public consultation that occurred in the formulation of CPS5. The policy was intended to form a vision for the land use and development of the City of Melville. This policy is referred to in Clause 2.2 of CPS5 which states:

The Community Concept Plan, a non-statutory planning policy made pursuant to clause 9.6, reflects the broad aspirations of the Council regarding the long term growth and development of the City.

As the Community's expectations may have changed since the adoption of this policy, and the public consultation in conjunction with the proposed Local Planning Scheme No. 6 (LPS6) will occur shortly; it is intended to review this policy in conjunction with the work to be undertaken in the scoping and preparation of new policies associated with LPS6. Consequently, only formatting modifications have been made to this policy at this time.

Revoked Policy

Milroy Street Design Guidelines
3220_Milroy_Street_Design_Guidelines

This policy provides specific design guidelines for the redevelopment of properties bounded by Milroy Street, Featherstone Place, Bastion Place and Gilbert Place, Willagee.

All of the properties bounded by the abovementioned roads have now been developed. Any further development of these properties must be undertaken in accordance with CPS5, the R-Codes and other Council policies.

Furthermore, the properties covered by this policy will be investigated along with the remainder of Willagee during the Willagee study which is to be undertaken by Strategic Urban Planning.

For the abovementioned reasons, it is recommended that this policy be revoked.

CONCLUSION

In view of the above in relation to the fifth stage of the Urban Planning Policy review it is recommended that:

1. The modified Policies: 28-PL-014 Heathcote Heritage Precinct Signage Strategy, 28-PL-016 Reynolds Road Local Area Policy, 28-PL-007 Mixed Business Frame Precinct Additional Development Requirements, 28-PL-006 Mixed Business Precinct Additional Development Requirements, 27-PL-004 City Centre Frame Precinct Urban Design Guidelines, 28-PL-004 Canning Highway Precinct Design Guidelines, 28-PL-005 Community Concept Plan and 28-PL-013 Chemists in Medical Centres, be advertised via a notice in the local newspaper for a period of 21 days in accordance with Clause 9.6(b) of CPS5.

P11/3220 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – PRECINCT AND LOCAL AREA POLICIES (REC) (ATTACHMENT)

2. That a notice be placed in a local newspaper to advise of the revocation of the following Policy: 28-PL-008 Milroy Street Design Guidelines in accordance with Clause 9.6(e) of CPS5.

OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3220) APPROVAL

A That the Council resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the modified Council Policies for public consultation via notice in a local newspaper for a period of 21 days:

(i) 28-PL-014 Heathcote Heritage Precinct Signage Strategy,
(ii) 28-PL-016 Reynolds Road Local Area Policy,
(iii) 28-PL-007 Mixed Business Frame Precinct Additional Development Requirements,
(iv) 28-PL-006 Mixed Business Precinct Additional Development Requirements,
(v) 27-PL-004 City Centre Frame Precinct Urban Design Guidelines,
(vi) 28-PL-004 Canning Highway Precinct Design Guidelines,
(vii) 28-PL-005 Community Concept Plan
(viii) 28-PL-013 Chemists in Medical Centres

B That the Council resolve pursuant to Clause 9.6(e) of Community Planning Scheme No. 5 to place a notification in a local newspaper to advise that the following Policy 28-PL-008 Milroy Street Design Guidelines has been revoked.

At 8.37pm the Mayor submitted the motion, which was declared

CARRIED EN BLOC (11/0)

P11/3221 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – RESIDENTIAL DEVELOPMENT AND INCIDENTAL STRUCTURES (REC) (ATTACHMENT)

Ward	:	All
Category	:	Policy
Application Number	:	Not applicable
Subject Index	:	Policy and Policy Development
Customer Index	:	City of Melville
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item C10/5106 Ordinary Meeting of Council held 20 April 2010 – Review of Urban Planning Policies 2010 Item P10/3152 Ordinary Meeting of Council held 17 August 2010 – Adoption of Advertised Urban Planning Policies Item P10/3170 Ordinary Meeting of Council held 19 October 2010 – Amendment 43 to CPS5 – Former Carawatha Primary School site Item P10/3178 Special Meeting of Council held 9 November 2010 – Second Stage Review of Urban Planning Policies, Item P11/3188 Ordinary Meeting of Council held 15 March 2011 – Final Adoption of Urban Planning Policies (Stage 2) Item P11/3195 Ordinary Meeting of Council held 19 April 2011 – Stage 3 Review of Urban Planning Policies Item P11/3210 Ordinary Meeting of Council held 17 May 2011 – Stage 4 Review of Urban Planning Policies
Responsible Officer	:	Peter Prendergast Manager Planning and Development Services

P11/3221 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – RESIDENTIAL DEVELOPMENT AND INCIDENTAL STRUCTURES (REC) (ATTACHMENT)

AUTHORITY / DISCRETION

		DEFINITION
☐	Advocacy	*when the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☐	Executive	*the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
☒	**Legislative**	***includes adopting local laws, town planning schemes & policies.***
☐	Review	*when the Council review decisions made by Officers.*
☐	Quasi-Judicial	*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.*

KEY ISSUES / SUMMARY

- Community Planning Scheme No. 5 (CPS5) allows the Council to prepare and adopt planning policies and undertake regular policy reviews.
- Planning policies supplement CPS5 provisions and the requirements of the Residential Design Codes (R-Codes).
- The application of planning policies provides a sound basis for planning decisions and improves the validity of decisions when used in determining applications. Provided a policy is soundly based, it has similar status to CPS5 provisions when under review in the State Administrative Tribunal.
- This report relates to the fifth stage of the Urban Planning Policy Review, and focuses on the introduction of one modified Policy in respect of Residential Development, and the revocation of another in respect of the Building Licence requirements for incidental structures.
- It is recommended that the Council adopt one modified policy: Residential Development for public consultation in accordance with Clause 9.6(b) of CPS5 for a period of 21 days.
- It is further recommended that the Council resolve to revoke one existing policy: 06-PL-033 Building Licence Requirements – Incidental Structures pursuant to Clause 9.6(e) of CPS5.

P11/3221 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – RESIDENTIAL DEVELOPMENT AND INCIDENTAL STRUCTURES (REC) (ATTACHMENT)

BACKGROUND

CPS5 allows the Council to prepare and adopt planning policies to supplement CPS5 provisions and the requirements of the R-Codes.

Planning policies which address technical planning issues need to be adopted under CPS5 and require formal advertising for public comment for 21 days. Following consultation, the policies need to be adopted by the Council.

The Council initiated the first stage of a review of the existing urban planning policies on 20 April 2010 and following a 21 day consultation period, resolved on 17 August 2010 to adopt the advertised policies (with minor modifications).

The Council initiated the second stage of the Urban Policy Review on 9 November 2010 and following the 21 day advertising period, resolved on 15 March to adopt the advertised policies with the exception of the Crime Prevention Through Environmental Design Policy which was to be deferred at the request of Council Officers to be included within the third stage of the review.

At its Ordinary Meeting on April 19, the Council resolved to initiate the third stage of the Urban Policy Review.

At its Ordinary Meeting on 17 May 2011, the Council resolved to initiate the fourth stage of the Urban Planning Policy Review.

DETAIL

Community Planning Scheme No. 5 Requirements

Clause 9.6(g) of CPS5 requires the Council to review planning policies adopted under CPS5 on an annual basis. Since the gazettal of CPS5 in 1999, various policies have been adopted and up to three reviews (of some policies) have taken place.

Whilst annual reviews have not always been undertaken in accordance with CPS5, legal advice indicates that the present policies are still applicable, however until they are reviewed they may not be given as much weight in an appeal as a recently reviewed policy.

Accordingly, a comprehensive review of all policies has been followed in recent months, a review process that has now reached Stage 5.

P11/3221 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – RESIDENTIAL DEVELOPMENT AND INCIDENTAL STRUCTURES (REC) (ATTACHMENT)

Residential Design Code (R-Code) Requirements

The Residential Design Codes contain provisions which deal with the adoption of Local Planning Policies. Under the provisions of Part 5 of the R-Codes, a Local Government can adopt planning policies which vary or replace the acceptable development provisions of the R-Codes relating to a number of matters including streetscape, building design and boundary walls.

Where a Council Policy varies or replaces the Acceptable Development provisions of the R-Codes, variations to the provisions of that Council Policy must, once it is adopted, be assessed against the relevant Performance Criteria of the R-Codes.

In this case the Council has a Policy in respect of residential development, the provisions of which replace some of the acceptable development provisions of the R- Codes. The current stage of the Policy review proposes that this existing policy is modified and updated to reflect more accurately the contemporary planning issues associated with residential development within the City.

Policy Review

This report refers to the proposed modification of the existing Residential Development policy and the proposed revocation of the Building Licence Requirements – Incidental Structures policy.

3221_Residential_Development_Policy

PUBLIC CONSULTATION/COMMUNICATION

Public consultation is required for all Council Non-Statutory Planning Policies which are non-operational in nature in accordance with Clause 9.6 of CPS5.

Modified Policy
Pursuant to Clause 9.6(b) of CPS5, should the Council resolve to adopt the proposed modified policy, it will be advertised via a notice in the local newspaper.

Revoked Policies
Clause 9.6(e) of CPS5 states that where the Council resolves to revoke an existing policy, a formal notice of revocation is to be displayed in a local newspaper. Should the Council resolve to revoke the existing policy mentioned above, a notice will be displayed in the local newspaper.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

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

P11/3221 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – RESIDENTIAL DEVELOPMENT AND INCIDENTAL STRUCTURES (REC) (ATTACHMENT)

STATUTORY AND LEGAL IMPLICATIONS

The review of Council's policies will improve the validity of the policies in review situations by the State Administrative Tribunal. Once finally adopted by the Council, the reviewed policies in effect carry the power and weight of CPS5.

FINANCIAL IMPLICATIONS

There are no financial implications which result from this report other than advertising costs for consultation and adoption purposes.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk	Risk Mitigation Strategy
Administration undertakes functions delegated by Council in a manner not in accordance with Council's objectives causing reputational risk.	**Minor** to **Major** 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 **Medium** level of risk	Periodic review mitigates against outdated legislative or other relevant references.

POLICY IMPLICATIONS

The implication of this and subsequent reports relating to the Policy Review is that the Council will have a revised set of Policies to firmly guide future development in the City.

ALTERNATE OPTIONS & THEIR IMPLICATIONS

The Council could decide not to adopt the proposed Policy changes as recommended. This approach is not advocated in the interests of good governance.

P11/3221 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – RESIDENTIAL DEVELOPMENT AND INCIDENTAL STRUCTURES (REC) (ATTACHMENT)

COMMENTS

Residential Development

As the existing Residential Development policy was adopted in 1994 and the Residential Design Codes (R-Codes) have been reviewed twice since this time, it is proposed to undertake changes to the existing policy which make the policy easier to understand and enforce. It is also proposed to amend and augment the existing provisions to allow the Council greater discretion in encouraging good design outcomes in relation to the streetscape.

The proposed modified policy is written in the same format as the Acceptable Development criteria of the R-Codes, as the policy is designed to replace and augment a number of specific Acceptable Development criteria as allowed by Part 5 of the R-Codes.

The primary changes proposed to the existing policy and the existing Acceptable Development criteria of the R-Codes are as follows:

Setbacks from the Primary Street

Front setbacks are prescribed within Part 4 of CPS5 and are generally 6m in the Living Area precincts. This setback distance is not proposed to be altered under the proposed policy.

Notwithstanding the above, the Acceptable Development criteria of the R-Codes in Clause 6.2.1 A1.1 (ii) allow grouped dwellings and single houses which have their frontage to an original secondary street, to be setback only 2.5m from the secondary street boundary. As the required side setback from the Secondary Street boundary is 3m under the existing Residential Development policy (and this is not proposed to be changed), it is proposed to amend the Acceptable Development criteria to require a 3m setback to be consistent with the Secondary Street setback.

It is proposed to include a provision allowing patios, pergolas, shade sails and similar structures to be setback 4.5m from the Primary Street in lieu of the existing 6m requirement, so to be consistent with the existing permitted 4.5m setback of similar structures such as carports.

Setbacks from the Secondary Street

Under the existing Residential Development policy, secondary street setbacks are required to be 3m. This requirement is not proposed to change, on the basis that it provides a sensible transition to the 6m Primary Street setback of adjoining property and the remainder of the street.

It is proposed to include a new provision allowing patios, pergolas, shade sails and similar structures to be setback only 1.5m from the Secondary Street boundary in lieu of the existing 3m requirement, as these are of open sided design which are unlikely to have an adverse impact upon the streetscape.

P11/3221 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – RESIDENTIAL DEVELOPMENT AND INCIDENTAL STRUCTURES (REC) (ATTACHMENT)

An additional provision is also proposed to require new dwellings be designed so to address both street frontages through the location of openings and articulation along the façade so that both street facades on corner properties have interaction with the street and are not treated as blank walls which make a limited contribution to the streetscape.

Front Walls and Fences

It is proposed to amend the Acceptable Development criteria in the R-Codes relating to street walls and fences to prescribe a maximum height of 1.8m whilst also requiring that such fences are visually permeable 1.2m above ground level.

A new provision is also proposed stating that where a retaining wall is visible above the road reserve level, the visible height of the retaining wall is to be taken into account in the assessment of fence height. This provision is proposed as visible retaining walls in conjunction with boundary fences can result in dominating and over height fencing to the detriment of the streetscape.

A new provision requiring that 50% of the length of any front fence abutting the road to the front and/or side of a property must remain visually permeable above 1.2m. This requirement acknowledges the need for some solid fencing in the interests of amenity, privacy, and security, but recognises the treatment of such boundaries must have regard for the streetscape, and be cognisant of the need to provide passive surveillance opportunities.

It is also proposed to introduce a new provision allowing fencing along Secondary Streets to be solid where they abut a primary outdoor living area for up to 50% of the boundary length. This provision is proposed to encourage fencing along Secondary Streets to be more open and provide passive surveillance of the street.

Carports and Garages

Under the current Residential Development and Acceptable Development criteria, garages and carports constructed at right angles to the Primary Street are permitted to be setback 4.5m and garages and carports constructed parallel to the Primary Street are permitted to be setback 3m. It is not proposed to amend these setback distances.

It is however proposed to reduce the setback requirement for carports and garages to the Secondary Street from the current 4.5m requirement to 3m, so to be consistent with the Secondary Street setback for dwellings.

It is also proposed to delete the current policy requirement to provide one covered car parking bay. This requirement creates issues where subdivision is proposed, and where covered car parking opportunities are limited.

A new provision in respect of carports and garages located forward of the building line to be designed more sensitively is also proposed. This will reduce the potential dominance of car parking structures in front of dwellings, and safeguard the retention of attractive front facades in the interests of visual amenity. In this respect, it is also proposed to require garages sited parallel to the street, to be suitably articulated along the elevation fronting the street, again in the interests of visual amenity.

P11/3221 - STAGE FIVE REVIEW OF URBAN PLANNING POLICIES – RESIDENTIAL DEVELOPMENT AND INCIDENTAL STRUCTURES (REC) (ATTACHMENT)

Boundary Walls

The notes contained within the Acceptable Development criteria of the R-Codes relating to boundary walls are proposed to be augmented to specify that screening structures within 1m of the boundary which project more than 1.8m above ground level are to be treated as boundary walls.

Incidental Structures Policy

This policy identifies structures which are considered minor in nature such as bird baths, clothes lines and letterboxes and specifies the circumstances when Building Licence approval is not required.

A review of the relevant legislation has identified that the Council cannot adopt policies pertaining to Building Licence matters, such matters to be addressed via the introduction of Local Laws. As such, the existing policy has no head of power and is unlawful. Consequently, it is recommended that this policy be revoked.

CONCLUSION

In view of the above, it is recommended that:

1. The modified Policy: Residential Development be advertised via a notice in the local newspaper for a period of 21 days in accordance with Clause 9.6(b) of CPS5.
2. That a notice be placed in a local newspaper to advise of the revocation of the following Policy: 06-PL-033 Building Licence Requirements – Incidental Structures in accordance with Clause 9.6(e) of CPS5.

OFFICER RECOMMENDATION & COUNCIL RESOLUTION (3221) APPROVAL

A. That the Council resolve pursuant to Clause 9.6(b) of Community Planning Scheme No. 5 to adopt the modified Residential Development Policy for public consultation via notice in a local newspaper for a period of 21 days.

B. That the Council resolve pursuant to Clause 9.6(e) of Community Planning Scheme No. 5 to place a notification in a local newspaper to advise that the following Policy 06-PL-033 Building Licence Requirements – Incidental Structures has been revoked.

At 8.38pm the Mayor submitted the motion, which was declared

CARRIED EN BLOC (11/0)

C11/5186 - AMENDMENTS TO THE CITY OF MELVILLE LOCAL GOVERNMENT PROPERTY LOCAL LAW 2010 (REC) (ATTACHMENT)

Ward	:	All
Category	:	Operational
Subject Index	:	Acts, Statutes and Local Laws
Customer Index	:	Joint Standing Committee on Delegated Legislation
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	C10/5133 - Adoption of the Proposed City of Melville Local Government Property Local Law 2010 – Ordinary Meeting of Council - 21 December 2010.
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Jeff Clark Governance and Compliance Program Manager

AUTHORITY / DISCRETION

		DEFINITION
☐	Advocacy	*when the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☐	Executive	*the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
☒	**Legislative**	***includes adopting local laws, town planning schemes & policies.***
☐	Review	*when the Council review decisions made by Officers.*
☐	Quasi-Judicial	*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.*

C11/5186 - AMENDMENTS TO THE CITY OF MELVILLE LOCAL GOVERNMENT PROPERTY LOCAL LAW 2010 (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- On 16 May 2011, the Joint Standing Committee on Delegated Legislation considered the City of Melville's Local Government Property Local Law 2010. As a result of that meeting, a number of amendments were identified. The Joint Standing Committee has requested that the City provide a written undertaking that it will make the amendments the Committee has recommended. The amendments are now tabled before Council for its consideration.

BACKGROUND

While a local law becomes law 14 days after its appearance in the Government Gazette, it must also be scrutinised by the Joint Standing Committee on Delegated Legislation a Committee of the Parliament of Western Australia which has the final say as to whether or not a local law may be allowed.

This Parliamentary Committee is a joint committee of the Parliament of Western Australia comprising members from the Legislative Council and Legislative Assembly. It has been delegated by Parliament with the task of scrutinising subsidiary legislation in accordance with its terms of reference. As local laws are subsidiary legislation, they are capable of disallowance by either House of Parliament. Disallowance is the means by which the Parliament maintains control of the power to make subsidiary legislation that it has delegated.

Disallowance is recommended by the Committee as a last resort. Usually a local government will be asked to provide the Committee with a written undertaking that it will amend and repeal the parts of the local law that have been identified as of concern.

On 16 May 2011, the Joint Standing Committee on Delegated Legislation met to consider the City of Melville's Local Government Property Local Law 2010 **5186 Property Local Law 2010**. The Committee has required that minor amendments be made to the local law. It is these amendments that Council must now consider.

Please note that the Committee regularly requests amendments be made to local laws that it scrutinises. The amendments that it seeks the City make to its local law are relatively minor.

DETAIL

The Joint Standing Committee on Delegated Legislation made the following recommendations –

1. Clause 1.6 – Superfluous definition

In clause 1.6 there is a definition for surf riding equipment however, the term is not used in the body of the local law. The Committee has recommended that the term be removed to avoid confusion.

C11/5186 - AMENDMENTS TO THE CITY OF MELVILLE LOCAL GOVERNMENT PROPERTY LOCAL LAW 2010 (REC) (ATTACHMENT)

2. Clause 3.13 - Permits

The Committee had concerns with subclauses 3.13(1)(s)(t) and (u).

Firstly, with regard to subclause 3.13(1)(s). The Committee noted that "animal" was not defined in the local law. The clause, in the Committee's view, was considered vague and uncertain as it was not clear what animal may or not be taken onto local government property. Due to the possible inconsistency with the Dog Act 1976, (it could be interpreted that a person would be required to have a permit to bring a dog onto a park), the Committee deemed the subclause invalid in the context.

Secondly, subclause 3.13(1)(t). The Committee was of the view that the subclause relating to kite surfing was vague and uncertain and the local law did not define "kite surfing". It was the Committee's view that requiring a person to obtain a permit to engage in kite surfing was not within the "general function of a local government to provide for the good government of persons in its district" as required by section 3.1 of the Local Government Act 1995. The Committee's view was that requiring a person to obtain a permit to engage in kite surfing goes beyond the accepted notions of local government, and that it is neither necessary or convenient for the City to perform its functions under the Act. While it was envisaged that the subclause would not extend beyond the high water mark, the subclause can be read as attempting to regulate activity beyond the local government's boundary, and is therefore ultra vires. The Committee has requested the deletion of the clause in the absence of authority.

Concerning subclause 3.13(1)(u), the Committee was of the view that the subclause is unclear as to what aspect of "circuses" it attempts to regulate. It was requested that the subclause be amended to read "operate circuses".

3. Clause 3.14 – Permit to Camp

The Committee has requested the deletion of the reference to the making of a determination about camping on local government property.

It is the view of Officers that the amendments required by the Committee are appropriate and may be easily amended.

PUBLIC CONSULTATION/COMMUNICATION

Public advertising occurred as the Local Law was being considered. No further consultation is required for this report. Any amendments to the Property Local Law will require statutory advertising.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

Consultation occurred with the Department of Local Government as part of the Local Law making process. Additional consultation will occur when amendments are made to the Local Law.

C11/5186 - AMENDMENTS TO THE CITY OF MELVILLE LOCAL GOVERNMENT PROPERTY LOCAL LAW 2010 (REC) (ATTACHMENT)

STATUTORY AND LEGAL IMPLICATIONS

Section 3.12(7) of the *Local Government Act 1995* requires a local government to provide the Joint Standing Committee on Delegated Legislation with a copy of the local law for scrutiny once it has been published in the Government Gazette.

Section 42 of the *Interpretation Act 1984* grants power to the Committee to review all subsidiary legislation in accordance with its terms of reference. The section grants Parliament the ability to disallow a local law.

FINANCIAL IMPLICATIONS

The City will incur costs associated with the advertising of the local law.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The adoption of the undertaking will have implications for the City. The amendments will ensure that the local law is in accordance with the requirements of Parliament and therefore provides regulation of activities within legitimate parameters.

Risk Statement	Level of Risk	Risk Mitigation Strategy
Risk of not making the undertaking may result in the local law being disallowed.	High consequences which are almost certain, resulting in a **High** level of risk	Provide the Joint Standing Committee with the written undertaking.

POLICY IMPLICATIONS

Not applicable.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

If the City does not make the undertaking there is the possibility that the Joint Standing Committee may recommend to Parliament that the clauses be disallowed or that the local law be disallowed.

CONCLUSION

The amendments are relatively minor. The City will have to address the issue of kitesurfing within the local law but in a different manner and the precise amendment will need to be finalised. Due to the probability of disallowance should the City not make the undertaking, it is recommended that the Council make the undertaking as the amendments are not significant.

C11/5186 - AMENDMENTS TO THE CITY OF MELVILLE LOCAL GOVERNMENT PROPERTY LOCAL LAW 2010 (REC) (ATTACHMENT)

OFFICER RECOMMENDATION & COUNCIL RESOLUTION (5186) APPROVAL

That the Council makes the following undertaking to amend the Local Government Property Local Law 2010;

1. **to delete the definition of "surf riding equipment" in clause 1.6;**
2. **to delete subclause 3.13(1)(s);**
3. **to delete subclause 3.13(1)(t);**
4. **to amend subclause 3.13(1)(u) by inserting the word "operate" before "circuses";**
5. **to remove the words "a determination or" from clause 3.14(3);**
6. **that all consequential amendments arising from the undertakings will be made;**
7. **that subclauses 3.13(1)(s)(t) and (u) will not be enforced in a manner contrary to the undertakings that the Council has given;**
8. **that the undertakings will be completed within six months from the date of the City's letter which contains the undertakings;**
9. **that the City will provide a copy of the minutes of this meeting to the Joint Standing Committee on Delegated Legislation; and**
10. **in the interim, all publicly available copies of the local law shall be accompanied by a copy of the undertakings.**

At 8.38pm the Mayor submitted the motion, which was declared

CARRIED EN BLOC (11/0)

C11/5187 - REVIEW OF CITY OF MELVILLE DELEGATED AUTHORITY MANUAL (AMREC) (ATTACHMENT)

Disclosure of Interest

Item No.	C11/5187
Elected Member/Officer	Cr P Reidy
Type of Interest	Financial Interest
Nature of Interest	Wife is an employee at the City of Melville
Request	Leave
Decision of Council	Not Applicable

At 8.39pm, Cr Reidy, having declared an interest in this Item, left the meeting.

Ward	:	All
Category	:	Strategic
Subject Index	:	Delegated Authority
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	:	C10/5116 Review of City of Melville Delegated Authority Manual – Ordinary Meeting of Council – 15 June 2010
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Jeff Clark Governance & Compliance Program Manager

AUTHORITY / DISCRETION

		DEFINITION
☐	Advocacy	*When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☐	Executive	*the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
☒	**Legislative**	***includes adopting local laws, town planning schemes & policies.***
☐	Review	*when the Council review decisions made by Officers.*
☐	Quasi-Judicial	*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.*

C11/5187 - REVIEW OF CITY OF MELVILLE DELEGATED AUTHORITY MANUAL (AMREC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- This report seeks the Council's consideration in reviewing and adopting certain delegations of authority that permit officers to perform functions within a prescribed parameter.

BACKGROUND

The Local Government Act 1995 (The Act) provides for the delegation of certain powers and duties to certain Committees (Sections 5.16 & 5.17) and the Chief Executive Officer (Sections 5.42 & 5.43). The Chief Executive Officer may, unless prohibited by the Councils instrument of delegation, further on-delegate powers and duties to employees (Section 5.44).

The Act also provides for a delegations register to be maintained and reviewed each financial year (Section 5.46). Council Officers have reviewed the delegations. This report requests the Council to undertake a review of the reviewed delegations as submitted by the Officers.

DETAIL

It is necessary to review all current delegations to ensure, in the first instance, that they are consistent with the legislation and secondly, that they are, still necessary. Although the provisions of the Local Government Act 1995 do not affect delegations made under other legislation, it is also considered be an appropriate time to review those delegations.

"Delegated Authority" refers only to those powers or duties required by legislation and are often referred to as statutory delegations. Generally, these delegated authorities will be made to the Chief Executive Officer who may then on-delegate to such person or persons as he feels appropriate.

5187_Delegated_Authority_Manual The City of Melville Delegated Authority Manual is attached. This attachment provides specific detail as to the extent of each delegation.

All Delegations have been reviewed by officers and suggestions have been included on the Delegations for changes to descriptions and sub-delegations to or from positions. The review process was undertaken by all Directors and their suggestions have been noted on each Delegation.

C11/5187 - REVIEW OF CITY OF MELVILLE DELEGATED AUTHORITY MANUAL (AMREC) (ATTACHMENT)

It was apparent to Officers that due to the extensive work on the Delegation Authority Manual over the past years, the main amendments recommended are fine tuning of the existing delegations with the inclusion of one new delegation. A listing of all Council Delegations is provided as an attachment with notes identifying any specific change to a delegation. **5187 Listing of Council Delegations**

General Amendments to Delegations.

The Council policy reference numbers have been changed over the past two years as the policies have been reviewed. The updated policy reference numbers have been included in each affected delegation.

Minor Amendments to Delegations.

There are instances where delegations have been amended to note the change of officer position titles. These amendments do not change the nature of the delegation.

Delegation DA-028 Minor Contract Variations Pre Award, Selection of Next Successful Tenderer and Contract Variations Post Award has been amended to provide that "Unforseen" variations to contracts may be authorised after following a procedure dealing with "Management of Contract Variations Post Award". This amendment seeks to provide a means to respond to urgent unforseen matters that may affect the ability to continue works on a project until the identified issue is resolved.

The delegation has been amended to provide the following sub delegation:

Post Award Variation - Directorate of origin of tender/contract.
Director or Operational Manager as required after following the Management of Contract Variations Post Award Procedure

Delegation DA-033 Power to Invest - A sub-delegation has been provided to Director Technical Services and the Senior Management Accountant.

Delegation DA-035 Payment of Accounts from Municipal and Trust Funds – the position of Financial Accountant has been removed from this sub-delegation.

Delegation DA-077 Actions in respect to Land Where Rates or Service Charges are Unpaid after Three Years – A sub-delegation has been provided to Director Corporate Services.

C11/5187 - REVIEW OF CITY OF MELVILLE DELEGATED AUTHORITY MANUAL (AMREC) (ATTACHMENT)

New Delegations

Severance Payments to Employees.
This is a new delegation providing authority for the Chief Executive Officer to approve severance payments to staff within the parameters of the Severance Policy adopted by the Council on 17 August 2010.

PUBLIC CONSULTATION/COMMUNICATION

No external public consultation has been carried out as these delegations are considered to be an internal matter requiring only the Councils consideration.

CONSULTATION WITH OTHER AGENCIES / CONSULTANTS

The City of Melville Delegated Authority Manual has been modelled on the Department of Local Governments guidelines introduced in the February 2007. These guidelines were prepared in collaboration between Department of Local Government Staff, McLeods Barristers & Solicitors, and officers from various local governments including the City of Melville.

STATUTORY AND LEGAL IMPLICATIONS

The following are the key issues under the The Act affecting delegated authority:

Delegations (to Committees and the Chief Executive Officer) must be made by an absolute majority decision [s.5.16(1) and s.5.42(1)].

- Delegations (whether to Committees or the Chief Executive Officer) must be in writing, and may be general or as otherwise provided in the instrument of delegation [s.5.16(2), s.5.42(2) and s.5.44(2)].
- All Delegations will have effect for the period of time specified in the delegation, or if not specified, indefinitely. Any decision to amend or revoke a delegation must be by absolute majority [s.5.16(3)].
- Any of the Council powers or duties under The Act can be delegated to a Committee comprising Council members only, EXCEPT any power or duty requiring absolute or special majority decisions; or any other power or duty as prescribed [s.5.17(1)(a)].
- Delegations CANNOT be made to Committees comprised of “other persons” only [s.5.9(2)(f)] (i.e. with no council members or employees). Following from this, delegations cannot be made to a committee comprised of employees only [such a committee cannot exist by virtue of s.5.9(2)].

C11/5187 - REVIEW OF CITY OF MELVILLE DELEGATED AUTHORITY MANUAL (AMREC) (ATTACHMENT)

A Local Government may delegate to the Chief Executive Officer, by absolute majority, any of its powers or duties under The Act [s.5.42(1)], EXCEPT those identified in s.5.43 as listed below:

(a) any power or duty that requires an absolute or special majority decision or seventy five percent (75%) majority of the Local Government;

(b) accepting a tender which exceeds an amount determined by the Local Government;

(c) appointing of an auditor;

(d) acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government;

(e) any powers under s.5.98 (fees for Council Members), s.5.99 (annual fee for Council Members in lieu of fees for attending meetings), or s.5.100 (payments for certain Committee Members);

(f) borrowing money on behalf of the local government;

(g) hearing or determining an objection of a kind referred to in s.5.95;

(h) any power or duty requiring the approval of the Minister or the Governor;

(i) such other powers or duties as may be prescribed.

- Any powers or duties which can be delegated to the Chief Executive Officer in accordance with s.5.42 and s.5.43, can be delegated to a Committee comprising Council members and employees [s.5.17(1)(b)]. Further, the Chief Executive Officer may delegate to any employee any of these powers or duties (other than the power of delegation) [s.5.44(1)]

- Any powers or duties that are necessary or convenient for the proper management of the City of Melville's property or related to an event in which the City of Melville is involved, can be delegated to the following types of Committee:

  (i) comprised of council members, employees and other persons

  (ii) comprised of council members and other persons

  (iii) comprised of employees and other persons [s.5.17(1)(c)]

- Registers must be kept of all Delegations made to Committees, the Chief Executive Officer and employees, and such Delegations are to be reviewed at least once every financial year. [s.5.18, s.5.46(1) & (2)]

C11/5187 - REVIEW OF CITY OF MELVILLE DELEGATED AUTHORITY MANUAL (AMREC) (ATTACHMENT)

- The Chief Executive Officer and any other employee who has been delegated a power or duty under The Act is required to keep a written record of:

(i) how and when the power was exercised or the duty discharged

(ii) the persons or classes of persons directly affected (other than Council or Committee members, or employees) by the use of the delegation [s.5.46(3) and Reg. 19].

FINANCIAL IMPLICATIONS

Should the Council choose not to delegate authority to its officers, additional financial cost will be incurred in the extra administrative resources that would need to be applied in order to prepare reports seeking authorisation for individual actions from the Council.

STRATEGIC, ENVIRONMENT AND RISK MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk	Risk Mitigation Strategy
An issue arises that requires urgent attention of officers to ensure public safety.	Moderate consequences which are almost certain, resulting in a **High** level of risk.	Implementation of delegation of power to authorise officers to enter site to make a situation safe.
That Officers exercise a delegation that results in a decision being made that is contrary to the wishes of the Council	Moderate consequences which are unlikely resulting in a **Medium** level of risk.	Clear Council policy is established to guide delegated Officers/committees in the exercise of the delegation.

POLICY IMPLICATIONS

A number of Council policies adopted by the Council have enabling delegation to the Chief Executive Officer who inturn may on delegate to other appointed Officers.

C11/5187 - REVIEW OF CITY OF MELVILLE DELEGATED AUTHORITY MANUAL (AMREC) (ATTACHMENT)

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

All delegations are subject to the discretion of the Council and can be removed at any time. The Council may choose to remove delegations which inturn will then require formal consideration of relevant matters or items at the next available meeting of the Council.

Should delegations to Officers not be granted, customers would experience increased delay in obtaining approvals and authorisations.

CONCLUSION

It is important to note that major decisions or actions made under delegation are as a matter of procedure referred onto Elected Members for their information. In addition whilst many decisions may be procedural, circumstances may make a decision contentious and therefore may be referred onto the Council for formal decision despite the enabling delegation.

OFFICER RECOMMENDATION & COUNCIL RESOLUTION (5187)
ABSOLUTE MAJORITY

At 8.39pm Cr Wieland moved, seconded Cr Halton –

That by Absolute Majority Decision, the City of Melville Delegated Authority Manual 5187_Delegated_Authority_Manual as attached be adopted.

At 8.39pm the Mayor submitted the motion, which was declared
CARRIED BY ABSOLUTE MAJORITY (9/1)

At 8.39pm Cr Reidy returned to the meeting.

C11/5000 – COMMON SEAL REGISTER (REC)

Ward	:	All
Category	:	Operational
Subject Index	:	Common Seal Register
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
☐	Advocacy	*when the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☒	**Executive**	***the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.***
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☐	Review	*when the Council review decisions made by Officers.*
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KEY ISSUES / SUMMARY

This report details the documents to which the City of Melville Common Seal has been applied and recommends that the information be noted.

C11/5000 – 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 by the Chief Executive Officer, and the Mayor and the Chief Executive Officer attest the affixing of the seal.

DETAIL

Register Reference	Party	Description	File Reference
469	City of Melville & Sky High Trapeze Pty Ltd	Management Licence on portion of Len Shearer Reserve Sky High Trapeze Pty Ltd	2366340
472	City of Melville & Kardinya Murdoch Playgroup Inc	Kardinya Murdoch Play Group Deed of Variation to Licence/Outgoings	2362417
500	City of Melville & Department of Education	Management Licence - Department of Education and City of Melville - Leeming Recreation Centre - Performing Arts Centre and Change rooms	2361964
502	City of Melville and L McGoldrick and K P McGoldrick	Deed of Agreement and Caveat - 17A/B Thurloe Street - to Execute Agreement for Replacement of Caveat	2412803
517	City Of Melville & D.W Mustcroft & G.R Terrett	Section 70A Notification to satisfy Condition 2 of Planning Approval for Ancillary Accommodation - 10 Teague Close Bull Creek	2457343
522	City of Melville	Satisfy Condition 4 of Planning Approval - 17 Gairdner Drive, Kardinya	2470985
523	City of Melville	Satisfy Condition 3 of Planning Approval for Ancillary Accommodation (DA-2011 - 22) - 9 Benningfield Road, Bull Creek	2484275
525	City of Melville	Satisfy Condition 2 of Planning Approval for Ancillary Accommodation 12 Joiner St Melville	2484274

C11/5000 – COMMON SEAL REGISTER (REC)

Register Reference	Party	Description	File Reference
528	City of Melville	Application for New Titles to separate titles for Lot 5 and Lot 66 Collier St Applecross (Alchera site)	2479020

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

Section 9.49. Documents, how authenticated.
A document, is, unless this Act requires otherwise, sufficiently authenticated by a local government without its common seal if signed by the CEO or an employee of the local government who purports to be authorised by the CEO to so sign.

FINANCIAL IMPLICATIONS

Not applicable.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Not applicable.

POLICY IMPLICATIONS

Not applicable.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

C11/5000 – COMMON SEAL REGISTER (REC)

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, be noted.

At 8.40pm the Mayor submitted the motion, which was declared

CARRIED EN BLOC (11/0)

C11/6000 - INVESTMENT STATEMENTS (REC)

Ward	:	All
Category	:	Operational
Subject Index	:	Financial Investments and 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
☐	Advocacy	*when the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☒	**Executive**	***the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.***
☐	Legislative	*includes adopting local laws, town planning schemes & policies.*
☐	Review	*when the Council review decisions made by Officers.*
☐	Quasi-Judicial	*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.*

KEY ISSUES / SUMMARY

- This report presents the investment statements for the month of April 2011 and recommends that the information detailed in the report be noted.
- No new credit events were recorded in relation to the Council's Collaterised Debt Obligation (CDO) investments in April 2011.
- When compared to the valuations used as at 30 June 2010, valuations obtained from Denison Financial Advisory as at 30 April 2011 show that:
    - Authorised Deposit-taking Institutions (ADIs) have increased in value by $116K.
    - CDOs have increased substantially in value by $6.2m. This is a result of improved values from the Lehman arranged CDOs.

C11/6000 - INVESTMENT STATEMENTS (REC)

BACKGROUND

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

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

DETAIL

Summary details of investments held at 30 April 2011 are shown in the table below.

CITY OF MELVILLE
STATEMENT OF INVESTMENTS
FOR THE PERIOD ENDING 30 APRIL 2011

SUMMARY BY FUND	PURCHASE PRICE $	ESTIMATED BOOK VALUE 30/06/2010 $	ESTIMATED CURRENT MARKET VALUE $	BOOK PROFIT/(LOSS) $	BOOK PROFIT/(LOSS) %
MUNICIPAL	$ 44,848,115	$ 44,848,115	$ 44,848,115	$ -	0.00%
RESERVE	$ 42,797,583	$ 24,616,326	$ 30,917,321	$ 6,300,995	14.72%
TRUST	$ 504,947	$ 504,947	$ 504,947	$ -	0.00%
CRF	$ 175,988	$ 175,988	$ 175,988	$ -	0.00%
	$ 88,326,633	**$ 70,145,376**	**$ 76,446,371**	**$ 6,300,995**	**7.13%**

SUMMARY BY FUND	PURCHASE PRICE $	ESTIMATED BOOK VALUE 30/06/2010 $	ESTIMATED CURRENT MARKET VALUE $	BOOK PROFIT/(LOSS) $	BOOK PROFIT/(LOSS) %
ADI	$ 5,000,000	$ 4,830,905	$ 4,946,690	$ 115,785	2.32%
CDO	$ 19,720,000	$ 1,707,838	$ 7,893,048	$ 6,185,210	31.37%
BOND	$ 2,000,000	$ 2,000,000	$ 2,000,000	$ -	0.00%
FRTD	$ 2,000,000	$ 2,000,000	$ 2,000,000	$ -	0.00%
TERM DEPOSIT	$ 56,462,543	$ 56,462,543	$ 56,462,543	$ -	0.00%
11AM	$ 2,913,445	$ 2,913,445	$ 2,913,445	$ -	0.00%
UNITS (Local Govt Hse)	$ 230,645	$ 230,645	$ 230,645	$ -	0.00%
	$ 88,326,633	**$ 70,145,376**	**$ 76,446,371**	**$ 6,300,995**	**7.13%**

SUMMARY BY FUND	PURCHASE PRICE $	ESTIMATED BOOK VALUE 30/06/2010 $	ESTIMATED CURRENT MARKET VALUE $	BOOK PROFIT/(LOSS) $	BOOK PROFIT/(LOSS) %
AA	$ 19,675,988	$ 19,675,988	$ 19,675,988	$ -	0.00%
AA-	$ 34,400,000	$ 34,382,270	$ 34,393,340	$ 11,070	0.03%
A+	$ 5,300,000	$ 5,300,000	$ 5,300,000	$ -	0.00%
A	$ 3,000,000	$ 3,000,000	$ 3,000,000	$ -	0.00%
A-	$ 2,500,000	$ 2,379,555	$ 2,460,090	$ 80,535	3.22%
BBB+	$ 3,000,000	$ 2,983,880	$ 2,993,510	$ 9,630	0.32%
CCC	$ 1,500,000	$ 76,950	$ 681,900	$ 604,950	40.33%
CCC-	$ 3,600,000	$ 376,140	$ 936,000	$ 559,860	15.55%
NR	$ 15,120,000	$ 1,739,948	$ 6,774,898	$ 5,034,950	33.30%
UNITS (Local Govt Hse)	$ 230,645	$ 230,645	$ 230,645	$ -	0.00%
	$ 88,326,633	**$ 70,145,376**	**$ 76,446,371**	**$ 6,300,995**	**7.13%**

C11/6000 - INVESTMENT STATEMENTS (REC)

The following statements detail the investments held by the City. Marketable investments are shown at their estimated market value (Estimated Market Value).

CITY OF MELVILLE
STATEMENT OF INVESTMENTS
FOR THE PERIOD ENDING 30 APRIL 2011

INSTITUTION / INVESTMENT	RISK of IMPAIRMENT	INVESTMENT TYPE	Current Interest Rate %	S & P RATING	PROPORTION	MAX. PER INSTITUTION	FACE VALUE $	BOOK VALUE AT 30/6/2010 $	CURRENT EST MARKET VALUE $	INVESTMENT GAIN / (LOSS) SINCE 30/6/10 $
BANKWEST (11AM)		11AM	4.70%	AA	1%	20%	$1,013,445	$1,013,445	$1,013,445	$0
WESTPAC (MAXI BONUS 1)		11AM	5.20%	AA-	0%	20%	$0	$0	$0	$0
WESTPAC (MAXI BONUS 2)		11AM	5.20%	AA-	0%	20%	$0	$0	$0	$0
							$2,913,445	**$2,913,445**	**$2,913,445**	**$0**
BANKWEST (TERM)		TERM	5.85%	AA	8%	20%	$7,162,543	$7,162,543	$7,162,543	$0
COMMONWEALTH BANK (TERM)		TERM	5.59%	AA	11%	20%	$9,500,000	$9,500,000	$9,500,000	$0
SUNCORP METWAY LTD (TERM)		TERM	6.17%	A+	6%	20%	$5,300,000	$5,300,000	$5,300,000	$0
ING BANK		TERM	6.21%	A	3%	20%	$3,000,000	$3,000,000	$3,000,000	$0
NAB		TERM	6.09%	AA	15%	20%	$13,500,000	$13,500,000	$13,500,000	$0
ST GEORGE BANK (TERM)		TERM	5.70%	AA-	11%	20%	$9,500,000	$9,500,000	$9,500,000	$0
WESTPAC (TERM)		TERM	5.81%	AA-	10%	20%	$8,500,000	$8,500,000	$8,500,000	$0
							$56,462,543	**$56,462,543**	**$56,462,543**	**$0**
COMMONWEALTH BANK (BOND)		BOND	5.97%	AA	2%	20%	$2,000,000	$2,000,000	$2,000,000	$0
							$2,000,000	**$2,000,000**	**$2,000,000**	**$0**
BANK OF QUEENSLAND (FLOAT RATE TD)		FRTD	6.42%	BBB+	2%	20%	$2,000,000	$2,000,000	$2,000,000	$0
							$2,000,000	**$2,000,000**	**$2,000,000**	**$0**
ADELAIDE BANK	Very Low	ADI	5.28%	BBB+	1%	10%	$1,000,000	$983,880	$993,510	$9,630
ELDERS RURAL BANK	Very Low	ADI	5.62%	BBB	1%	0%	$500,000	$485,200	$499,750	$14,550
MACQUARIE BANK	Very Low	ADI	5.32%	A-	2%	15%	$1,500,000	$1,410,105	$1,464,090	$53,985
SUNCORP METWAY LTD	Very Low	ADI	5.20%	A-	1%	15%	$1,000,000	$969,450	$996,000	$26,550
WESTPAC BANK	Very Low	ADI	5.16%	AA-	1%	20%	$1,000,000	$982,270	$993,340	$11,070
APHEX (GLENELG)	High	CDO	6.57%	NR	2%	0%	$2,000,000	$125,600	$800,000	$674,400
BERYL FINANCE GLOBAL BANK NOTE	Early Term.	CDO	0.00%	NR	2%	0%	$2,000,000	$1	$1,200,000	$1,199,999
BERYL FINANCE GLOBAL BANK NOTE 2	Early Term.	CDO	0.00%	NR	1%	0%	$450,000	$1	$270,000	$269,999
CORSAIR (CAYMAN) KAKADU	High	CDO	6.24%	CCC	2%	0%	$1,500,000	$76,950	$681,900	$604,950
CORSAIR (CAYMAN) TORQUAY	Very High	CDO	6.55%	NR	2%	0%	$1,885,000	$23,000	$293,118	$270,118
ETHICAL LIMITED GREEN	High	CDO	5.84%	NR	1%	0%	$1,000,000	$11,000	$334,500	$323,500
HELIUM CAPITAL (ESPERANCE)	High	CDO	6.54%	CCC-	2%	0%	$1,800,000	$355,140	$936,000	$580,860
HELIUM CAPITAL (SCARBOROUGH)	High	CDO	6.83%	CCC-	2%	0%	$1,800,000	$21,000	$0	-$21,000
MAGNOLIA FLINDERS	Moderate	CDO	6.34%	NR	2%	20%	$2,000,000	$988,139	$1,751,000	$762,861
MANAGED ACES CLASS 11A PARKES	Very High	CDO	8.14%	NR	1%	0%	$1,000,000	$3,000	$27,000	$24,000
MANAGED ACES CLASS 1A PARKES	High	CDO	6.47%	NR	1%	0%	$1,050,000	$10,500	$163,800	$153,300
OMEGA CAPITAL CLASS A HENLEY	Moderate	CDO	5.80%	NR	0%	0%	$385,000	$82,506	$345,730	$263,224
STARTS (CAYMAN) BLUE GUM	Defaulted	CDO	#N/A	NR	0%	0%	$0	$0	$0	$0
ZIRCON FINANCE COOLANGATTA	Early Term.	CDO	0.00%	NR	2%	0%	$1,500,000	$9,300	$600,000	$590,700
ZIRCON FINANCE MERIMBULA	Early Term.	CDO	0.00%	NR	1%	0%	$500,000	$1,700	$150,000	$148,300
ZIRCON FINANCE MIAMI	Early Term.	CDO	0.00%	NR	1%	0%	$850,000	$1	$340,000	$339,999
							$24,720,000	**$6,538,743**	**$12,839,738**	**$6,300,995**
UNITS IN LOCAL GOVT HOUSE		UNITS	0.00%				$230,645	$230,645	$230,645	$0
TOTAL FUNDS INVESTED					**100%**		**$88,326,633**	**$70,145,376**	**$76,446,371**	**$6,300,995**

DIVERSIFICATION / CREDIT RISK COMPARISON

CREDIT RISK	PURCHASE PRICE $	CURRENT ESTIMATED MARKET VALUE	ACTUAL PROPORTION	MAX. % AMOUNT IN TOTAL PORTFOLIO	Comments
AAA	$0	$0	0%	100%	
AA	$33,175,988	$33,175,988	43%	80%	
AA-	$20,900,000	$20,893,340	27%	80%	
A+	$5,300,000	$5,300,000	7%	50%	
A	$3,000,000	$3,000,000	4%	50%	
A-	$2,500,000	$2,460,090	3%	50%	
BBB+	$3,000,000	$2,993,510	4%	20%	
BBB	$500,000	$499,750	1%	0%	**Purchased Prior To Policy Change**
BBB-	$0	$0	0%	0%	
BB+	$0	$0	0%	0%	
B+	$0	$0	0%	0%	
B	$0	$0	0%	0%	
CCC+	$0	$0	0%	0%	
CCC	$1,500,000	$681,900	1%	0%	
CCC-	$3,600,000	$936,000	1%	0%	
C	$0	$0	0%	0%	
NR	$14,620,000	$6,275,148	8%		
UNITS IN LOCAL GOVT: HOUSE	$230,645	$230,645	0%	0.1%	**Council Decision**
TOTAL	**88,326,633**	**76,446,371**	**100%**		

C11/6000 - INVESTMENT STATEMENTS (REC)

DIVERSIFICATION RISK

INSTITUTION		INVESTMENT TYPE	S & P RATING	CURRENT ESTIMATED MARKET VALUE	ACTUAL PROPORTION	INSTITUTION PROPORTION	MAX. % WITH ANY ONE INSTITUITION	Comments
BANKWEST (11AM)		11AM	AA	1,013,445	1.33%		20%	
BANKWEST (TERM)		TERM	AA	7,162,543	9.37%	10.70%	20%	
COMMONWEALTH BANK (TERM)		TERM	AA	9,500,000	12.43%		20%	
COMMONWEALTH BANK (BOND)		BOND	AA	2,000,000	2.62%	15.04%	20%	
MACQUARIE BANK		ADI	A-	1,464,090	1.92%		15%	
MACQUARIE BANK (TERM)		TERM	AAA	-	0.00%	1.92%	20%	
NAB		TERM	AA	13,500,000	17.66%	17.66%	20%	
ING BANK		TERM	A	3,000,000	3.92%	3.92%	20%	
ST GEORGE BANK (TERM)		TERM	AA-	9,500,000	12.43%	12.43%	20%	
WESTPAC (MAXI BONUS 1)		11AM	AA-	-	0.00%		20%	
WESTPAC (MAXI BONUS 2)		11AM	AA-	-	0.00%		20%	
WESTPAC (MAXI DIRECT)		11AM	AA-	1,900,000	2.49%		20%	
WESTPAC (TERM)		TERM	AA-	8,500,000	11.12%		20%	
WESTPAC BANK		ADI	AA-	993,340	1.30%	14.90%	20%	
ADELAIDE BANK		ADI	BBB+	993,510	1.30%	1.30%	10%	
BANK OF QUEENSLAND (FLOAT RATE TD)		FRTD	BBB+	2,000,000	2.62%	2.62%	10%	
ELDERS RURAL BANK		ADI	BBB	499,750	0.65%	0.65%	10%	
SUNCORP METWAY LTD (TERM)		TERM	A+	5,300,000	6.93%		15%	
SUNCORP METWAY LTD		ADI	A-	996,000	1.30%	8.24%	15%	
CDO - Various		CDO		7,893,048	10.32%	10.32%	0%	**Purchased Prior To Policy Change**
UNITS IN LOCAL GOVT HOUSE		UNITS		230,645	0.30%	0.30%		
				$76,446,371	**100%**	**100%**		

MATURITY COMPARISON

-

TERM to MATURITY				CURRENT ESTIMATED MARKET VALUE	ACTUAL PROPORTION	MAX. % IN ANY ONE YEAR	Comments
MUNICIPAL & TRUST FUNDS							
< 1 year				45,122,417	100%	100%	
< 2 years				-	0%	10%	
< 3 years				-	0%	10%	
< 4 years				-	0%	0%	
< 5 years				-	0%	0%	
> 5 years				-	0%	0%	
				45,122,417	**100%**		
RESERVE FUNDS							
< 1 year				16,822,093	54%	100%	
< 2 years				1,281,730	4%	80%	
< 3 years				3,459,518	11%	80%	
< 4 years				2,870,000	9%	40%	
< 5 years				2,190,800	7%	40%	
> 5 years				4,293,180	14%	20%	
				30,917,321	**100%**		

C11/6000 - INVESTMENT STATEMENTS (REC)

The values ascribed to Authorised Deposit Taking Institutions (ADIs) by Council's independent financial advisers are based on current market evidence. Positive improvements in the market since 30 June 2010 are evident by an increase in market valuations. These valuations assume that the City will be required to sell these investments prior to maturity. The City is however a holder to maturity of these investments as there is no need to sell ADIs. There is therefore no reason to expect that any losses will be incurred. Recent repurchases by the issuing banks at their full value supports this view. The City expects that further ADIs will be repurchased by the issuing banks as they reach their call dates over the next 18 months. Since 30 June 2009 $12,500,000 worth of ADIs have been repurchased by the issuing banks. These had been written down in previous financial years, to a book value of $12,288,900. A book profit of $211,100 has therefore been realised.

Due to the absence of an active market for CDOs and the ongoing uncertainty in financial markets, the City adopted a very conservative approach when valuing its CDOs for year end reporting purposes.

Monthly valuations shown for 30 April 2011 were provided by the Council's independent financial adviser Denison Financial Advisory. This supports the current positive improvements in the market, evident by the increase in valuations of the Council ADIs and CDOs investments. When compared to the valuations used as at 30 June 2010, valuations obtained from Denison as at 30 April 2011 show that:

- ADIs have increased in value by $115,785.
- CDOs have increased in value by $6.19 million.

Lehman arranged CDOs have experienced a substantial increase, as heightened investor expectations of a favourable ruling in the courts grew which will result in an early termination and Council gaining access to the collateral representing the Council's original investments which are held by the Trustees.

All other non Lehman Brothers arranged CDOs continue to pay coupon payments (albeit some at reduced levels due to the erosion of credit support and therefore underlying principal) and this is expected to continue. Based on independent advice from a number of sources, the City's policy has been to continue to hold these investments to maturity unless opportunities to sell at realistic values are presented. No realistic offers have been received to date.

It should be noted that CDOs are structured in such a manner so as to provide for a level of defaults of a number of the entities referenced by the CDOs before there is loss of value at maturity of the CDOs themselves.

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

C11/6000 - INVESTMENT STATEMENTS (REC)

Credit Ratings and Credit Events

There were no credit events in April that affected the Council's CDO investments.

Twenty credit events impacting the Council's CDO investments have now been recorded to date. The Companies involved are 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. This has resulted in a loss of $3.486m to date, as detailed below:

- The total loss ($1.5m) of the Starts Cayman Blue Gum CDO with a face value of $1.5m.
- The partial loss ($0.924m) of the Corsair Cayman Torquay CDO with a face value of $1.885m.
- The partial loss ($0.592m) of the Helium Capital Scarborough CDO with a face value of $1.8m.
- The partial loss ($0.47m) of the Managed Aces Class Parkes IIA CDO with a face value of $1.0m.

A portion (approximately $1.5m as at 30 June 2010) of the Risk Management Reserve was created to fund losses arising from Council's investment activities. $1.5m has since been applied against this Reserve, from the total loss of the Starts Cayman Blue Gum CDO.

Where losses exceed the available funds, these will be prorated and deducted across the Council's other Reserve Funds excluding the Leave Entitlement and the remainder of the Risk Management Reserve. These Reserve funds are restricted to the payment of employee entitlements and contingent Workers Compensation Insurance Claims.

The impact of these credit events on each of the Council's CDOs is shown below.

C11/6000 - INVESTMENT STATEMENTS (REC)

CDO Arranger Face Value	No. of Credit Events	Remaining Credit Support before FIRST Loss of Principal	Remaining Credit Support before TOTAL Loss of Principal	Comments
Aphex Glenelg Arranger: Nomura International **$2.0m**	**6 credit events:** Takefuji, AIFUL, Tribune, Thomson, Lehman's, Landsbanki & CIT Group.	3	3.8	
Beryl Finance Global Bank Note Arranger: Lehman Brothers **$2.45m**	**Nil credit events:**	1	N/A	Being terminated due to trustee taking control of underlying security.
Corsair Cayman Kakadu Arranger: J.P. Morgan Australia **$1.5m**	**9 credit events:** AMBAC Assurance, AIFUL, XL Capital Assurance, Freddie Mac, Fannie Mae, Lehman's, WaMu, Kaupthing & CIT Group.	3	5	
Corsair Cayman Torquay Arranger: J.P. Morgan Australia **$1.885m**	**8.5 credit events:** AMBAC Assurance, AIFUL, XL Capital Assurance, Idearc, Freddie Mac, Lehman, WaMu, Glitnir, Kaupthing & CIT Group.	0 (-0.39)	1	Partial loss (**49%**) of principal has occurred. Very high likelihood of total default.
Ethical Limited Green Arranger: J.P. Morgan Australia **$1.0m**	**7.5 credit events:** AMBAC Assurance, AIFUL, XL Capital Assurance, Idearc, Lehman's, WaMu, Glitnir, Kaupthing & CIT Group.	0.6	1.9	High likelihood of total default.
Helium Capital Esperance Arranger: Merrill Lynch International **$1.80m**	**2.5 credit events:** Idearc, Tribune, Thomson, Lehman's & CIT Group.	1.5	3.2	

C11/6000 - INVESTMENT STATEMENTS (REC)

CDO Arranger Face Value	No. of Credit Events	Remaining Credit Support before FIRST Loss of Principal	Remaining Credit Support before TOTAL Loss of Principal	Comments
Helium Capital Scarborough Arranger: Merrill Lynch **$1.8m**	**7.0 credit events:** AMBAC Financial, AIFUL, Idearc, Freddie Mac, Fannie Mae, Tribune, Lehman's, Kaupthing & Landsbanki.	-0.5	1	Partial loss (**32.9%**) of principal has occurred. Very High likelihood of total default.
Magnolia Flinders Arranger: Credit Suisse First Boston **$2.0m**	**Nil CDO defaults:**	N/A	N/A	A "CDO-squared" of four individual standard CDOs.
Managed Aces Class Parkes 1A Arranger: Morgan Stanley **$1.05m**	**8.0 credit events:** AMBAC Assurance, AIFUL, XL Capital Assurance, Freddie Mac, Fannie Mae, Lehman's, WaMu & CIT Group.	1	3	High likelihood of total default.
Managed Aces Class Parkes 11A Arranger: Morgan Stanley **$1.0m**	**9.0 credit events:** AMBAC Assurance, AIFUL, FGIC, XL Capital Assurance, Freddie Mac, Fannie Mae, Lehman's, WaMu & CIT Group.	0 (-0.5)	1	Partial loss (**47%**) of principal has occurred. Very high likelihood of total default.
Omega Capital Class A Henley Arranger: BNP Paribas **$0.385m**	**6.0 credit events:** AMBAC Assurance, Freddie Mac, Fannie Mae, Thomson, Lehman's & CIT Group.	5	5.9	
Starts Cayman Blue Gum Arranger: HSBC Bank USA **$1.50m**	**10.0 credit events:** AMBAC Financial, Bank TuranAlem, Freddie Mac, Fannie Mae, Lehman's, WaMu, Glitnir, Kaupthing, Landsbanki & CIT Group.	Defaulted	Defaulted	Total loss of principal and investment CDO has defaulted.

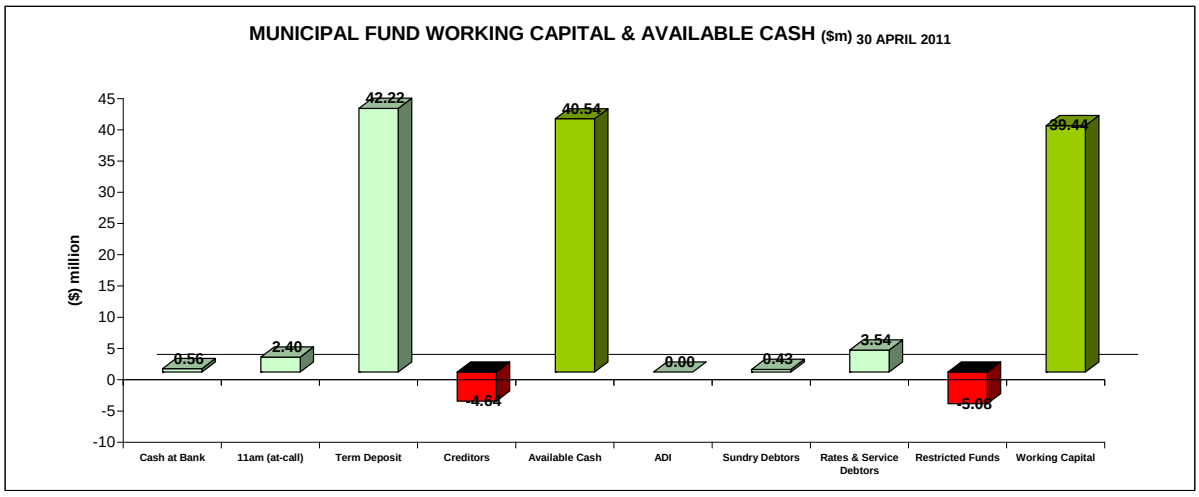
C11/6000 - INVESTMENT STATEMENTS (REC)

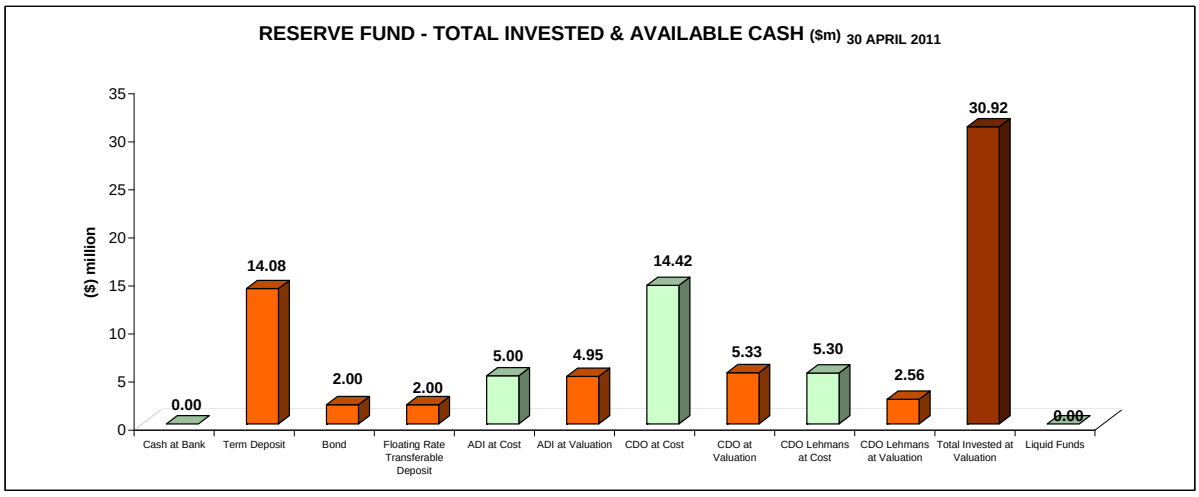
CDO Arranger Face Value	No. of Credit Events	Remaining Credit Support before FIRST Loss of Principal	Remaining Credit Support before TOTAL Loss of Principal	Comments
Zircon Finance Coolangatta Arranger: Lehman Brothers **$1.50m**	**8.0 credit events:** Ambac Assurance, Aiful, FGIC, Freddie Mac, Fannie Mae, WaMu, Chemtura & Cit Group.	4.7	6.5	Being terminated due to trustee taking control of underlying security.
Zircon Finance Merimbula A Arranger: Lehman Brothers **$0.50m**	**8.0 credit events:** Ambac Assurance, Aiful, FGIC, Freddie Mac, Fannie Mae, WaMu, Chemtura & Cit Group.	2.9	3.7	Being terminated due to trustee taking control of underlying security.
Zircon Finance Miami Arranger: Lehman Brothers **$0.85m**	**7.0 credit events:** Ambac Assurance, Aiful, Thomson, Freddie Mac, Fannie Mae, Abitibi & CIT Group.	8.4	10.1	Being terminated due to trustee taking control of underlying security.

C11/6000 - INVESTMENT STATEMENTS (REC)

Net Funds Held

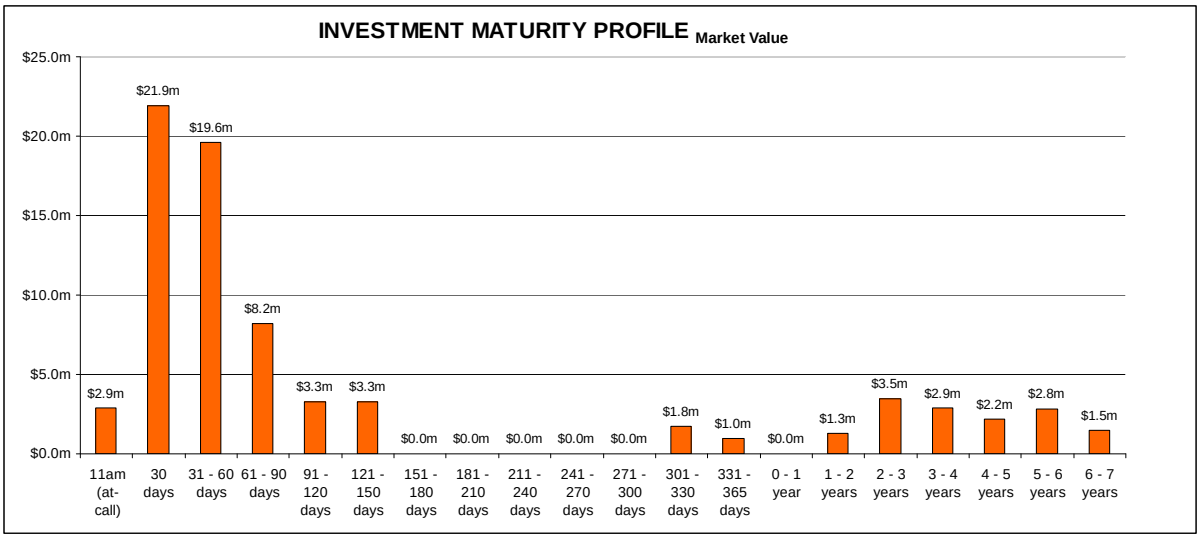
The graphs below summarise the Municipal Fund working capital and available cash and the funds held in the Reserve Fund at purchase price and last valuation, for April 2011.





C11/6000 - INVESTMENT STATEMENTS (REC)

The graph below summarise the maturity profile of the Council's investments at market value as at 30 April 2011.



PUBLIC CONSULTATION/COMMUNICATION

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

In addition the Council'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

Denison Financial Advisory, the City's current investment Advisor, has reviewed the current investment portfolio and we will continue to work with them to review the City's investment strategy going forward.

In 2007 Price Waterhouse Coopers (PWC) were engaged to provide advice in regards to the appropriateness of the City's investment strategy in light of the recent volatility in the credit markets. Following the receipt of their report and further clarification, a revised investment policy was adopted.

The Department of Local Government and Regional Development issued Investment Policy Guidelines during 2008, well after the global financial crisis, and the Council's investment policy has been amended to give effect to the guidelines.

C11/6000 - INVESTMENT STATEMENTS (REC)

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 and to seek early termination of the Lehman arranged CDOs, so that the Council gains access to the more valuable collateral representing the Council's original investments which are held by Trustees for the Lehman Brothers arranged CDOs.

In conjunction with approximately 72 other corporations and local government authorities the City of Melville has engaged litigation funder IMF Australia to seek recovery of book losses from Lehman Brothers Australia. Whilst the decisions taken by the various courts have been positive for the City the legal process is lengthy and it will still be some time before certainty is achieved.

Legal actions are taking place between the United Kingdom (UK) and United States (US) courts as to whose laws should be applied in respect of the Lehman Brothers arranged CDOs, which is subject of an early termination. Lehman Brothers was successful in gaining the right to appeal the current UK judgement in favour of investors to the Supreme Court of England and Wales. This is the highest possible court whose decision will bring finality to the legal process in the UK. A hearing date has been set down for March 2011, one month in the future. It is therefore likely that the legal process will continue for at least another year as the US court has not yet issued its first judgement, which is almost certain to be appealed.

As previously mentioned, the likelihood of this happening can be demonstrated by the recent upward valuations in these CDOs over the last month.

FINANCIAL IMPLICATIONS

In light of positive movements in interest rates, the Council has revised its investment earnings upwards for the 2010/11 mid year budget review. The new investment earnings budget for Municipal and Trust funds are $2.2m and Reserve Funds are $1.5m.

For the financial year to date ending 30 April 2011, interest earned on the Municipal and Trust Funds was $2,300,629 against a revised budget of $1,986,583. This represents a $314,045 positive variance. Reserve Fund interest earned for the year ending 30 April 2011 was $1,754,536 against a revised budget of $1,366,667. This represents a positive variance of $387,869.

Investment earnings received in respect to CDO investments since 1 July 2007 has been $4.09m and $2.75m in respect to ADIs.

In accordance with the Council's revised Investment Policy any surplus investment returns derived, as a result of investing in ADIs & CDOs when compared to Bank Bills or Term Deposits, will be transferred to the Risk Management Reserve.

Due to Lehman Brothers entering into Chapter 11 bankruptcy proceedings, the City has not received interest payments on the $5.3m face value of Lehman Brothers arranged CDOs. At this time we understand that interest on the underlying collateral is being retained by the trustee who has taken control of that collateral.

C11/6000 - INVESTMENT STATEMENTS (REC)

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The Council's investment policy was constructed to minimise credit risk through investing in highly rated securities and diversification. The policy also incorporates mechanisms that protect the Council'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.

No other identifiable strategic, risk and environmental management implications.

Due to the continuing credit market concerns, the risks associated with the Council's investment portfolio also increased to levels which are of concern. Whilst the Council continues to earn and be paid interest from its non Lehman 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.

Due however to the lack of an active market for CDOs, these investments must continue to be held.

The risk of loss due to the default of some of the CDOs is very high whilst the risk of loss due to the default of deposits with banks or ADIs is considered extremely low.

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.

POLICY IMPLICATIONS

Council Policy CP-009 – Investment of Funds.

The Investment Policy was reviewed and readopted at the Ordinary Meeting of Council held on 15 December 2009 and is considered to represent a low risk approach to investing.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

CONCLUSION

Whilst the situation regarding the CDO investments remains tenuous with the loss of one and the partial default/loss of three other Council's CDO investments, the full impact of the book value devaluation of these investments was accounted for in the previous financial years. Due to the return to more normal credit market conditions, no further material devaluations are expected over the course of the current and future financial years.

As a result of improved book value of previously written down investments, continuing cost savings/efficiencies, alternative revenue generation projects and the strong investment returns that have been realised over the past years, the value of the Council's Reserve funds have been restored to in excess of pre global financial crisis levels.

C11/6000 - INVESTMENT STATEMENTS (REC)

Council officers in conjunction with Denison's will continue to monitor and report on a monthly basis, the situation regarding CDO investments. Based on independent advice from Denison's, the City's policy is to continue to hold these investments to maturity unless opportunities to sell at realistic values are presented. No realistic offers have been received to date.

The City also expects that the remainder of the ADIs will be repurchased by the issuing banks as they reach their call dates over the next 18 months.

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

That the Investment Report for the month of April 2011 be noted.

At 8.40pm the Mayor submitted the motion, which was declared

CARRIED EN BLOC (11/0)

C11/6001 – SCHEDULE OF ACCOUNTS (REC) (ATTACHMENT)

Ward	:	All
Category	:	Operational
Subject Index	:	Financial Statement and Investments
Customer Index	:	Not applicable
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Standard Item
Works Programme	:	Not Applicable
Funding	:	2010/2011 Budget
Responsible Officer	:	Khris Yeoh Senior Financial Accountant

AUTHORITY / DISCRETION

DEFINITION

☐	Advocacy	*when the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☒	**Executive**	***the substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.***
☐	Legislative	*includes adopting local laws, town planning schemes & policies.*
☐	Review	*when the Council review decisions made by Officers.*
☐	Quasi-Judicial	*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.*

C11/6001 – SCHEDULE OF ACCOUNTS (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

This report presents details of the payments made to suppliers for the provision of goods and services for the month of April 2011 and recommends that the Schedule of Accounts be noted.

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 Administration) Regulations 1996, where this power has been delegated, a list of payments for each month is to be compiled and presented to the Council. The list is to show each payment, payee name, amount and date of payment and sufficient information to identify the transaction.

DETAIL

The Schedule of Accounts for the period ending 30 April 2011**, 6001_April_2011** including Payment Registers numbers Cheques **220 to 224** and Electronic Funds Transfers **196 to 199** were distributed to the Members of the Council on the 21 June 2011.

Payments in excess of $25,000 in the month are as follows:-

Supplier Name	Remittance Number	Remittance Details	Amount
Boral Construction	E023908 & E023715	Road Construction Materials	$188,340.58
CPD Group	E024047	Refurbishment to Len Shearer Reserve	$53,961.00
Downer EDI Works Pty Ltd	E023846 & E024015	Road Resurfacing	$120,147.37
Dowsing Concrete	E023890 & E024053	Concrete Works	$106,149.45
Dunbar Services	Chq 043113	AHU Systems Decontamination at Melville Recreation Centre & AH Bracks Library	$34,936.00
Finesse Flooring	E023951 & Chq 043047	Replace Carpets at Operations Centre	$50,754.00
Fire & Emergency Services Authority WA	E023856	ESL Remittance for March 2011	$904,536.33
Flexi Staff	E023748 & E023938	Staff Hire	$96,019.67
Hydroquip Pumps	E023756	Reticulation Pump Repairs	$42,619.50

C11/6001 – SCHEDULE OF ACCOUNTS (REC) (ATTACHMENT)

Supplier Name	Remittance Number	Remittance Details	Amount
Joondalup City Roofing Pty Ltd	Chqs 043144 & 043360	Renewal of Roof & Guttering at Canning Bridge Library & Maintenance to Roof at Leeming Recreation Centre	$114,889.50
Main Roads WA	E023799	Superfluous funds for Federal Black Spot Project 2010 for 1179 Canning Highway and Stock Road	$49,259.10
Miracle Recreation Equipment	E023949 & E023762	Installation of Playground at Frawley Reserve & Playground Design at Allan Edwards Reserve	$58,808.20
Mountway Melville Hyundai	Chqs 043260 & 043009	3 x Hyundai i30cw Wagons & Servicing	$68,171.91
Perth Engineering and Maintenance WA Pty Ltd	E023802	Gate Fees for Recyclable Materials for March 2011	$103,542.73
Robinson Buildtech	E023923 & E023734	Various Building Maintenance Jobs	$85,279.74
South West Group	E023772	Second Instalment for Council Contributions	$37,500.00
Southern Metropolitan Regional Council	E023938 & E023813	MSW Gate Fees for March 2011	$535,215.25
Synergy	Chqs 043012 & 043262	Electricity Supply	$327,289.93
Titan Ford	E023953 & E023774	PK Ranger Crew Cab	$32,371.60
Tree Amigos Tree Surgeons	E024004 & E023839	Street Tree Pruning	$27,471.40
Water Corporation	Chqs 043298 & 043089	Water Supply	$26,992.50
Western Power	Chqs 043079 043261 & 043010	Underground Power Progress Payments & Electricity Supply	$898,055.00

C11/6001 – SCHEDULE OF ACCOUNTS (REC) (ATTACHMENT)

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 2010/2011 Budget.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

No other identifiable strategic, risk and environmental management implications.

POLICY IMPLICATIONS

Management Procedure 1.8 - Certification of Accounts.

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 period ended 30 April 2011 as approved by the Director Corporate Services in accordance with delegated authority DA-035, and detailed in attachment 6001 April 2011 be noted.

At 8.40pm the Mayor submitted the motion, which was declared

CARRIED EN BLOC (11/0)

C11/6002 – FINANCIAL STATEMENTS FOR APRIL 2011 (AMREC) (ATTACHMENT)

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
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KEY ISSUES / SUMMARY

- This report presents the financial statements for the period ending April 2011 and recommends that they be noted by the Council.

C11/6002 – FINANCIAL STATEMENTS FOR APRIL 2011 (AMREC) (ATTACHMENT)

BACKGROUND

The Financial Statements for the periods ending April 2011 have been prepared and tabled in accordance with the Local Government (Financial Management) Regulations 1996 as amended.

DETAIL

The attached reports have been prepared in compliance with the requirements of the legislation and Council policy.

To the end of April 2011, a net operating positive variance of $5.31m was recorded. A net positive variance of $2.18m was recorded against capital.

Variances

An analysis of the significant variances is included below.

	April Actual $	YTD Budget $	YTD Actual $	Current Commitments $	Variance $	Variance %	Annual Budget $	Annual Revised Budget $
Revenues								
General Purpose Funding	363,779	5,867,082	6,555,507	-	688,425	12%	5,479,500	6,899,000
Education & Welfare	269,716	845,990	977,976	-	131,986	16%	1,033,841	1,013,841
Community Amenities	130,407	14,829,283	15,108,556	-	279,273	2%	14,910,850	14,964,850
Recreation and Culture	838,284	6,523,938	6,617,350	(1,793)	91,620	1%	8,184,936	8,123,136
Transport	431,549	5,582,927	4,892,159	(1,045)	(691,814)	-12%	5,578,277	5,942,017
Other Property and Services	(42,254)	961,098	495,267	-	(465,831)	-48%	483,487	497,506
	2,103,720	38,488,767	38,548,624	(3,348)	56,509	0%	39,722,733	41,595,985
Expenses								
Governance	(988,205)	(13,111,800)	(11,903,436)	(568,883)	639,481	-5%	(15,011,328)	(15,156,353)
General Purpose Funding	(882,197)	(4,005,084)	(4,051,046)	(64,060)	(110,022)	3%	(5,025,000)	(4,995,000)
Law, Order, Public Safety	(248,801)	(2,984,242)	(2,755,997)	(30,046)	198,199	-7%	(3,497,119)	(3,532,961)
Health	(59,008)	(820,084)	(686,866)	(12,576)	120,642	-15%	(912,131)	(965,721)
Education & Welfare	(423,362)	(4,820,112)	(4,304,809)	(93,630)	421,673	-9%	(5,854,237)	(5,748,220)
Community Amenities	(1,042,432)	(15,037,082)	(13,185,698)	(713,463)	1,137,921	-8%	(17,809,560)	(17,776,715)
Recreation and Culture	(1,783,759)	(20,482,088)	(19,383,746)	(623,915)	474,427	-2%	(24,325,221)	(24,508,885)
Transport	(777,500)	(7,522,121)	(6,752,648)	(424,892)	344,581	-5%	(9,478,996)	(9,325,077)
Other Property and Services	(59,831)	(2,677,848)	(2,251,235)	(50,977)	375,636	-14%	(3,024,740)	(3,014,739)
	(6,301,772)	(71,627,862)	(65,429,809)	(2,593,328)	3,604,725	-5%	(85,123,815)	(85,209,155)

Revenue

$51.32m in Rates have been raised to 30 April 2011. This is compared with a year to date budget of $51.34m, resulting in a negative variance of $0.02m.

- General Purpose Funding: 12% positive variance, due to increases in investment earnings and rates instalment interests. The Council continues to receive above average returns from its investments.
- Education & Welfare: 16% positive variance, due to higher grant income from the CALD CBC HACC funding.
- Community Amenities: 2% positive variance, due to more than budgeted activity in building licence fees.
- Recreation & Culture: 1% positive variance, due to minor increases across various areas.
- Transport: 12% negative variance, due to incorrectly phased income for Waste Services and various other Road Grant funded projects.
- Other Property & Services: 48% negative variance, due to incorrect phasing on Fleet disposal income.

C11/6002 – FINANCIAL STATEMENTS FOR APRIL 2011 (AMREC) (ATTACHMENT)

Expenditure

- Governance: 5% positive variance, due mainly to higher insurance recoups and lower expenditures across various other administration costs.
- General Purpose Funding: 3% negative variance, due to incorrectly phased expenditure for bank fees and charges.
- Law, Order, Public Safety: 7% positive variance, due mainly to lower expenditures in Community Security and the Safer City program.
- Health: 15% positive variance, due mainly to lower expenditures in Inspections and Binge Drinking Awareness projects.
- Education & Welfare: 9% positive variance, due to lower expenditures in various Community Development projects.
- Community Amenities: 8% positive variance, due mainly to lower expenditures in Waste services and various other Strategic Urban Planning projects.
- Recreation & Culture: 2% positive variance, due mainly to lower expenditures in Point Walter Golf and Reserve and the Vandalism & Graffiti project.
- Transport: 5% positive variance, due mainly to lower expenditures in Street Tree Pruning, Footpath Maintenance, Road Maintenance and various other projects.
- Other Property & Services: 14% positive variance, due to lower expenditures in Fleet costs.

Budget Amendments

Details of Budget Amendments requested during the month of April 2011 are shown in attachment **6002J April 2011.** Minor amendments have been carried out to adjust the responsible officer for the Melville Aquatic Fitness Centre redevelopment.

C11/6002 – FINANCIAL STATEMENTS FOR APRIL 2011 (AMREC) (ATTACHMENT)

Rates Collections and Debtors

Details of Rates and Sundry debtors are shown in attachment 6002L, 6002M and 6002N.

Rates, Refuse & FESA payments totalling $905k were received over the course of the month. Rate collection progress for April was 0.5% below target.

The total sundry debtors balance increased by $96k over the course of the month. The 90+ day's debtor balance remained relatively unchanged.

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

DESCRIPTION	LINK
Statement of Financial Activity – April 2011	6002A_April_2011
Operating Statements by Program – April 2011	6002B_April_2011
Representation of Working Capital – April 2011	6002E_April_2011
Reconciliation of Net Working Capital – April 2011	6002F_April_2011
Notes on Operating Statements reporting on variances of 10% or greater – April 2011	6002H_April_2011
Details of Budget Amendments requested – April 2011	6002J_April_2011
Summary of Rates debtors – April 2011	6002L_April_2011
Graph showing Rates collections – April 2011	6002M_April_2011
Summary of general debtors aged 90 days old or greater – April 2011	6002N_April_2011
Detail of Debts Written Off for the Month – April 2011	Not Applicable

C11/6002 – FINANCIAL STATEMENTS FOR APRIL 2011 (AMREC) (ATTACHMENT)

Granting Of Concession Or Writing Off Debts Owed To The Council

Delegation DA-032 empowers the Chief Executive Officer (CEO) to grant concessions and rates 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. The delegation is conditioned on the basis that a quarterly report detailing any debts written off is to be submitted to the Council.

No debts were written off, for the period of April 2011.

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 Regulations) 1996 Part 4 – Financial Reports
Regulation 34 of the Local Government (Financial Management) Regulations 1996 as amended in March 2005, requires that:

(1) A local government is to prepare each month a statement of financial activity reporting on the sources and applications of funds, 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 sub-regulation (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;
(b) by program; or
(c) by business unit.

C11/6002 – FINANCIAL STATEMENTS FOR APRIL 2011 (AMREC) (ATTACHMENT)

(4) A statement of financial activity, and the accompanying documents referred to in sub-regulation (2), are to be-
   (a) presented to the Council-
      (i) at the next ordinary meeting of Council following the end of the month to which the statement relates; or
      (ii) if the statement is not prepared in time to present it to the meeting referred to in subparagraph (i), to the next ordinary meeting of Council after that meeting;
   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 AAS 5, to be used in statements of financial activity for reporting material variances.

The variance adopted by the Council at its meeting held on 22 June 2010, which also adopted the 2010/11 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

A mid year budget review has taken place whereby Budget responsible officers were given the opportunity to review their operations and identify material permanent positive or negative variances like savings or operational efficiencies and increases in income or increases in expenditures.

A $1.4m surplus has been identified as a result and the purpose to which this surplus is to be utilised will be determined at the end of the financial year. The City's Long Term Financial Plan identifies that a surplus of $2m will be required at the conclusion of the 2010/2011 to help balance the 2011/2012 budget. When reviewing the income and expenditure year to date trends it is anticipated that, in the absence of any unforseen emergencies, this level of surplus will be achieved.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

No identifiable strategic, risk and environmental management implications.

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.

C11/6002 – FINANCIAL STATEMENTS FOR APRIL 2011 (AMREC) (ATTACHMENT)

CONCLUSION

The attached reports reflect a positive financial position of the City of Melville for April 2011.

At 8.40pm Cr Wieland left the meeting.

OFFICER RECOMMENDATION & COUNCIL RESOLUTION (6002)
ABSOLUTE MAJORITY

At 8.40pm Cr Ceniviva moved, seconded Cr Subramaniam –

1. That the Statements of Financial Activity and the Operating Statements for the period ending April 2011 as detailed in the following attachments be noted:

DESCRIPTION	LINK
Statement Of Financial Activity – April 2011	6002A_April_2011
Operating Statements By Program – April 2011	6002B_April_2011
Representation Of Working Capital – April 2011	6002E_April_2011
Reconciliation Of Net Working Capital – April 2011	6002F_April_2011
Notes On Operating Statements Reporting On Variances Of 10% Or Greater – April 2011	6002H_April_2011
Details of Budget Amendments requested – April 2011	6002J_April_2011
Summary Of Rates Debtors – April 2011	6002L_April_2011
Graph Showing Rates Collections – April 2011	6002M_April_2011
Summary Of General Debtors Aged 90 Days Old Or Greater – April 2011	6002N_April_2011
Detail of Debts Written Off – April 2011	Not Applicable

2. That by Absolute Majority Decision the budget amendments, as listed in the Budget Amendment Reports for April 2011, as detailed in attachment 6002J_April_2011, be adopted.

At 8.41pm the Mayor submitted the motion, which was declared
CARRIED BY ABSOLUTE MAJORITY (10/0)

15. EN BLOC ITEMS

At 8.41pm Cr Foxton moved, seconded Cr Halton -

That the recommendations for M11/5178, M11/5180, P11/3220, P11/3221, C11/5186, C11/5000, C11/6000, C11/6001 be carried En Bloc.

At 8.42pm the Mayor submitted the motion, which was declared

CARRIED (10/0)

At 8.42pm Cr Wieland returned to the meeting.

16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

16.1 Third Party Insurance for Boat Registration

The Presiding Member invited Cr Foxton to speak on the motion that she had presented regarding third party insurance for boat registration.

COUNCIL RESOLUTION **APPROVAL**

At 8.42pm Cr Foxton moved, seconded Cr Ceniviva -

That the Chief Executive Officer be requested to contact the South West Zone of the Local Government Association and Members of the Upper and Lower Houses of the Western Australian Parliament who represent the citizens of Melville and urge them to support a move towards mandating Third Party Insurance for boat registration in this State.

At 8.59pm the Mayor submitted the motion, which was declared

CARRIED (10/1)

17. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL

Nil

18. MATTERS FOR WHICH THE MEETING MAY BE CLOSED

At 9.00pm Cr Reidy moved, seconded Cr Barton –

That the meeting be closed to officers and the public to permit discussion on a confidential matter - Item M11/5188 which relates to the City of Melville Chief Executive Officer Contract covered under Section 5.23(2) (a), (c) & (d) of the Local Government Act 1995.

At 9.00pm the Mayor submitted the motion, which was declared

CARRIED (11/0)

At 9.00pm Mr M Tieleman, Mr J Christie, Ms C Young, Mr S Cope, Mr P Prendergast and Ms C Rourke left the meeting.

At 9.00pm Cr Nicholson left the meeting and returned at 9.04pm.

At 9.00pm Ms K Johnson, Executive Manager Organisational Development, joined the meeting.

M11/5188 – City of Melville Chief Executive Officer Performance Review

Disclosure of Interest

Item No.	M11/5188
Member	Dr S Silcox
Type of Interest	Financial Interest in accordance with the Act
Nature of Interest	Terms and conditions within contract relate to Dr Silcox's employment
Request	To leave the meeting
Decision of Council	Not Applicable

At 9.00pm Dr S Silcox, having declared an interest in this item, left the meeting.

OFFICER RECOMMENDATION & COUNCIL RESOLUTION (5188)
ABSOLUTE MAJORITY

At 9.05pm Cr Wieland moved, seconded Cr Kinnell –

1. **That by absolute majority decision the five year Chief Executive Officer Employment Contract, effective 20 March 2011, provided under confidential attachment be adopted.**

2. **That by absolute majority decision His Worship the Mayor be authorised to finalise the adopted Contract ensuring the adopted Contract value is not exceeded.**

3. **That the completed Contract be provided to Elected Members under confidential cover.**

At 9.29pm the Mayor submitted the motion, which was declared
CARRIED BY ABSOLUTE MAJORITY (8/3)

Cr Barton requested that her name be recorded as voting against the motion.

At 9.30pm Reidy moved, seconded Kinnell –

That the meeting come out from behind closed doors and officers and the public be invited back into the meeting.

At 9.30pm the Mayor submitted the motion, which was declared **CARRIED (11/0)**

No members of the public returned to the meeting.

19. CLOSURE

There being no further business to discuss, His Worship the Mayor declared the meeting closed at 9.31pm.