



City of
Melville

AGENDA

ORDINARY MEETING OF THE COUNCIL

NOTICE OF MEETING

I respectfully bring to the attention of Elected Members that an Ordinary Meeting of the Council will be held in the Council Chambers, Melville Civic Centre, 10 Almondbury Road, Booragoon on Tuesday, 19 July 2022 commencing at 6.30pm.

Marten Tieleman
Chief Executive Officer

The City of Melville acknowledges the Bibbulmun people as the Traditional Owners and custodians of the lands on which the City stands today and pays its respect to the Whadjuk people, and Elders both past, present and emerging.

Use this link to [Register to attend the Ordinary Meeting of the Council 19 July 2022 electronically](#)



Our Vision

Engaging with our diverse community to achieve an inclusive, vibrant and sustainable future.

Our Mission

To provide good governance and quality services for the City of Melville community.

Our Values

Excellence

Striving for the best possible outcomes

Participation

Involving, collaborating and partnering

Integrity

Acting with honesty, openness and with good intent

Caring

Demonstrating empathy, kindness and genuine concern



Making A Deputation

A deputation is a verbal presentation by one or more members of the public on a matter to be considered at the Council meeting. Deputations are made at the relevant Agenda Briefing Forum, held one week prior to the Ordinary Meeting of Council.

Information on making a deputation is available on the City's website [Request to make a Deputation](#).

Public Question Time

You can ask a question at a Council meeting during Public Question Time. Information on how to ask a question can be found on the City's website [Public Question Time](#).

Complex questions or those related to matters on the agenda and requiring a response at the meeting are "questions on notice" and should be submitted in writing, by the close of business the Tuesday prior to the meeting.

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Any person or entity who has an application before the City must obtain, and should only rely on, written notice of the City's decision and any conditions attaching to the decision, and cannot treat as an approval anything said or done at a Council or Committee meeting.

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Audio Recording/ Access to Recording

In accordance with the Council Policy CP- 088 Creation, Access and Retention of Audio Recordings of the Public Meetings this meeting is electronically recorded. All recordings are retained as part of the City's records in accordance with the State Records Act 2000 and the General Disposal Authority for Local Government Records. The Audio recording may be accessed at www.melvillecity.com.au/agendas.

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MOTIONS

With Previous Notice

Nil.

Without Previous Notice

Nil.

MATTERS FOR WHICH THE MEETING WAS CLOSED

Nil.

1 OFFICIAL OPENING

2 ATTENDANCE AND APOLOGIES

In Attendance

Councillors

Ward

Officers

Apologies

On Approved Leave of Absence

Honourable G Gear
Cr G Barber

Mayor
Bicton-Attadale-Alfred Cove Ward

3 DECLARATIONS BY MEMBERS

3.1 Declarations by Members who have not read and given due consideration to all matters contained in the business papers presented before the Meeting.

3.2 Declarations by Members who have received and not read the Elected Members Bulletin.

4 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

Approved Deputations:

5 DISCLOSURES OF INTEREST

5.1 Financial or Proximity Interests

Under sections 5.60A and/or 5.60B of the Local Government Act 1995

5.2 Disclosure of Interest That May Cause a Conflict

Under 22 Local Government (Model Code of Conduct) Regulations 2021 or a City of Melville Code of Conduct)

6 PUBLIC QUESTION TIME

6.1 Questions Received with Notice

6.2 Questions Received at the Meeting

6.3 Questions Taken on Notice at Previous Meeting

7 AWARDS AND PRESENTATIONS

8 APPLICATIONS FOR NEW LEAVES OF ABSENCE

9 CONFIRMATION OF MINUTES

9.1 Ordinary Meeting of the Council – 21 June 2022
[OMC Minutes 21 June 2022](#)

That the minutes of the Ordinary Meeting of Council held on 21 June 2022 be confirmed as a true and accurate record.

9.2 NOTES OF AGENDA BRIEFING FORUM – 12 JULY 2022
(The Notes of the Agenda Briefing Forum will be available on Friday, 15 July 2022)

That the minutes of the Agenda Briefing Forum held on 12 July 2022 be confirmed as a true and accurate record.

10 NEW BUSINESS OF AN URGENT NATURE

11 IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

12 PETITIONS

12.1 Petition – Amendments to the Attadale Foreshore Master Plan Recommendations

A petition signed by 124 residents and 19 non-residents of the City of Melville was received on 28 June 2022 and reads as follows:

“We, the undersigned, all being electors of the City of Melville, respectfully request that the Council:

- 1. That the Alignment of the existing foreshore pathway and fence along the northern shoreline of the Attadale Bushland be retained and an elevated boardwalk installed to replace the pathway extending through to the dog wet area (at the west end of the Marine Park) and connecting to the Point Walter pathway.*
- 2. That the existing northern foreshore pathway alignment and fence along the dog exercise area between Haig Road and Roberts Road be retained.*
- 3. That the City of Melville work with DBCA and the community to establish increased foreshore protection for both these pathways, by way of propagating sedges for example, including temporary protective barriers until new vegetation at the foreshore is stabilised.”*

OFFICER RECOMMENDATION

That the petition bearing 124 signatures of residents and 19 signatures of non-residents be acknowledged, and a report be prepared to present at the September Ordinary Meeting of Council.

13 ADOPTION OF RECOMMENDATIONS EN BLOC

That the recommendations for:

- **C22/6000 – Investment Statements for May 2022**
- **C22/6001 – Schedule of Accounts Paid May 2022**

be carried En Bloc.

14 REPORTS

14.1 Reports from Committees

Nil.

14.2 REPORTS OF THE CHIEF EXECUTIVE OFFICER

Management Services

M22/5915 – NEW LEASE AGREEMENT – POINT WALTER RECREATION AND CONFERENCE CENTRE (REC) (ATTACHMENT)

Ward : All
 Category : Strategic
 Subject Index : Community
 Customer Index : Community and Sports & Recreation Clubs
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : None
 Works Programme : Not Applicable
 Funding : Not Applicable
 Responsible Officer : Bruce Taylor – Manager Governance & Property
 Jeremy Rae – Strategic Property Executive

AUTHORITY / DISCRETION

DEFINITION

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

M22/5915 – NEW LEASE AGREEMENT – POINT WALTER RECREATION AND CONFERENCE CENTRE (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- The City has received formal written request from Department of Local Government, Sport and Cultural Industries who operate the Point Walter Recreation and Conference Centre to have its lease extended for another 42 years following the current lease expiring on 8 October 2022.
- The request is for an initial term of 21 years together with a further term of 21 years with all other terms and conditions remaining the same as the existing lease which is due to expire this year in October.
- The CEO's delegated authority under *DA-007 Leasing/Licensing of Property* is limited to lease terms of up to 10 years. This report seeks the Council's approval to authorise the City's CEO to enter into a lease agreement with a term of 21 years plus a further 21 years with the State of Western Australia acting through the Department of Local Government, Sport and Cultural Industries.
- The Management Order provides for a maximum lease term of 42 years subject to the consent of the Minister for Lands at the time.
- This report recommends the Council approve the CEO to execute the new lease agreement, for another maximum term of 42-year lease with the Point Walter Recreation and Conference Centre which is to commence upon the expiry date of the existing lease. The new lease includes the same terms as the current lease and was prepared by the City's solicitors and is up to date with current legislation.

BACKGROUND

The City of Melville has received a request for a new 21 + 21-year lease from the Department of Local Government, Sport and Cultural Industries who manage the Point Walter Recreation and Conference Centre (PWRCC) and who has an existing long-term lease at Point Walter Reserve in Bicton, which expires on 8 October 2022. PWRCC has always fulfilled and honoured all its obligations under the terms of the existing lease and the City has no objection to the new draft 42-year lease being granted so that they can continue to operate and serve the WA community. The new draft lease prepared by the City's solicitors continues from the existing old lease which includes that the Lessee is responsible for maintenance, renewal, and upgrades of all items within the lease premises, including any fencing which encompasses the lease boundary as detailed in the lease agreement.

DETAILS

PWRCC is located at 1 Stock Road, Bicton on "A" Class Crown Reserve (4813) which is vested to the City of Melville for the purpose of "Recreation". The Centre is managed through the Department of Local Government Sport and Cultural Industries and has been operating since 1980 under its current lease agreement. Primary users of the camp for both accommodation and outdoor recreation purposes include primary and secondary schools (55%), tertiary institutions (10%), community and family groups (25%) and corporate bodies (10%). The facility is used by these groups for school camps, educational seminars, leadership retreats, indigenous and cultural training, staff conferences, special needs support, low-income family support, weddings and family social functions.

M22/5915 – NEW LEASE AGREEMENT – POINT WALTER RECREATION AND CONFERENCE CENTRE (REC) (ATTACHMENT)

Service delivery includes activities such as flying fox, high ropes challenge course, abseiling, archery, paddling, raft making, pool games, team games and mountain biking. The Centre is considered an irreplaceable resource for the WA community.

The Centre received major building upgrades in 1986 and 2006 including additional dormitories, function room and day use facilities. All upgrades were undertaken and paid for by the Department of Sport and Recreation. Since 1980 the Centre has been made available for the purposes of both passive and active recreation pursuits with the vision to create a vibrant, inclusive and connected WA community. The Centre has been managed by a team of professional staff since 1996 to plan, develop and provide service delivery for low cost accommodation and outdoor recreation programs to the community.

Since 2006 the Centre has undertaken significant capital upgrade works since 2006 including the construction of additional dormitories, function room, day ablution facilities and recreation facilities such as an archery pavilion, abseiling and flying fox towers. They have also implemented a bushfire management plan to manage bushfire risk in prone areas of the Reserve.

Draft New Lease Agreement (*Prepared by Solicitors*)

The City instructed its solicitors to prepare a current new draft lease based on the terms and conditions of the old lease. Due to the age of the old lease which was prepared in 1980 and the Deed of Variation in 1986, it was necessary to update the lease to reflect current statutory legislation such as the *Land Administration Act 1997*, the *Local Government Act (WA) 1995* and the *Goods and Services Tax Act 1999*.

The essential terms of the new draft lease include:

1. Term of 21 years with a further term of 21 years
2. Commencement Date - 11 August 2022
3. Expiry Date - 10 August 2064
4. Annual Administration Fee - \$720.15 Exc. GST (2022-23 FY)
5. Permitted Purpose "*Camp boarding and other educational, recreational and community activities*"

The City's administration, in conjunction with the Department of Local Government, Sport and Cultural Services have agreed the standard terms and conditions of the old lease will continue with the exception that \$1 peppercorn rent previously applied be excluded and the City's standard annual administration fee be applied in its absence this amount being \$720.15 (excl GST) for the 2022-23 financial year.

[Final Draft Lease of Point Walter Recreation Camp](#)

M22/5915 – NEW LEASE AGREEMENT – POINT WALTER RECREATION AND CONFERENCE CENTRE (REC) (ATTACHMENT)

Land

Reserve 4813, Lot 11241 on Deposited Plan 217553 being the whole of the land comprised in Certificate of Crown Land Title Volume LR LR3053 Folio 825.

Premises

That part of the Land as-is more particularly identified on the plan annexed hereto as **Annexure 1** and comprising on area of 6.977 hectares including all Improvements and services located thereon.

Term

21 years commencing on 9 October 2022 and expiring on 8 October 2043.

Further Terms

21 years commencing on 9 October 2043 and expiring on 8 October 2064.

Commencement Date

9 October 2022.

Rent

Annual Administration fee of \$720.15 Exc. GST as adopted in the 2022-2023 Annual Budget by Council. The Annual Administration Fee will be reviewed and set by Council each year in the City of Melville's Annual Budget and will be increased annually by December CPI (Perth All Groups). The Annual Administration Fee will apply from 1 July in each year.

Permitted Purpose

Camp Boarding and Other Educational, Recreational and Community Activities.

Public Liability Insurance

Minimum Value = Twenty Million Dollars (\$20,000,000.00).

Additional terms and conditions

1.1 No commercial activities

Lessee must not carry on or suffer or allow to be carried on the Premises any activity any commercial business or trade, without the prior written consent of the Lessor.

Warden

The Lessee must employ or provide a warden to always reside on the Premises.

1.2 Premises to be responsibly managed and supervised

The Lessee must ensure that the Premises are responsibly managed and always supervised.

M22/5915 – NEW LEASE AGREEMENT – POINT WALTER RECREATION AND CONFERENCE CENTRE (REC) (ATTACHMENT)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not Applicable.

II. OTHER AGENCIES / CONSULTANTS

Not Applicable.

STATUTORY AND LEGAL IMPLICATIONS

Applicable Delegations by Council

DA-007 Leasing/Licensing of Property (last review date 16 June 2020) authorises the CEO by the Council (Delegator) to dispose of property by way of lease/license or hire agreement and advertise the disposal in accordance with section 3.58 of the *Local Government Act 1995*. This authority extends to negotiate, execute, and administer lease and other contractual documents for the purpose of lease, license or hire agreement, including assignment, extension, and renewal.

The conditions on the delegation to the CEO are limited to the disposal of an interest in land/property by leasehold or license or hire agreement to an annual property rental value of \$100,000 p.a. (excl GST) and a maximum lease term of 10 years. Further, if the market value of the disposition is less than \$20,000 p.a. the transaction is specifically excluded from section 3.58 of the LGA 1995 (Ref. *Local Government (Functions & General) Regulations 1996*).

FINANCIAL IMPLICATIONS

Lessee is to pay for all legal cost's incidental to the preparation of the new lease agreement as stipulated in the agreement estimated to be no more than \$2,000 plus GST.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The risks associated for the City in granting long term lease of up to 42 years include: -

1. Long term master-planning planning for improvements and future uses of the leased Reserve may be compromised in the long run as the assets are locked up with long term leases and the City may not be able to terminate the leases without the agreement by mutual consent from the Clubs and Associations. In effect tying these important community assets up.

M22/5915 – NEW LEASE AGREEMENT – POINT WALTER RECREATION AND CONFERENCE CENTRE (REC) (ATTACHMENT)

2. Clubs and Associations potentially run a greater risk of insolvency the longer the lease term, due to many factors which are outside the control of the club and association. Ongoing solvency of the Lessee and Licensee should be a paramount consideration when granting long term leases and licenses to the parties. Under existing lease and license agreements the city is unable to terminate the agreements in the event of insolvency or membership decline of the clubs and associations. This is a significant risk to the city and community and may result in sporting and recreational reserves being tied up for years and not being used for their intended purpose.
3. The Council endorsed Sustainability Policy, Environmental Policy and Commitments on Climate Action may require the City to provide improvements and modification to the assets or changes to use, resource sharing arrangements and billing structures, which may or may not be agreed by the clubs at a later stage. The proposed new long-term leases do not allow for this, and the city is exposed to risk that may impact its ability to meet its targets in relation to these leased assets. A clause will need to be included in future lease/license agreements to enable the Council to maintain partnership, control or terminate a lease as required to meet the wider community needs specifically to meet the environmental or sustainability objectives and targets.

POLICY IMPLICATIONS

Not applicable.

ALTERNATIVE OPTIONS AND THEIR IMPLICATIONS

Not approve the new draft long term lease agreement.

This is not a preferred option as the Point Walter Recreation and Conference Centre provides an essential and very important service to the WA community and is part of the State Government of Western Australia on which the Crown owns the land and issued the Management Order for this purpose.

CONCLUSION

The City historically provides long term leases to clubs and organisations where there is demonstrated sustainable community benefit and minimal financial support provided by the City for the provision of the facilities being leased. The request from the Department (State Government) is in line with the term and conditions of the previous lease which has been run without financial or other input required from the City. The lessee manages and fully maintains the facility and as such there is no ongoing financial liabilities for the City.

As such the City's Officer's recommend that the CEO sign and execute the new lease agreement so it can take effect prior to the expiry date of the existing lease.

M22/5915 – NEW LEASE AGREEMENT – POINT WALTER RECREATION AND CONFERENCE CENTRE (REC) (ATTACHMENT)

OFFICER RECOMMENDATION (5915)

APPROVAL

That the Council approves the new [Lease of Point Walter Recreation Camp](#) and authorises the Chief Executive Officer to sign and execute the new lease agreement with the State of Western Australia acting through the Department of Local Government, Sport and Cultural Industries so it can continue to operate the Point Walter Recreation and Conference Centre.

M22/5919 – PROPOSED WASTE LOCAL LAW – DISCONTINUE PROCESS (REC)

Ward : All
 Category : Strategic
 Subject Index : 2.01 5A - Acts, Statutes and Local Laws
 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 M17/5559 Proposed City of Melville Waste Local Law 2017 – Ordinary Meeting of Council held 18 July 2017
 Works Programme : Not Applicable
 Funding : Not Applicable
 Responsible Officer : Anne Hill – Governance Project Officer

AUTHORITY / DISCRETION

DEFINITION

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

M22/5919 – PROPOSED WASTE LOCAL LAW – DISCONTINUE PROCESS (REC)

KEY ISSUES / SUMMARY

- The *Waste Avoidance and Resource Recovery Act 2007* provides local governments with the ability to make local laws specifically dealing with certain aspects of controlling and managing residential waste within their district.
- In July 2017, the Council authorised the CEO to advertise a draft Waste Local Law for public comment and submit it to the relevant Ministers. As required by the enabling Act, the draft local law was also submitted for the consent of the Director General of the Department of Water and Environmental Regulation.
- By the end of the public comment period, the FOGO trial was underway, and doubts were emerging about the practicality of the compliance and enforcement elements of the proposed local law, with both officers and members of the public expressing concern.
- Progress on the proposed Waste Local Law was deferred to allow people to become familiar with the FOGO initiative through the City's education and communication mechanisms.
- As a consequence of developments over the last five years, including:
 - the success of the FOGO trial,
 - the City's experience that communication and education have been highly effective in achieving public cooperation with the use of recycling and FOGO bins, and
 - the challenges experienced by other local governments in enforcing their waste local laws;officers have concluded that there is little necessity or justification for an enforcement-focused waste local law.
- In the interests of avoiding excessive regulation and unnecessary "red tape", it is recommended that the Council resolve that no further action be taken on the introduction of a Waste Local Law.

BACKGROUND

The *Waste Avoidance and Resource Recovery Act 2007* (WARR Act) gives local governments the ability to make local laws specifically to deal with residential waste, providing greater flexibility than exists under the City's *Health Local Laws 1997* which were made under the *Health Act 1911*.

A Waste Local Law was drafted based on a waste local law template developed by the Western Australian Local Government Association. At the Ordinary Meeting of Council on 18 July 2017, the Council authorised the CEO to publish the draft *Waste Local Law 2017* for public comment, coinciding with the commencement of the Food Organics and Garden Organics (FOGO) trial in the City of Melville.

M22/5919 – PROPOSED WASTE LOCAL LAW – DISCONTINUE PROCESS (REC)

The WARR Act requires that the CEO of the Department of Water and Environmental Regulation give consent to a draft waste local law before it is made by the relevant local government, so the draft local law was also submitted to that department.

A primary aim of the proposed *Waste Local Law 2017* was to minimise contamination of the kerbside recycling and FOGO bins by introducing a range of offences for which people could be penalised. Following the submission period, and with data emerging from the FOGO trial, particular concern was raised about the practicality of the compliance and enforcement elements of the draft local law.

The Department of Water and Environmental Regulation requested some changes to the draft local law, the most significant being the repeal of the whole of Part 4 of the City's *Health Local Laws 1997*. At that time, there was uncertainty about the anticipated amendments to the *Public Health Act 2016* and it was felt to be premature to repeal all the provisions of Part 4 of the City's Health Local Laws without adequate legislative replacement.

Further progress on the local law was deferred to allow people to become familiar with the FOGO initiative through the City's education and communication mechanisms and to assess the impact of the amendments to the Public Health Act once these were known.

DETAIL

The WARR Act provides extensive powers to the City to manage residential waste and provide appropriate waste management and disposal services.

Section 64 of the WARR Act provides that local governments may make local laws for certain specified purposes. These are focused on regulating the use of City-provided waste receptacles, including matters such as maintenance, placement and contents of waste receptacles, and setting penalties for contravention of any of those provisions.

Local governments may also use the local law to define the frequency of waste collection by the local government or its contractors, and to set fees and charges in relation to waste services provided by the local government. These two matters can be addressed within the local government's existing powers without resorting to a local law.

Most local governments that have made waste local laws have based them on the waste local law template published by the Western Australian Local Government Association. These local laws are generally highly prescriptive and heavily enforcement-focused, with substantial penalties for contravention. This has proven to be a recurring concern for the Parliamentary Joint Standing Committee on Delegated Legislation, which has disallowed or required local government undertakings in its assessment of several waste local laws.

Anecdotally, it appears that local governments with waste local laws are not making extensive use of the enforcement provisions, in part because identifying offenders to an appropriate standard of proof is difficult and resource intensive. Most local governments focus primarily on communication and education, as does the City of Melville.

M22/5919 – PROPOSED WASTE LOCAL LAW – DISCONTINUE PROCESS (REC)

Since 2017, the City's 3-bin waste service has become well-established and accepted by the community. Substantial public education and communication efforts have been made by the City, and most residents are now familiar and generally compliant with the requirements of using the City's residential waste collection system. Where the City identifies that a person is not using the waste services properly, an officer will communicate with them to explain the benefits of doing so. The experience of officers is that in almost all cases, this has been sufficient to resolve the matter.

The City is seeking to reduce unnecessary regulation and "red tape" which impose direct and indirect costs on the community without proportionate benefit. Under current circumstances, and in the context of the City's experience and assessed risk, there is no demonstrated necessity for a City of Melville waste local law and no clear benefit to making one. The absence of a local law has no bearing on the enforcement of the provisions of the WARR Act, which include penalties for contravention.

Amendments to the *Public Health Act 2016* have rendered some provisions of Part 4 of the City's *Health Local Laws 1997* redundant. However, since local laws are invalid to the extent of their inconsistency with State laws, this redundancy has no practical implications and can be dealt with through an amendment local law specific to those provisions.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Concerns were raised during the public consultation on the draft *Waste Local Law 2017* relating particularly to the fact that bins are required to be placed on public property for collection. During the time the bins are on the verge, the resident has no knowledge of or control over the actions of third parties who may contravene provisions relating to inappropriate material being placed in the bins, or damage to the bins. It would be unfair for the resident to be fined for the actions of unidentifiable third parties.

II. OTHER AGENCIES / CONSULTANTS

The comments made by the Department of Water and Environmental Regulation on the draft City of Melville *Waste Local Law 2017* were considered. The most significant of these was a request that the City repeal all of Part 4 of the City's *Health Local Laws 1997*, rather than the City's proposal to repeal only those provisions that would specifically conflict with the WARR or with the proposed waste local law

Officers also considered comments made and undertakings required by the Joint Standing Committee on Delegated Legislation in relation to waste local laws made by other local governments. The Committee has expressed concern on several occasions that offence provisions in waste local laws are too prescriptive, in some cases to the point of being unreasonable, and the penalties are frequently disproportionate to the consequences of the breach.

M22/5919 – PROPOSED WASTE LOCAL LAW – DISCONTINUE PROCESS (REC)

STATUTORY AND LEGAL IMPLICATIONS

There is no statutory requirement for the City of Melville to have a waste local law unless directed to do so by the CEO of the Department of Water and Environmental Regulation under section 61(1)(b) of the WARR Act. Such a direction may only be given if the local law is relevant to the protection of human health or the environment (section 61(4)). No such direction has been given or is expected.

FINANCIAL IMPLICATIONS

There are no significant financial implications arising from the recommendation of this report, although some minor savings will be achieved if the process of making the local law is discontinued.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement & Consequence	Level of Risk	Risk Treatment
In the absence of a waste local law, the City may have limited tools to deal with cases of significant abuse or misuse of the waste management services.	Minor consequences which are possible, resulting in a Medium level of risk.	Maintain efforts in education and communication to raise awareness and rate of compliance.
Misuse of the City's waste management services by individuals may result in damage to the City's property, and contamination of the recyclable and organic waste streams, leading to increased landfill requirements.	Minor consequences which are possible, resulting in a Medium level of risk. The effectiveness of waste local laws in mitigating this risk is not quantifiable.	Maintain efforts in education and communication to raise awareness and rate of compliance.

POLICY IMPLICATIONS

There are no significant policy implications associated with the recommendation of this report. Focusing on communication and education to minimise misuse of the City's waste management services is a proportionate response to the risk and consistent with CP-114 - Compliance and Enforcement Policy, and the operational Compliance and Enforcement Guidelines. Communication and education are the preferred primary response for matters without serious implications for health and safety.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council may choose to direct the CEO to proceed with drafting a Waste Local Law. Given the elapsed time since the previous public consultation process, this will require recommencing the local law process under section 3.12 of the *Local Government Act 1995*.

M22/5919 – PROPOSED WASTE LOCAL LAW – DISCONTINUE PROCESS (REC)

If a waste local law were to be introduced providing power to issue infringements or initiate prosecution relating to residential waste receptacles, officers would continue to use communication and education as their preferred approach. However, if the prescriptive provisions and extensive penalties of the template local law are used, additional enforcement resources will need to be allocated. There is no easy solution to the challenge of identifying offenders to an adequate level of proof to sustain prosecutions or refuse infringement appeals.

CONCLUSION

Since 2017, the City's 3-bin waste collection system has been highly successful, and the great majority of residents are responsible in their use of the residential waste management services. The system of highly prescriptive local law requirements and punitive enforcement measures that were thought to be necessary in 2017 are no longer a proportionate response to what is a relatively minor level of non-compliance with waste management expectations. There is no sound legal or policy case for making a waste local law in the City of Melville.

Discontinuing this process would align with the City's commitment to reducing local government "red tape".

OFFICER RECOMMENDATION (5919)

APPROVAL

That the Council resolves to discontinue the process of making a Waste Local Law.

M22/5920 – REVIEW OF STATUTORY COUNCIL DELEGATIONS (AMREC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Delegations made under the *Local Government Act 1995, Cat Act 2011, Dog Act 1976* and deemed scheme provisions in the *Planning and Development (Local Planning Schemes) Regulations 2015* must by law be reviewed by the delegator at least once every financial year and listed in a register kept by the CEO.
- A comprehensive review of all Council delegations was undertaken in 2020 resulting in a reduction and consolidation of delegation instruments. All delegations were reviewed again in June 2021.
- The statutory review of Council delegations for 2022 has been undertaken and it is recommended that the outcome of this review be adopted by the Council.
- Following the Council's resolution on this matter the Register of Delegations will be updated and provided to Elected Members for information.

BACKGROUND

The functions and powers allocated to local governments by legislation are so many and so diverse that it would be unrealistic to expect every Council to make every discretionary decision itself. The business of local government could not be carried out if that were the case.

Delegation of local government powers, duties and functions to the CEO and appropriate officers is an effective way to reduce red tape and expedite operational decision-making processes. Efficient use of the power of delegation assists local governments to deal effectively with a wide range of procedural matters that require the exercise of some discretion but are inherently administrative rather than strategic in nature.

Delegation is only permitted when an Act or regulations specify that the local government has this power, and the delegation powers may only be exercised in relation to the statutory powers, duties or functions conferred or imposed on the local government by that legislation unless otherwise specified. A delegator may specify limitations or conditions, such as a financial limit, on the exercise of a delegation. Sub-delegation is generally only permitted where specifically provided for in the relevant legislation.

Delegations made under the *Local Government Act 1995, Cat Act 2011, Dog Act 1976* and the deemed provisions of *Local Planning Schemes* identified in the *Planning and Development (Local Planning Scheme) Regulations 2015* must be reviewed by the delegator at least once every financial year and the CEO must maintain a register of current delegations made under this legislation.

Other legislation does not require an annual review of delegations or the keeping of a register, but most local governments, including the City of Melville, review all delegations annually and include them all in the register of delegations.

M22/5920 – REVIEW OF STATUTORY COUNCIL DELEGATIONS (AMREC) (ATTACHMENT)

The responsibility for review, where required by legislation, lies with the delegator. This report deals only with Council delegations. The CEO is responsible for reviewing delegation or sub-delegation of powers and duties held by the CEO either directly under statute or under delegation from Council.

It is important to note that, as a matter of procedure, Elected Members are informed of major decisions made or actions taken under delegation.

Delegates are not obliged to exercise a delegation granted to them, even if it is primarily procedural. Where a matter is highly contentious, decisions relating to it may be referred, at the discretion of the CEO or the request of the Council, to the Council to make the decision by resolution despite the presence of a relevant delegation.

Under the *Local Government Act 1995*, local governments may delegate powers and duties to certain committees (section 5.16) or to the CEO (section 5.42). The Act imposes additional obligations on committees that hold delegated powers or duties. There are currently no delegations to committees made by the City of Melville Council.

Under some legislation, local governments may delegate directly to certain officers other than the CEO, and such delegation may be appropriate where no sub-delegation power exists.

Under the *Local Government Act 1995*, any employee other than the CEO, to whom any power or duty has been delegated (or sub-delegated) under Part 5 Division 4 of that Act, is classified as a designated employee and is obliged to lodge primary and annual returns under sections 5.75 and 5.76 of that Act. These obligations do not apply to delegations made under other legislation.

In 2020, a comprehensive review of delegations was undertaken to determine the relevance, consistency, efficiency and effectiveness of the then-current delegations and assess them against the relevant State legislation. This resulted in a significant reduction in the number of delegation instruments and a general clarification and compilation of all delegations and authorisations into the City of Melville Statutory Delegation and Authorisation Manual.

Council last reviewed its delegations in June 2021. No Council delegations have been made or revoked since the review endorsed by Council on 15 June 2021.

DETAIL

In summary, the review has found that one delegation, DA-036 – Release of Confidential Information, is redundant and should be revoked, but that the other Council delegations remain appropriate and valid.

Minor administrative amendments are required to some instruments of delegation (not to the delegation itself) to:

- change the process owner and/or subdelegate to reflect internal changes in functional responsibilities,
- reflect a change in the title of Director Technical Services to Director Environment and Infrastructure (subdelegate level), or
- add a policy reference for the guidance of the delegate.

M22/5920 – REVIEW OF STATUTORY COUNCIL DELEGATIONS (AMREC) (ATTACHMENT)

As part of the CEO's review of his own delegations to other employees, some instruments of delegation by Council have been amended at the sub-delegation level to reflect changes to organisational structure and functional responsibilities. Sub-delegations by the CEO of delegated powers are provided for under section 5.44(3) of the *Local Government Act 1995* and are not the subject of this report.

Delegation to be revoked

On investigation, DA-036 – Release of Confidential Information does not appear to be a valid delegation as it does not delegate a statutory power or duty of the local government. DA-036 authorises the CEO to release information prescribed in regulation 29A(2) of the *Local Government (Administration) Regulations 1996* as confidential for the purposes of section 5.95(6) of the *Local Government Act*, but that the local government has, under section 5.95(7) of the *Local Government Act*, resolved to make available for inspection.

Clauses 6.2(6), 17.1(6) and 18.2(3) of the *City of Melville Local Government (Meeting Procedures) Local Law 2022* reflect the State legislation with respect to confidential information, in that prescribed confidential information may only be released if the Council resolves to do so in accordance with the Act and Regulations.

5920 DA-036 – Release of Confidential Information provides for the CEO to release such information if the Council resolution did not specify a release date. However, the CEO already holds this power under section 5.41(c) of the *Local Government Act*: "cause council decisions to be implemented". Regulation 29A(3) limits the discretion of the Council and the CEO by placing restrictions on the timing of the release of such information referred to in subregulations 29A(2)(a) and (b).

It would be appropriate, when Council resolves to make prescribed confidential information available for public inspection under section 5.95(7) of the *Local Government Act*, for the resolution to specify either a date or a triggering event for the release of the information.

DA-036 is unnecessary and it is recommended that the Council resolve to revoke it. Since section 5.42(1) of the *Local Government Act* requires an absolute majority decision to make a delegation, the revocation should also be by absolute majority decision.

Administrative amendments to instruments of delegation

The administrative amendments, which do not constitute substantive changes to the statutory delegations, are listed below and will be reflected in the 2022 Register.

M22/5920 – REVIEW OF STATUTORY COUNCIL DELEGATIONS (AMREC) (ATTACHMENT)

Delegation	Legislation	Title	Amendment required
DA-007	Local Government Act	Leasing/Licensing of Property	Change process owner and sub-delegate to Director Corporate Services
DA-016	Local Government Act	Administration of Local Laws	Add reference to Policy CP-114 Compliance and Enforcement Policy and Guidelines Amend position title (Director Technical Services is now Director Environment and Infrastructure)
DA-022	Bush Fires Act	Legal Proceedings – Bush Fires	Add reference to Policy CP-114 Compliance and Enforcement Policy and Guidelines
DA-038	Local Government Act	District Boundary Adjustment	Change process owner and sub-delegate to Director Corporate Services
DA-061	Local Government Act / Planning & Development Act	Enforcement and Legal Proceedings – Urban Planning Matters	Add reference to Policy CP-114 Compliance and Enforcement Policy and Guidelines
DA-073	Food Act	Delegations under the <i>Food Act 2008</i>	Add reference to Policy CP-114 Compliance and Enforcement Policy and Guidelines
DA-105	Building Act	Prosecutions and Legal Proceedings – Building Matters	Add reference to Policy CP-114 Compliance and Enforcement Policy and Guidelines
DA-122	Dog Act	Delegation of Duties and Powers under the <i>Dog Act 1976</i>	Add reference to Policy CP-114 Compliance and Enforcement Policy and Guidelines
DA-125	Cat Act	Delegation of Duties and Powers under the <i>Cat Act 2011</i>	Add reference to Policy CP-114 Compliance and Enforcement Policy and Guidelines
DA-128	Building Act	Building Orders	Add reference to Policy CP-114 Compliance and Enforcement Policy and Guidelines

STAKEHOLDER ENGAGEMENT

Directorates have been consulted regarding the delegations relevant to their operations.

M22/5920 – REVIEW OF STATUTORY COUNCIL DELEGATIONS (AMREC) (ATTACHMENT)

Public consultation was not undertaken as delegations are an internal matter related to the operational management and administration of the local government's statutory powers, duties and functions.

STATUTORY AND LEGAL IMPLICATIONS

The City of Melville must comply with section 5.46 of the Local Government Act which requires the Council to review, at least once every financial year, its delegations made under that Act and deemed scheme provisions in the Planning and Development (Local Planning Schemes) Regulations. The City must also comply with section 47(2) of the Cat Act and section 10AB(2) of the Dog Act, which impose similar annual review requirements for delegations made under those Acts.

Of the 52 current delegations made by Council, 36 have been made under the [Local Government Act 1995](#). The following key provisions in the Local Government Act relate to the delegation of local government powers and duties by the Council under that Act.

- 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)].
- All Delegations will have effect for the period of time specified in the delegation, or if not specified, indefinitely [s.5.16(3)(a), s.5.45(1)(a)].
- Any decision to amend or revoke a delegation must be by absolute majority [s.5.16 (3)(b), s.5.45(1)(b)].
- Section 5.17 limits the delegation of powers and duties to certain committees.
- Section 5.45(2)(a) permits a local government to perform any of its functions by acting through a person other than the CEO (but it may not delegate its functions other than to the CEO).
- An employee to whom a power or duty has been delegated under Part 5 Division 4 is a designated employee (s.5.74) who must lodge primary and annual returns (s. 5.75, s.5.76).

Section 5.43 prohibits the local government from delegating to the CEO any of the following powers or duties:

- (a) *any power or duty that requires a decision of an absolute majority of the council;*
- (b) *accepting a tender which exceeds an amount determined by the local government for the purpose of this paragraph;*
- (c) *appointing an auditor;*
- (d) *acquiring or disposing of any property valued at an amount exceeding an amount determined by the local government for the purpose of this paragraph;*
- (e) *any of the local government's powers under section 5.98, 5.98A, 5.99, 5.99A or 5.100;*
- (f) *borrowing money on behalf of the local government;*
- (g) *hearing or determining an objection of a kind referred to in section 9.5;*
- (ha) *the power under section 9.49A(4) to authorise a person to sign documents on behalf of the local government;*
- (h) *any power or duty that requires the approval of the Minister or the Governor;*
- (i) *such other powers or duties as may be prescribed.*

M22/5920 – REVIEW OF STATUTORY COUNCIL DELEGATIONS (AMREC) (ATTACHMENT)

Regulation 18G of the *Local Government (Administration) Regulations 1996* prescribe that the following powers and duties of a local government cannot be delegated to the CEO:

- (a) *Section 7.12A(2), (3)(a) or (4) (duties related to audit reports);*
- (b) *Regulations 18C (approve process for selection and appointment of CEO) and 18D (consider a review on the performance of the CEO carried out under s.5.38).*

In addition to the above references, the following legislative provisions are also relevant to Council delegations:

- Regulation 18G of the [Local Government \(Administration\) Regulations 1996](#)
- Section 127 of the [Building Act 2011](#)
- Regulation 70 of the [Building Regulations 2012](#)
- Sections 48 and 59 of the [Bush Fires Act 1954](#)
- Sections 44, 45, 46 and 47 of the [Cat Act 2011](#)
- Sections 10AA and 10AB of the [Dog Act 1976](#)
- Section 118 of the [Food Act 2008](#)
- Section 16 and 17 of the [Graffiti Vandalism Act 2016](#)
- Section 26 and 344 of the [Health \(Miscellaneous Provisions\) Act 1911](#)
- Regulation 15D of the [Health \(Asbestos\) Regulations 1992](#)
- Sections 50, 53, 58 and 59 of the [Interpretation Act 1984](#)
- Section 21 of the [Public Health Act 2016](#)
- Schedule 2 clauses 82, 83 and 84 of the [Planning and Development \(Local Planning Schemes\) Regulations 2015](#)

New delegations, amendment and revocation of delegations under the Local Government Act, Cat Act, Dog Act, Graffiti Vandalism Act and the Planning and Development (Local Planning Schemes) Regulations must be made by absolute majority decision of Council.

Delegations under other legislation, and appointments and authorisations, do not require an absolute majority.

FINANCIAL IMPLICATIONS

There are no financial implications arising from the recommendations of this report.

Ineffective use of delegation powers may result in additional financial cost to the City as a consequence of the additional administrative resources required to refer minor operational decisions to Council, and to the City's customers as a consequence of slower decision-making.

M22/5920 – REVIEW OF STATUTORY COUNCIL DELEGATIONS (AMREC) (ATTACHMENT)

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement & Consequence	Level of Risk	Risk Treatment
A situation may arise that requires an urgent decision to ensure public health and safety	Moderate to serious consequences which are likely - high risk	Prudent and appropriate delegation of powers and functions to allow prompt response.
The CEO or sub-delegates exercise a delegated power or perform a delegated duty or function that results in a decision contrary to the outcomes required by Council.	Moderate consequences which are unlikely – medium risk	Conditions may be imposed to limit the exercise of delegated powers. Clear policies are established to guide officers in the exercise of the delegated powers. The Council may exercise a delegated power or perform a delegated function itself at its own discretion and may revoke a delegation. All exercises of delegated authority are recorded to ensure accountability.
Amendments to legislation may render a delegation inconsistent with the relevant legislative provisions.	Minor consequences that are unlikely – low risk	Annual review of delegations.

POLICY IMPLICATIONS

Many Council delegations are supported by policies adopted by the Council to guide the use of discretionary powers. The recommendations of this review do not require additional policies or amendments to existing policies.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council may choose to reject the recommendation to revoke DA-036 and leave the delegation in place. This will have no practical implication, since DA-036 does not delegate a specific statutory power and merely reiterates a power of the CEO that is already held by the CEO under the Local Government Act.

M22/5920 – REVIEW OF STATUTORY COUNCIL DELEGATIONS (AMREC) (ATTACHMENT)

CONCLUSION

The review of Council delegations has identified DA-036 – Release of Confidential Information as being redundant and suitable for revocation. The review did not identify a need for amendment to other delegations. The review found that minor administrative changes to some instruments of delegation were needed to reflect changes to functional responsibilities and titles and to make reference to CP-114 – Compliance and Enforcement Policy to guide delegates exercising delegated powers with an enforcement element.

OFFICER RECOMMENDATION (5920)

ABSOLUTE MAJORITY

- 1. That the Council resolves to:**
 - a. Endorse the review of the Council’s statutory delegations of authority; and**
 - b. Note the proposed minor administrative amendments to the instruments of delegation as described in this report.**

- 2. That the Council by absolute majority decision resolves to revoke Council delegation DA-036 – Release of Confidential Information.**

Corporate Services

C22/6000 – INVESTMENT STATEMENTS FOR MAY 2022 (REC)

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

AUTHORITY / DISCRETION

DEFINITION

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

KEY ISSUES / SUMMARY

This report presents the investment statements for the period ending 31 May 2022 for the Council's information and noting.

C22/6000 – INVESTMENT STATEMENTS FOR 31 MAY 2022 (REC)

BACKGROUND

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

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

DETAIL

The following statement details the investments held by the City as at 31 May 2022.

CITY OF MELVILLE STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 31 MAY 2022		
SUMMARY BY FUND		
Municipal		\$31,846,824
Reserve		\$151,509,568
Trust		\$-
Citizen Relief		\$224,057
TOTAL		\$183,580,449
SUMMARY BY INVESTMENT TYPE		
11AM		\$12,257,926
31Days at Call		\$6,000,000
60Days at Call		\$2,000,000
90Days at Call		\$16,600,000
Term Deposit		\$146,722,523
TOTAL		\$183,580,449
SUMMARY BY CREDIT RATING		
AAA Category	AAA	
AA Category (AA+ to AA-)	AA-	\$130,079,734
A Category (A+ to A-)	A+	\$11,500,716
	A	
	A-	
BBB+ Category	BBB+	\$42,000,000
TOTAL		\$183,580,449

C22/6000 – INVESTMENT STATEMENTS FOR 31 MAY 2022 (REC)

Exposure to an individual institution is limited according to Council policy and in May 2022 the investments were within the acceptable limits.

Investment with financial institutions						
Institution	Credit Rating	Credit Rating Category	Funds held at period end	Actual %	Limit Per Policy	
ANZ	AA-	AA Category	\$ 33,700,000	18.36%	30.00%	✓
AMP	BBB+	BBB+ Category	\$ -	0.00%	15.00%	✓
Bankwest	AA-	AA Category	\$ -	0.00%	30.00%	✓
Bank of Queensland	BBB+	BBB+ Category	\$ 22,500,000	12.26%	15.00%	✓
ING Bank	A-	A Category	\$ -	0.00%	25.00%	✓
Bendigo & Adelaide	BBB+	BBB+ Category	\$ 19,500,000	10.62%	15.00%	✓
CBA	AA-	AA Category	\$ 15,500,000	8.44%	30.00%	✓
Macquarie	A+	A Category	\$ 3,000,716	1.63%	25.00%	✓
NAB	AA-	AA Category	\$ 46,538,174	25.35%	30.00%	✓
St George	AA-	AA Category	\$ -	0.00%	30.00%	✓
Suncorp	A+	A Category	\$ 8,500,000	4.63%	25.00%	✓
Westpac	AA-	AA Category	\$ 34,341,560	18.71%	30.00%	✓
TOTAL			\$ 183,580,449	100%		

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

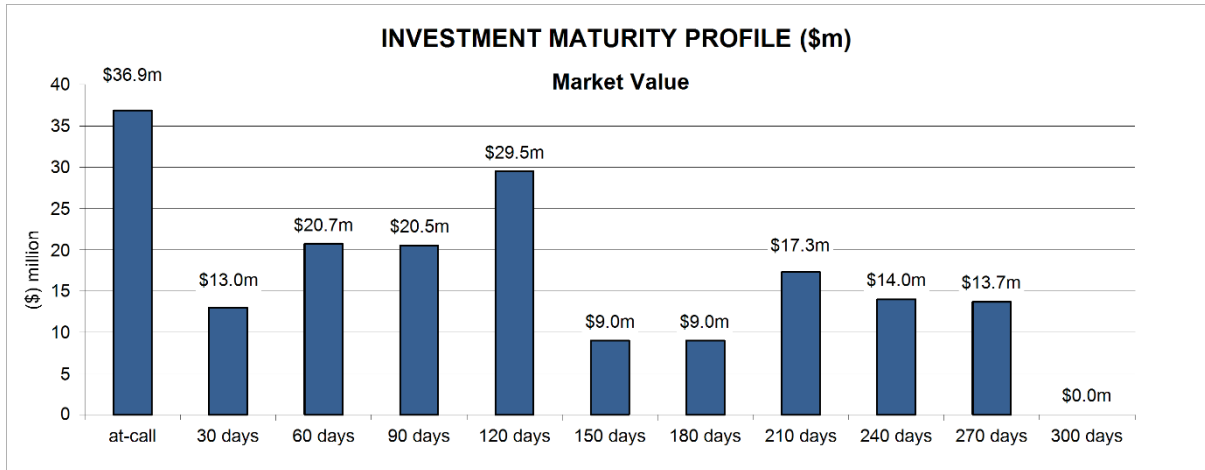
The City's investments were invested within the limits allowed within each category rating for May 2022.

Maximum Percentage of Average Investment Portfolio Balance				
Long Term Rating	Funds held at period end \$	Actual %	Limit Per Policy	
AAA Category	\$ -	0%	100%	✓
AA Category (AA+ to AA-)	\$ 130,079,734	71%	80%	✓
A Category (A+ to A-)	\$ 11,500,716	6%	50%	✓
BBB+ Category	\$ 42,000,000	23%	25%	✓
TOTAL	\$ 183,580,449	100%		

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

C22/6000 – INVESTMENT STATEMENTS FOR 31 MAY 2022 (REC)

The below graph summarises the maturity profile of the City’s investments at market value as at 31 May 2022. The immediacy of the demand for funds depends on the particular Fund or Reserve Account(s) of the City. The maturity profile provided in the table above meets the liquidity requirements of the Council policy.

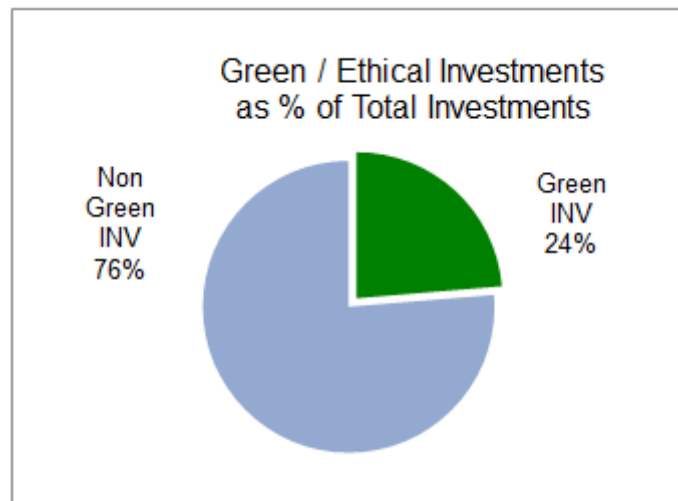


The City exercises a deliberative preference in favour of green/ethical investments. This preference will however only be exercised after the foremost investment considerations of credit rating, comparable rate and risk diversification are fully satisfied.

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

Environmental, Social & Governance Term Deposit (ESGTD) is a similar product to Green investments. ESGTD’s provide the opportunity to invest in products that seek to mitigate environmental and social risks.

The total investment in green/ethical investments as at 31 May 2022 was \$43,500,000 or 24% of total investment holdings being in non-fossil fuels institutions, compared to \$50,500,000 (26%) in April 2022. The total investments holding for May and April were \$183,580,449 and \$191,079,951 respectively.



C22/6000 – INVESTMENT STATEMENTS FOR 31 MAY 2022 (REC)

Green / Ethical Investment with financial institutions			
Institution	Credit Rating	Credit Rating Category	Funds held at period end
Bendigo & Adelaide	BBB+	BBB+ Category	\$ 19,500,000
CBA	AA-	AA Category	\$ 15,500,000
Suncorp	A+	A Category	\$ 8,500,000
TOTAL			\$ 43,500,000

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

This report is available to the public on the City’s website.

II. OTHER AGENCIES / CONSULTANTS

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

STATUTORY AND LEGAL IMPLICATIONS

The following legislation is relevant to this report:

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

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

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

C22/6000 – INVESTMENT STATEMENTS FOR 31 MAY 2022 (REC)

FINANCIAL IMPLICATIONS

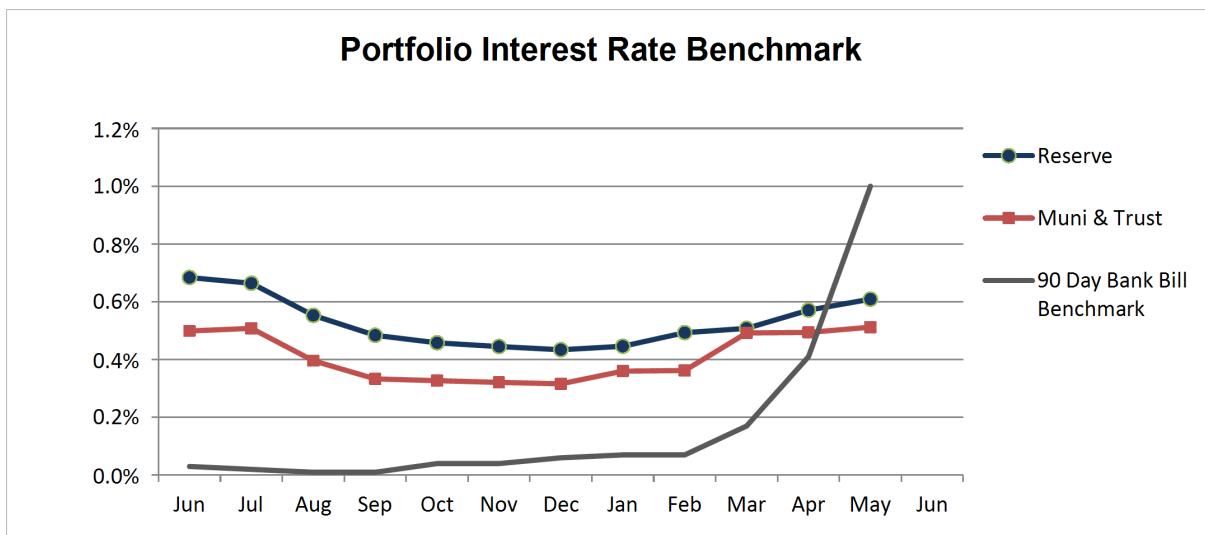
For the period ending 31 May 2022:

- Investment earnings on Municipal and Trust Funds were \$118,854 against a year-to-date budget of \$146,364 representing a negative variance of \$27,510.

The weighted average interest rate for Municipal and Trust Fund investments as at 31 May 2022 was 0.51% which compares unfavourably to the benchmark three month bank bill swap (BBSW) reference rate of 1.00%.

- Investment earnings on Reserve accounts were \$660,078 against a year-to-date budget of \$661,833 representing a negative variance of \$1,755.

The weighted average interest rate for Reserve account investments as at 31 May 2022 was 0.61% which compares unfavourably to the benchmark three month bank bill swap (BBSW) reference rate of 1.00%.



STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Strategic

The interest earned on invested funds assists in addressing the following key priority area identified in The City of Melville Corporate Business Plan 2020-2024.

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

Risk

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

C22/6000 – INVESTMENT STATEMENTS FOR 31 MAY 2022 (REC)

Environmental

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable as this report only presents information for noting.

CONCLUSION

The City's investment portfolio is invested in highly secure investments with a low level of risk yielding a weighted average rate of return of 0.51% to 0.61% which is now below the benchmark three month bank bill swap (BBSW) reference rate of 1.00%.

24% of the City's investment portfolio is invested in authorised deposit taking institutions that do not lend to industries engaged in the exploration for, or production of, fossil fuels. This compared to 26% in April 2022.

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

OFFICER RECOMMENDATION (6000)

NOTING

That the Council notes the Investment Report for the period ending 31 May 2022.

C22/6001 – SCHEDULE OF ACCOUNTS PAID FOR MAY 2022 (REC) (ATTACHMENT)

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

AUTHORITY / DISCRETION

DEFINITION

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

KEY ISSUES / SUMMARY

This report presents the details of payments made under delegated authority to suppliers for the period of May 2022 and recommends that the Schedule of Accounts Paid 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 Management) Regulations 1996*, where this power has been delegated, a list of payments for each month is to be compiled and presented to the Council.

C22/6001 – SCHEDULE OF ACCOUNTS PAID FOR MAY 2022 (REC) (ATTACHMENT)

The list is to show each payment, payee name, amount and date of payment and sufficient information to identify the transaction.

DETAIL

The Schedule of Accounts Paid for May including Payment Register numbers, Cheques: 819-820, Electronic Funds Transfers batches: 768-773, Trust Payments, Card Payments and Payroll was distributed to the Elected Members of the Council on 1 July 2022.

A total of \$8,275,896 direct creditor payments were paid during the month, of which, 20% of payments were paid to suppliers located within the City of Melville and 30% to suppliers within the South West Group, compared to 19% and 30% of total of \$9,175,524 direct creditor payments made over April 2022 respectively. The largest payment of \$1,474,718 during the month was the ESL payment to the Department of Fire and Emergency Services (DFES). Approximately 96% of supplier invoices are paid within 30 days of receipt of the invoices. The below table details the Summary of Payments Made for the period:

The below table details the Summary of Payments Made for the period:

SCHEDULE OF PAYMENTS MADE MAY 2022		
<i>Payments made under Delegated Authority DA-035</i>		
MUNICIPAL FUNDS - DIRECT CREDITOR PAYMENTS		
<i>Cheques</i>	Chq Payment Register No. 819 and 820	\$1,243.09
	Chq Payment on Restricted Funds Register No.	\$0.00
	Less Cancelled Chqs	-
<i>Electronic Funds Transfers</i>	EFT Payment Register No. 768,770, 771 and 773	\$7,726,207.93
	EFT Payment on Restricted Funds Register No. 769,772 and 120	\$379,429.50
	Less Cancelled EFTs	(\$4,795.50)
		\$8,102,085.02
<i>Direct Debits</i>	Bank Fees	\$11,592.35
	Ampol Fuel	\$112,547.21
<i>Direct Payments</i>		\$49,671.32
	Total Direct Creditor Payments	\$8,275,895.90
<i>Payroll</i>	Total Pay 23 and 24	\$3,874,629.92
	Total Payroll	\$3,874,629.92
<i>Cards</i>	Westpac Corporate Cards	\$15,166.00
	Westpac Purchase Cards	\$83,078.69
	American Express	\$11,332.50
	Total Card Payments	\$109,577.19
	Total Direct Creditor Payments from Municipal Account	\$12,260,103.01

C22/6001 – SCHEDULE OF ACCOUNTS PAID FOR MAY 2022 (REC) (ATTACHMENT)

Schedule of Payments Made continued.

INTERFUND & INVESTMENT TRANSACTIONS			
<i>Interfund Transfers</i>			
Loan			\$0.00
Citizen Relief Trust			\$0.00
Citizen Relief Operating			\$0.00
Municipal		(\$9,233,081.71)	
Reserve		\$9,233,081.71	
Trust			\$0.00
<i>Total Interfund Transfers</i>			\$0.00
<i>New Municipal Investments</i>			
Westpac Bank	11/05/2022		\$2,700,000.00
Westpac Bank	17/05/2022		\$4,800,000.00
Westpac Bank	19/05/2022		\$1,800,000.00
Westpac Bank	20/05/2022		\$800,000.00
Westpac Bank	25/05/2022		\$700,000.00
<i>Total New Investments</i>			\$10,800,000.00
Grand Total			\$23,060,103.01

Details of the payments are shown in attachment [6001 Payment Details May 2022](#).

Any payment over and above \$25,000.00 has been highlighted under the Payment Amount column in the attachment to this statement named 'Listing of Payments made under Delegated Authority'.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not applicable.

II. OTHER AGENCIES / CONSULTANTS

STATUTORY AND LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

C22/6001 – SCHEDULE OF ACCOUNTS PAID FOR MAY 2022 (REC) (ATTACHMENT)

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable as this report presents information for noting only.

CONCLUSION

The Schedule of Payments for the month totals \$23,060,103.01.

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

OFFICER RECOMMENDATION (6001) NOTING

That the Council notes the Schedule of Accounts paid for the period May 2022 as approved by the Director Corporate Services in accordance with delegated authority DA-035, and detailed in attachment [6001 Payment Details May 2022](#).

C22/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR MAY 2022 (AMREC)
(ATTACHMENTS)

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

AUTHORITY / DISCRETION

DEFINITION

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

KEY ISSUES / SUMMARY

This report presents:

- The Statements of Financial Activity by Nature or Type and Rate Setting Statement by Program and Nature or Type, for the period ending 31 May 2022 and recommends that they be noted by the Council.
- The variances for the month of 31 May 2022 and recommends that they be noted by the Council.
- The Budget amendments required for the month of 31 May 2022 and recommends that they be adopted by Absolute Majority decision of the Council.

**C22/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR MAY 2022 (AMREC)
(ATTACHMENTS)**

BACKGROUND

The Statements of Financial Activity for the period ending 31 May 2022 have been prepared and tabled in accordance with the *Local Government (Financial Management) Regulations 1996*.

OVERALL SUMMARY OF THE CITY'S FINANCIAL POSITION

- The overall financial position for the City remains sound. Year to date revenue is \$4.6m over the year-to-date budget. This is largely due to increased grant income of \$2.9m from the Federal Assistance grants for roads and general. Expenditure is under budget year to date by \$3.2m. This is largely the result of savings in employment costs and materials and contracts.
- The City's total investments holding for May were \$183.5m of which the Municipal cash balance at the end of the month was \$31.8m and \$151.5m was held in reserve accounts, which are restricted to the defined purpose for which the reserve account was established.
- The Green investment in authorised banking institutions as at 31 May was \$43.5m or 24% of total investment holdings, compared to \$55.5m (26%) in April 2022.
- Rates raised as at May 2022 were \$92.1m with a positive variance of \$0.36m compared to the approved budget of \$91.7m. This increase is mainly due to interim rate adjustments processed on various residential improved properties.
- Total debtor collections for May 2022 equalled \$1.6m. The Rates collection target is 93.6% and the actual collection is tracking slightly higher at 94.8%. The year-to-date total outstanding debtors (including all rates and sundry debtors) is \$7.48m.

DETAIL

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

1. Statement of Financial Activity by Nature or Type
Provides details on the various categories of income and expenditure.
2. Rate Setting Statement by Program
Provides details on the Program classifications.
3. Rate Setting Statement by Nature or Type
Provides details on the Nature or Type classifications.

Variations

A detailed summary of variations and comments based on the Rate Setting Statement by Nature or Type is provided in attachments:

[6002B Statement Nature Type May 2022](#): Rate Setting Statement by Nature or Type
[6002H Statement of Variations May 2022](#): Statement of Variations in Excess of \$100,000

**C22/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR MAY 2022 (AMREC)
(ATTACHMENTS)**

Revenue

Rates raised as at May were \$92,115,344, compared to a year to date budget of \$91,758,690. The positive variance of \$356,654 is due to interim rate adjustments processed on various residential improved properties.

Rates Collection

SUMMARY OF RATE DEBTOR MOVEMENT					
Detail	Actuals Current Month YTD	Actuals Previous Month YTD	% Diff Current Mth to Previous Mth	Actuals This Month Last Year YTD	% Diff Current Mth to Current Mth Last Yr
Opening Balance - 1 July	6,491,862	6,491,862	0%	9,142,487	-29%
Debtors Raised	118,109,311	118,572,902	0%	102,327,864	15%
Payments Received	(117,775,616)	(116,825,436)	1%	(103,612,939)	14%
Closing Balance	6,825,557	8,239,329	-17%	7,857,412	-13%

Total rate debtor collections for the month equalled \$950,181.

Sundry Debtor Movement

SUMMARY OF SUNDRY DEBTOR MOVEMENT					
Detail	Actuals Current Month YTD	Actuals Previous Month YTD	% Diff Current Mth to Previous Mth	Actuals This Month Last Year YTD	% Diff Current Mth to Current Mth Last Yr
Opening Balance - 1 July	882,151	882,151	0%	1,238,865	-29%
Invoices Raised	5,809,712	5,350,828	9%	5,703,088	2%
Receipts	(6,037,389)	(5,442,927)	11%	(5,969,153)	1%
Prepayments	2,047	(31,468)	-107%	17,429	-88%
Closing Balance	656,520	758,583	-13%	990,229	-34%

Sundry debtor balances decreased by \$102,062 over the course of May from \$758,583 to \$656,520 of which total 90 day sundry debtors over \$1,000 for the month is \$123,523 representing 16% of total sundry debtors.

Money Expended in an Emergency and Unbudgeted Expenditure

Not applicable for May 2022.

Budget Amendments

Details of Budget Amendments requested for the month of May 2022 that reflect effective changes to budgets are shown in attachment [6002J May 2022](#). Budget amendments that are purely administrative and detail movements between budget responsible officers are not included in the attachment. This reporting is aligned with legislative requirements.

**C22/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR MAY 2022 (AMREC)
(ATTACHMENTS)**

Variances greater than \$100,000 processed in May 2022 are highlighted in the attachment.

Granting of concession or writing off debts owed to the City

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

Sundry Debtors

\$0.97 in small balances were written off in the month of May 2022.

Rate Debtors

There were no rates write offs for the month of May 2022.

The following attachments form part of the Attachments to the Agenda for the month of May 2022.

DESCRIPTION	LINK
Statement of Financial Activity By Nature or Type	<u>6002A Statement Nature Type May 2022</u>
Rate Setting Statement by Program	<u>6002B Rate Setting Program May 2022</u>
Rate Setting Statement by Nature or Type	<u>6002B Rate Setting Nature Type May 2022</u>
Representation of Net Working Capital	<u>6002E Net Working Capital May 2022</u>
Reconciliation of Net Working Capital	<u>6002F Reconciliation Net Working Capital May 2022</u>
Notes on Rate Setting Statement reporting on variances of 10% or \$100,000 whichever is greater	<u>6002H Notes Rate Setting Statement May 2022</u>
Details of Budget Amendments requested	<u>6002J Budget Amendments May 2022</u>
Summary of Rates Debtors	<u>6002L Summary Rate Debtors May 2022</u>
Graph Showing Rates Collections	<u>6002M Rates Collections Graph May 2022</u>
Summary of General Debtors aged 90 Days Old or Greater	<u>6002N General Debtors Aged 90 days May 2022</u>

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not applicable.

II. OTHER AGENCIES / CONSULTANTS

Not applicable.

**C22/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR MAY 2022 (AMREC)
(ATTACHMENTS)**

STATUTORY AND LEGAL IMPLICATIONS

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

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

34. Financial activity statement report — s. 6.4

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

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

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

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

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

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

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

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

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

The variance adopted by the Council is 10% or \$100,000 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.

**C22/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR MAY 2022 (AMREC)
(ATTACHMENTS)**

FINANCIAL IMPLICATIONS

Variances

Variances are detailed and explained in attachment [6002H Notes Rate Setting Statement May 2022](#): Notes on Statement of Variances in excess of \$100,000 by Nature or Type.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The impact of Covid-19 on the services provided by the City, the health of the city employees and community itself as well as the financial impacts on the City, State and Federal economy is a significant strategic risk. The City has well developed business continuity plans in place and has enacted the Incident Response Team (IRT) to coordinate and plan the City's response to the Covid-19 crisis.

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable

CONCLUSION

The attached financial reports reflect a positive financial position of the City of Melville as at 31 May 2022.

**C22/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR MAY 2022 (AMREC)
(ATTACHMENTS)**

OFFICER RECOMMENDATION (6002)

NOTING and ABSOLUTE MAJORITY

That the Council:

- 1. Notes the Rate Setting Statement and Statements of Financial Activity for the month ending 31 May 2022 as detailed in the following attachments:**

DESCRIPTION	LINK
Statement of Financial Activity By Nature or Type	6002A Statement Nature Type May 2022
Rate Setting Statement by Program	6002B Rate Setting Program May 2022
Rate Setting Statement by Nature or Type	6002B Rate Setting Nature Type May 2022
Representation of Net Working Capital	6002E Net Working Capital May 2022
Reconciliation of Net Working Capital	6002F Reconciliation Net Working Capital May 2022
Notes on Rate Setting Statement reporting on variances of 10% or \$100,000 whichever is greater	6002H Notes Rate Setting Statement May 2022
Details of Budget Amendments requested	6002J Budget Amendments May 2022
Summary of Rates Debtors	6002L Summary Rate Debtors May 2022
Graph Showing Rates Collections	6002M Rates Collections Graph May 2022
Summary of General Debtors aged 90 Days Old or Greater	6002N General Debtors Aged 90days May 2022

- 2. By Absolute Majority Decision adopts the budget amendments, as detailed in the attached Budget Amendment Reports for May 2022 [6002J Budget Amendments May 2022](#)**

Environment and Infrastructure

EI22/3991 – RESPONSE TO PETITION TO RECONSTRUCT THE CROSSOVER ON LAMOND STREET, ALFRED COVE (REC)

Ward : Bicton - Attadale – Alfred Cove
 Category : Operational
 Subject Index : Footpath Construction
 Customer Index : Engineering, 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 13.1 Petition – Crossover 54B Lamond Street, Alfred Cove – Ordinary Meeting of Council held 17 May 2022
 Works Programme : 2020-2021
 Funding : Not Applicable
 Responsible Officer : Kimberly Brosztl – Manager Engineering

AUTHORITY / DISCRETION

DEFINITION

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

EI22/3991 – RESPONSE TO PETITION TO RECONSTRUCT THE CROSSOVER ON LAMOND STREET, ALFRED COVE (REC)

KEY ISSUES / SUMMARY

- As part of the City's 2021-2022 Capital Works Program, the construction of a new path along Lamond Street between Curtis Road and Latham Street was approved.
- Before construction, the City conducted a community consultation over two weeks in October 2021 which included providing residents with a detailed design of the proposed works for feedback.
- During this time, the City received five resident inquiries about the proposed path, however no response was received from the residents at 54B Lamond Street.
- Further correspondence to residents in Lamond Street was provided on 11 March 2022 advising of pending path construction.
- The Installation of the new path and crossover outside 54B Lamond was completed by the City's contractors on 4 April 2022 and concerns were raised by the property owner.
- In response, City officers investigated these concerns and as a result, acknowledged that the vehicle access to 54B Lamond Street had not been constructed in accordance with the City's crossover guidelines and would arrange for the works to be rectified by the contractor.
- A petition requesting the crossover be reinstated to a flatter level, initiated by the property owner of 54B Lamond Street, and signed by an additional 19 City residents, was included as an agenda item for the Ordinary Council Meeting on 17 May 2022.
- Following the petition, crossover and path outside 54B Lamond Street was removed by the property owner without the City's authority. As a result, reinstatement works to meet the City's Crossover Guidelines and Specifications were completed on 2 June 2022.
- This report considers the petition and provides an officer recommendation to maintain the current path and crossover, as it provides the safest, most cost effective and equitable solution for path and crossover construction.

BACKGROUND

As part of the 2021-2022 Capital Works Program and in accordance with the City's Path Policy and the Path Guidelines and Specification, new path design and construction program was undertaken for a section of Lamond Street from Latham Street to Curtis Road in Alfred Cove.

As part of community consultation, letters and the proposed path design were mailed to affected residents on 4 October 2021, with a consultation closing date of 25 October 2021. As a result of this notification, the City received five resident inquiries about the proposed path. At that time, there was no feedback from the residents at 54B Lamond Street.

Further correspondence to residents in Lamond Street by the City's contractors (Dowsing) was provided on 11 March 2022 advising of pending path construction. No feedback was received from the residents at 54B Lamond Street regarding the pending path and crossover construction.

EI22/3991 – RESPONSE TO PETITION TO RECONSTRUCT THE CROSSOVER ON LAMOND STREET, ALFRED COVE (REC)

The installation of the new path and crossover outside 54B Lamond Street was completed by the City's contractors on 4 April 2022. Although the crossover apron and footpath through the crossover had been installed to the City's Crossover Guidelines and Specification, the crossover section from the back of path towards the property boundary had been installed incorrectly as a steep short ramp on three crossovers and did not tie in smoothly to the rest of the crossover. The property owners at 54B Lamond Street contacted Elected Members and the City raising concerns about the major changes to the vehicle access to their property on at 54B Lamond Street.

The City acknowledged the error verbally and in an email on the 6 April 2022, noting that the slope of the crossover section from the back of path towards the property line was unacceptable and advised it would be rectified to the City's Crossover Guidelines and Specifications as soon as possible. The City's attempt to reinstate the crossover was obstructed by the resident at 54B Lamond Street as they were not happy with the apron design even though it met required standards. The apron relates to the section of crossover immediately abutting the road and terminating at the top of the path. The residents were seeking a lower slope for the apron section that would meet disability standards.

Not satisfied with the resolution, the resident submitted a petition on the 20 April 2022, signed by 21 residents from various locations within the City. The petition was presented to the 17 May 2022 Ordinary Meeting of Council.

Following the lodgement and consideration of the petition by Council, the initial crossover and path outside 54B Lamond Street was removed by the property owner without the City's authorisation. Separate action is being undertaken in respect to this matter and reinstatement works to meet the City's Crossover Guidelines and Specifications were completed on the 2 June 2022. The reinstatement works were completed to ensure that section between the back of path and property boundary was completely replaced and met required standards, including disability access.

DETAIL

A petition containing 21 signatures was received on the 20 April 2022 and considered at the Ordinary Meeting of Council on 17 May 2022. The petition requested that Council consider the following.

“Reinstate the crossover of 54b Lamond Street from its current large incline, back to a level equal with the road, verge and property height – in its entirety without a change in gradient beyond the council stipulated guidelines of no more than 2-2.5% for disabled persons to transverse.

We support the Bolton family's need for their disabled/elderly family to not walk to either of the two cross streets for access at a council approved access point or for their deaf 9yo daughter to risk injury through falling due to her issues with vertigo caused by her medical condition and an unnecessary inclined access to her own home, which is greater than that stated as suitable by the council for pedestrians.”

The purpose of the City's Crossover Guidelines and Specifications are to provide a consistent framework to assist property owners, builders and designers to understand and meet the City's requirements.

EI22/3991 – RESPONSE TO PETITION TO RECONSTRUCT THE CROSSOVER ON LAMOND STREET, ALFRED COVE (REC)

The City's Crossover Guidelines and Specification were developed based on the Western Australian Local Government Association (WALGA) Crossover Guidelines and in conjunction with statutory and best practice standards and supporting documentation which includes the following:

- Austroads Guide to Road Design
- Australian Standards AS2890.1: Off-street parking (2004)
- State Planning Policy 3.1 – Residential Design Codes (R-Codes)
- WAPC Liveable Neighbourhoods

Reinstatement works to address the concerns of the 'large incline' within the petition and to meet the City's Guidelines and Specifications have been completed.

The additional request to reinstate the crossover "*back to a level equal with the road, verge and property height – in its entirety without a change in gradient beyond the council stipulated guidelines of no more than 2-2.5% for disabled persons to transverse.*" will not meet the City's Crossover Guidelines and Specification and would impact the functionality of the path and increase the likelihood of stormwater inundation to private properties.

The gradient levels of 2-2.5% in the City's Crossover Guidelines and Specification only refers to the section of path and not the entire crossover. Path construction guidelines dictate a maximum crossfall of 2.5% to cater for people who have a disability travelling along the path. (Austroads Guide to Road Design 6A, Clause 5.6). The 2-2.5% gradient mentioned within the petition is a recommended crossfall for the section of path to allow water to shed and avoid ponding.

The maximum longitudinal gradient for a crossover from the back of the path to the property boundary is defined by Australian Standards to be 5% (AS2890.1:2004, Clause 2.6.2 and Clause 3.3a). This allows safe Disability Access from the path to the property boundary and meets the Austroads Guide to Road Design Part 6A Paths for Walking and Cycling and AS1428.1:2021 Design for access and mobility. The reinstated crossover has a less than 5% gradient from the back of the path to the property boundary meeting standards.

The purpose of the crossover (driveway) is to provide vehicle access from the kerb or edge of the road to the front boundary of the property. Priority is given to pedestrians traveling along the path. The crossover is not a pedestrian access point from the road and provisions "*for disabled persons to transverse*" have been made through dedicated pedestrian access points along the path. These pedestrian access points are pedestrian ramps that are specifically designed to ensure a smooth and safe transition for all path users, including the visually impaired from the road to the path network.

In terms of property access, the safest place for a person with a mobility impairment to park a vehicle, would be as close to the entrance of the house as possible, such as within the property or on the driveway. This is a similar situation to ACROD parking bays being located close to the entrance on a public building.

Should the driver with the impairment park on the road, then they would have to exit the vehicle directly into a traffic lane which poses risks. However, if they are the passenger when parked on the road, they could safely exit the vehicle directly onto the path and have appropriate access from the path to the driveway.

Either driver or passenger can safely exit the vehicle on a crossover that meets disability standards as is the case at property related to the petition.

EI22/3991 – RESPONSE TO PETITION TO RECONSTRUCT THE CROSSOVER ON LAMOND STREET, ALFRED COVE (REC)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Community consultation for the new path on Lamond Street was carried out in accordance with the Council Policy CP-002 Stakeholder Engagement and included the initial letter and design in October 2021 and the letter from the City's contractor in March 2022 advising of the planned path construction works.

II. OTHER AGENCIES / CONSULTANTS

No engagement with other agencies or consultants has occurred.

STATUTORY AND LEGAL IMPLICATIONS

There are no statutory or legal implications. The City has constructed the path and crossover to meet Australian and City standards.

FINANCIAL IMPLICATIONS

Options	Description	Required Budget
1	Do nothing and leave the existing path and crossover as it meets industry and standards with regards to fall and accessibility.	Nil
2	Reinstate the original levels of the crossover/driveway by removing the new path and crossover to meet the desired levels of the property owners at 54b Lamond Street.	\$4,950 – Concrete Works \$1,975 – Traffic Management \$6,925 – Total cost (Not including staff time or disposal of existing material)

The reinstatement of the full crossover after the unauthorised removal was undertaken by the City at an additional cost of \$5,895 (not including staff time costs) to the Lamond Street path construction project. The City will be seeking to recover these costs.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Strategic Alignment

The construction of new pathways and crossovers delivers on the following key strategies and actions of the City's Strategic Community Plan:

Healthy Lifestyles:

- New pathways provide a safe place where people are encouraged to be physically and mentally healthy in an attractive outdoor environment.

Safe and Secure:

- The City's Path and Crossover Guidelines and Specifications will ensure new and renewed pathways and road crossings are safe to use.

EI22/3991 – RESPONSE TO PETITION TO RECONSTRUCT THE CROSSOVER ON LAMOND STREET, ALFRED COVE (REC)

Sustainable and Connected Transport

- New pathways provide connectivity to existing networks that will encourage alternative forms of transport, including public transport, walking or cycling.

Risk Statement & Consequence	Level of Risk	Risk Treatment
Reduction in crossover levels could cause property inundation during a storm event and or cause disruption to water flow or causing pooling issues	High likelihood with Moderate consequences, resulting in a High level of risk.	Continue to support Policy and Guidelines

POLICY IMPLICATIONS

Continued deviations and exceptions to Council Policy CP-033 and CP-110 will set an undesirable precedent for the future and will require a complete review and major changes to the City's Policy and Guidelines and Specifications, which will compromise community safety and amenity.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

An alternative option would be agreement to the request within the petition to remove the path and crossover and reinstate to the desired levels as requested by the property owner at 54B Lamond Street, Alfred Cove.

A Council resolution to return to the original crossover design is not recommended as this will go against the City's current policy, guidelines, and specifications. This would require the large section of path to be removed and then reinstated to meet the new levels. Neighbouring crossovers would also be impacted and require removal or adjustment to levels. Reducing the height of the kerb to meet the lower crossover is likely to create drainage issues where the crossover is at road level or lower and may limit future road resurfacing treatments.

At the Ordinary Meeting of Council on 18 August 2020, in relation to the Beach Street path, the Mayor foreshadowed:

“that the Beach Street path project is a special circumstance requiring resolution and that Council will not get involved in this process in future, with officers to manage the path construction process in line with Council Policies and the City's guidelines and specifications. Elected Members requested that this statement be recorded in the minutes”.

CONCLUSION

The construction of the new path and crossover according to the City's Crossover Guidelines and Specification considers both the functionality for the end user and all other infrastructure assets within the road reserve. These works have improved safety and accessibility along Lamond Street by prioritising pedestrians and the consistent even path surface has replaced the previous uneven, soft landscaping surface.

EI22/3991 – RESPONSE TO PETITION TO RECONSTRUCT THE CROSSOVER ON LAMOND STREET, ALFRED COVE (REC)

The crossover reinstatement at 54B Lamond Street Alfred Cove should be retained as it provides the safest and most accessible path option for the community.

OFFICER RECOMMENDATION (3991)

REFUSAL

That the Council:

- 1. Note the report which responds to the petition to reconstruct the crossover at 54B Lamond Street, Alfred Cove and that the crossover, which was removed by the property owner without authorisation and subsequently reinstated by the City, meets Council Policies CP-033 Path Policy and CP-110 and the City's Crossover Guidelines and Specifications; and**
- 2. Directs the CEO to provide an explanation in writing to the lead petitioner of the reasons why the petition requests cannot be met.**

Urban Planning

This Item was deferred at the Ordinary Meeting of Council held 21 June 2022, pending legal advice in relation to the interpretation of whether views of significance are material considerations in respect of the subject Development Application given the objectors property does not adjoin the application site, Building height considerations relative to building height definitions and the proposed building design, and whether a roof top terrace contributes to the Open Space requirements of the R Codes for a R12.5 zone.

UP22/3988 – PROPOSED TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 90 (NO.23) CARRON ROAD, APPECROSS (REC) (ATTACHMENT)

Ward : Applecross - Mt Pleasant
 Category : Operational
 Application Number : DA-2021-214/C
 Property : Lot 90 (No.23) Carron Road, APPECROSS WA 6153
 Proposal : Two storey single house
 Applicant : Ionic Projects Pty Ltd
 Owner : George Eustratios Manios
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Not Applicable
 Responsible Officer : Peter Prendergast – Manager Statutory Planning

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input checked="" type="checkbox"/>	Quasi-Judicial	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.
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**UP22/3988 – PROPOSED TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 90
(NO.23) CARRON ROAD, APPECROSS (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- The proposed development was presented to the Development Advisory Unit meeting held on 31 May 2022 and a report was published on the City's website. The development application has now been called up to Council by Cr Ross for determination in accordance with the procedures outlined in the Local Planning Policy 1.1.
- The reason for the call up as provided by Cr Ross is as follows: *The amendments sought include reductions of the primary and side setbacks and increased building height above the maximum height limit specified for residential development in the area. The development is on a 1004sqm lot and requiring reduced setbacks and increased heights on such a large Lot seems unnecessary or indicates a building mass that is oversize or inconsistent with other residential developments in the area.*
- In June 2021, Development Approval was granted for a two storey single house with roof top terrace at Lot 90 (No. 23) Carron Road, Applecross. Subsequent amendments were granted development approval by the City in July 2021 and September 2021.
- This application proposes further amendments to the previous approvals.
- A performance based assessment is sought in respect of the proposed building height and setbacks.
- The application was advertised in accordance with the provisions of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1). In response seven objections and a multi signature letter were received relating to the amenity impact of the building in terms of building height, loss of views and overshadowing.
- The concerns raised in the submissions received were considered in detail by the DAU, who concluded based on a performance assessment including an assessment of the impacts that the development as proposed would have upon the amenity of impacted adjoining properties, that the development was acceptable. This is reflected in the DAU report which is currently published to the City's website. The application was recommended for approval subject to conditions by the DAU. It is now recommended that approval be granted by the Council, subject to conditions.

**UP22/3988 – PROPOSED TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 90
(NO.23) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)**



Figure 1 – Aerial Photography

BACKGROUND

Scheme Provisions

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R15
Use Type	: Residential
Use Class	: Permitted

Site Details

Lot Area	: 1004m ²
Street Tree(s)	: Not Applicable
Street Furniture (drainage pits etc)	: Not Applicable
Site Details	: Refer photo above

UP22/3988 – PROPOSED TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 90 (NO.23) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)

DETAIL

The current development application seeks approval for various amendments to the previously approved development, including the following:

- The reconfiguration of the internal layout;
- Changes to the roof top terrace layout;
- Increased building height;
- A reduced street setback to Killilan Road
- Reconfigurations of the ground floor outdoor living area fronting Carron Road on the east of the site;
- A decreased setback to the western side at Level 1; and
- Modification to the gatehouse.

In respect of the subject application plans [Application Amendment DA 2021 2014 B 23 Carron Road Plans](#), negotiations with the City have resulted in further amendments being made to reconfigure the structures on the roof top terrace and reduce the building height. These amended plans are the subject of this report.

The application has been assessed against the provisions of Local Planning Scheme No. 6 (LPS No.6), Local Planning Policy 3.1 'Residential Development' (LPP3.1), Local Planning Policy 1.9 'Building Height' (LPP1.9) and the relevant provisions of R-Codes. A performance assessment is required in respect of the matters listed below.

R-Code Requirements

Development Requirement	Deemed to Comply	Proposed	Comments	Delegation to approve variation
Cl 5.1.6 (LPP1.9) Building Height	Eaves - 8m Maximum Height – 10.5.	Amended Height 11.3m to lift/lobby. Outdoor dining area pergola roof. Amended Height 11.8 (east side) 11.3m (west side)	To be assessed on performance basis.	Development Advisory Unit (DAU)
Clause 5.1.3 C3.1 Lot Boundary Setbacks	Western boundary (side) Level 1 - 3.0m	1.2m	To be assessed on performance basis	Development Advisory Unit (DAU)
Clause 5.3.7 C7.2 Site Works	Fill and retaining walls up to 0.5 metres within street setback area.	1.2m fill (Carron Road)	To be assessed on performance basis	Manager Statutory Planning (MSP)

UP22/3988 – PROPOSED TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 90 (NO.23) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)

5.2.4 Fences and Street Walls Secondary Street	Walls located within the secondary street setback area are to be visually permeable above 1.2 other than opposite the primary outdoor living area. Pier max height 2m Infill panels 1.2m	1.2m – Retaining Wall 1.2m Clear Pool Glass Total Height - 2.4m (Carron Road)	To be assessed on performance basis	Manager Statutory Planning (MSP)
Primary Street Setback (Killilan Road)	Min 1.5m / Average 3m	Min 1.5m / Average 2.62m	To be assessed on performance basis Requires	Manager Statutory Planning (MSP)
5.2.4 Fences and Street Walls Secondary Street Gate House	Gate or entry way visually permeable Max. width and length 2m or 20% frontage (whichever is less) 2.4m wall height 3m overall height Materials compatible with dwelling or front fence	Proposed width 3m Proposed wall height 3m	To be assessed on performance basis	Manager Statutory Planning (MSP)

Given the concerns of submitters relate to the proposed building height and western side setback only, further commentary in this report is confined to consideration of the impacts that those matters have on the amenity of those that have raised them, relative to the associated performance criteria as provided by the design principles of the R Codes.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: Required pursuant to LPP 1.1 Planning Process and Decision Making Clause 1.7.6
 Support/Object: Seven Objections plus a Multi Signature Letter opposing the development.

UP22/3988 – PROPOSED TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 90 (NO.23) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)

A summary of the content of the objections received and an officer’s response is provided in the table below.

Summary of Issues Raised	Officer’s Comment	Action (Condition/ Uphold/ Not Uphold)
The additional building height is contrary to the City’s building height policy/Residential Design Codes, Volume 1.	Refer to the comments section of this report.	Not Uphold
The additional building heights will impact views of significance.	Refer to the comments section of this report.	Not Uphold
The reduced setback will result in privacy and security concerns.	Refer to the comments section of this report.	Not Uphold
The additional height is not in keeping with the existing built form.	Refer to the comments section of this report.	Not Uphold

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

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 by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

FINANCIAL IMPLICATIONS

Should the City of Melville refuse the application for planning approval and the applicant chooses to have the decision reviewed, there are likely costs for the City including legal fees and consultant fees.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

**UP22/3988 – PROPOSED TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 90
(NO.23) CARRON ROAD, APPECROSS (REC) (ATTACHMENT)**

POLICY IMPLICATIONS

The details of the proposed development have been considered against and are considered to satisfy the City's planning policy requirements. As the submissions received raise concerns regarding the proposed building height and the western side setback to the first floor of the proposed house, these matters and the impacts that accrue from them are considered in more detail below.

COMMENT

The proposed development is located within an established residential area of Applecross. The area is subject to constant change as older more traditional residential properties are cleared to make way for more contemporary homes, some of which are two or three storey in height, and all of which are generally significantly larger than those older more traditional properties were.

The subject site is located a full street block (approximately 180m) away from the Swan River foreshore. It is a corner lot, located at the north-west intersection of Carron Road and Killian Road.

The lot has an east west upward slope of some 2m, with a 7m contour level close to the eastern side close to Carron Road itself, and a 9m contour level in the south-west side close to No12 Killian Road.

The proposed dwelling has been designed in a way which responds to the topography of the site as well as taking advantage of the sites' proximity to the river and associated views. The surrounding dwellings along Killian and Carron Roads exhibit a wide range of residential building styles, ages and heights. It is noted that two and three storey buildings are common in the Applecross area and there are many examples of these within close proximity to the site. At two storey with a roof top terrace the general scale and associated height of the proposed dwelling is considered to be consistent with the existing and desired streetscape character of the area.

Building height

The proposed building height requires a performance assessment having regard to the design principles contained in Clause 5.1.6 'Building Height' of the R-Codes. These design principles seek to ensure that development is appropriate to the streetscape, maintains adequate levels of sunlight to adjoining properties and maintains access to views of significances where appropriate.

The proposal meets the design principles for the following reasons:

- The building has been designed so that the more substantial components such as the lift, stair well and amenities which service the roof terrace are located towards the rear of the site significantly setback from the street. The pergola is designed to be a lightweight structure with minimal supports and a low profile roof while glass balustrades are provided along Killian and Carron Roads. The pergola and the balustrades are also setback from the street in excess of the deemed to comply standards and ensure that any adverse bulk impacts are avoided.

UP22/3988 – PROPOSED TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 90 (NO.23) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)

- The proposed building is well articulated, through the use of varied setbacks, floor to ceiling windows, landscaping and a mix of materials which combine to reduce the bulk impact on to the adjoining properties.
- In terms of building height, as elements of the proposed development seek approval under the performance criteria, consideration must be had to the impacts that the development has at its proposed height towards the amenity that is currently enjoyed by the occupiers of adjoining properties whose views of significance may be prejudiced.
- It is noted that the term 'views of significance' is not defined by, nor is detail provided in the explanatory sections of the R-Codes. It is therefore the City's role to make a determination as to whether or not the proposed development maintains access to views of significance, and/or assess the extent to which such views are compromised by the elements of the buildings height which exceed the deemed to comply height level, which in this case is 10.5m, and for the purposes of this assessment relate to structures located on the roof top terrace of the proposed development and include an open style pergola, and the lift/lobby/stairwell.
- Based on the City's assessment, and taking account of the submissions received, the applicant has provided a cross-section (See Figure 2 below) showing the floor level of the roof top terrace (marked in green) and the balcony & study floor level (marked in yellow) of the property at the corner of Killian Road and Strome Road. This property is considered to be the most impacted by this proposed building height.
- In the context of a significant view, it is noted that given the distance away from the foreshore edge, the properties in and around the application site do not enjoy uninterrupted views of the river and towards the City. Rather, glimpses of the City skyline are afforded, compromised by buildings in the foreground. Such views are also generally only possible from the upper floors of buildings.
- The floor level of the dwelling at the corner of Strome Road and Killian Street was obtained by a surveyor and this floor level was cross checked against the Building Licence plans approved by the City in 2017. A further diagram has been produced illustrating that habitable rooms at the property on the corner of Killian Street and Carron retain access to views either side of the structure located on the roof top terrace. For clarity, the habitable openings have been marked in yellow and structures on top of the roof top terrace have been marked in green. It should also be noted that the property at the corner of Strome Road and Killilil Road will still have access to other views towards the Swan River to the east. In Figure 3 view corridors are depicted by red arrows.
- It is concluded therefore that the maximum height of the proposed development does not compromise views of significance, nor do the structures which comprise the roof top terrace compromise streetscape amenity in general terms.

UP22/3988 – PROPOSED TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 90 (NO.23) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)

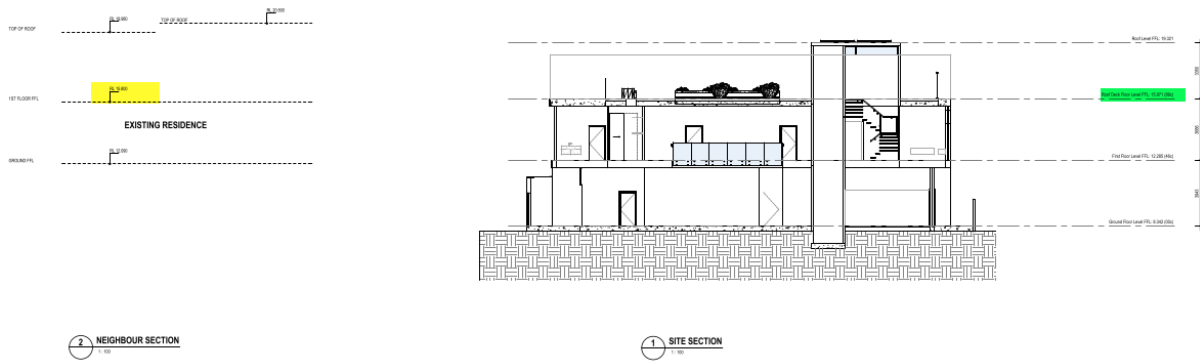


Figure 2: Cross-Section – No. 26 Strome Road (Yellow) No. 23 Carron Road (Green)

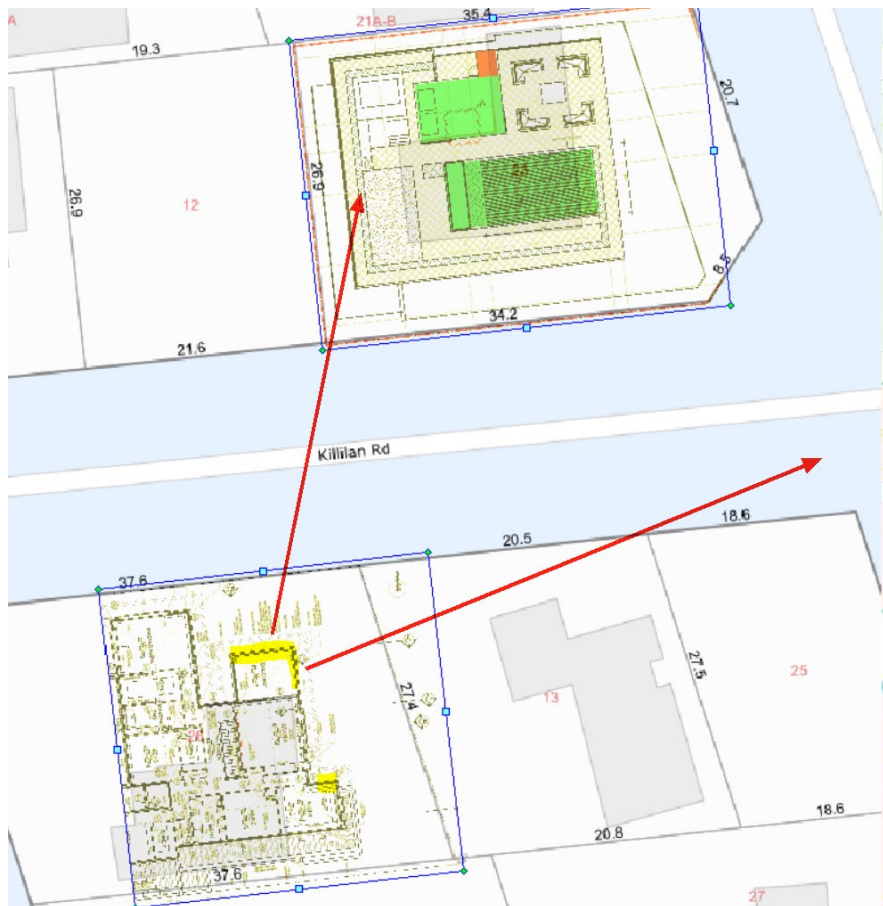


Figure 3: View Corridor

Side (western) Boundary setback

In accordance with Clause 5.1.3 Lot Boundary Setbacks C3.1 (i) of the R-Codes, walls with non-major openings that are less than 7.5 metres high and less than 25 metres in length require a setback of 3.0 metres from a side lot boundary to meet the deemed to comply provisions. The proposed development has been designed on the upper floor with bedrooms and associated ensuite bathroom's located along the western side. The actual building edge proper at this point is setback 3.1m and as such is in accordance with the deemed to comply provisions of the R Codes.

UP22/3988 – PROPOSED TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 90 (NO.23) CARRON ROAD, APPLECROSS (REC) (ATTACHMENT)

The design of the proposed house has however incorporated a balcony along the western side, with access to it from each of the bedrooms located there. This balcony incorporates a glazed balustrade, screened to ensure that there are no visual privacy impacts. It is this screening/balustrade, setback a minimum 1.2m from the western side boundary, that constitutes the variation to the R Codes highlighted by this report. The balustrade, which for the purposes of the assessment is classed as a wall, has been assessment against the associated Design Principles of the R-Codes. The proposed balustrade/wall is considered to meet the Design Principles of the R-Codes for the following reasons:

- The setback variation comprises a glazed balustrade which by its very nature is lightweight, and no more than 1.6m in height above the finished floor level of the upper floor.
- The screening wall/balustrade to the balcony does not oppose any active habitable spaces nor does the screening directly abut any major openings on the adjoining property at 12 Killian Road, there being two non-major openings on that property at the upper floor levels as depicted by Figure 4 below.
- A two storey vertical screen structure is located on the neighbour's house at the northern end which provides screening to north facing major openings, see Figure 4 below;
- The orientation of the wall will ensure that no access to direct sunlight and/or ventilation will result;
- No major openings are proposed due to the balcony screening being 1.6m high. The Residential Design Codes, Volume 1, state that openings with obscured screening up to 1.6m high are not considered to be major openings.



Figure 4 – Western Property

UP22/3988 – PROPOSED TWO STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 90 (NO.23) CARRON ROAD, APPECROSS (REC) (ATTACHMENT)

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The statutory alternative for refusal of the application for planning approval is the right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

CONCLUSION

The application is considered to satisfy the provisions of LPS6, the Design Principals of the Residential Design Codes, and Local Planning Policy. On this basis, it is recommended that the proposal be approved subject to conditions.

OFFICER RECOMMENDATION (3988)

APPROVAL

That the Council approves DA-2021-214/C for amendments to a Two Storey Single House at Lot 90 (23) Carron Road, Applecross WA 6153 subject to compliance with the following:

- A) The previous planning approval DA-2021-214 dated 11 June 2021, DA-2021-214/A dated 12 July 2021 and DA-2021-214/B dated 10 September 2021 (including remaining conditions); and**
- B) The approved plans (referenced Site Plan, Ground Floor Plan, First Floor Plan, Second Floor Plan and Elevations); and**
- C) Condition 11 of Planning Approval DA-2021-214 being modified as detailed below:**
 - 11. Prior to the initial occupation of the development, northern end Level 1 Balcony (as marked in RED on the approved plans) shall have installed, fixed obscure screening to a minimum height of 1.6 metres above the finished floor level, or any other screening alternative approved by the City that complies with C1.1 or C1.2 of Clause 5.4.1 of State Planning Policy 7.3 Residential Design Codes Volume 1. The screening measures must thereafter be retained in perpetuity to the ongoing satisfaction of the City.**

This Item was deferred at the Ordinary Meeting of Council held 21 June 2022, pending further information in relation to Overlooking, Height and Open Space matters.

UP22/3989 - THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 6 (NO. 42) DUNCRAIG ROAD, APPECROSS (REC) (ATTACHMENT)

Ward : Applecross - Mount Pleasant Ward
 Category : Operational
 Application Number : DA-2021-1204
 Property : Lot 6 (No. 42) Duncraig Road, Applecross WA 6153
 Proposal : Three Storey Single House with roof terrace
 Applicant : Steve Paterson Building Design
 Owner : L & M Castelli
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Not Applicable
 Responsible Officer : Peter Prendergast – Manager Statutory Planning

AUTHORITY / DISCRETION

DEFINITION

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

**UP22/3989 - THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 6 (NO. 42)
DUNCRAIG ROAD, APPLECROSS (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- Development approval is sought for a three storey Single House with roof terrace at Lot 6 (No. 42) Duncraig Road, Ardross. A performance-based assessment is sought in respect of building height and the rear setback.
- The proposed development was presented to the Development Advisory Unit meeting held on 31 May 2022 and a report was published on the City's website.
- The development application has now been called up to Council for determination in accordance with the procedures outlined in the Local Planning Policy 1.1 by Cr Pazolli for the following reason: *Performance assessment regarding building height with respect to Roof Terrace and impact on neighbour property overlooking and privacy.*
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), Local Planning Policy 3.1 – Residential Development (LPP3.1), and the provisions of State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes).
- The proposed development requires a performance assessment in relation to building height and rear setback to ground floor alfresco area.
- The proposed development was advertised to the surrounding landowners in accordance with part 4 of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1).
- Three submissions were received with two opposing the development, and one in support. The concerns raised in the submissions received were considered in detail by the DAU, who concluded based on a performance assessment including an assessment of the impacts that the development as proposed would have upon the amenity of impacted adjoining properties, that the development was acceptable. This is reflected in the DAU report which is currently published to the City's website. The application was recommended for approval subject to conditions by the DAU. It is now recommended that approval be granted subject to conditions, by the Council.
- Notwithstanding the objection received, the proposed development is considered acceptable when assessed against the relevant Design Principles of the R-Codes and policy objectives of LPP3.1.
- It is recommended that approval be granted subject to conditions.

**UP22/3989 - THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 6 (NO. 42)
DUNCRAIG ROAD, APPLECROSS (REC) (ATTACHMENT)**



Figure 1: Aerial photography of subject site

BACKGROUND

Scheme Provisions

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R12.5
Use Type	: Single House
Use Class	: 'P' Permitted Use

Site Details

Lot Area	: 864sqm
Retention of Existing Vegetation	: Yes
Street Tree(s)	: Yes
Street Furniture (drainage pits etc)	: Yes - Footpath

[3989 DA 2021 1204 42 Duncraig Road Applecross App and Plans](#)

**UP22/3989 - THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 6 (NO. 42)
DUNCRAIG ROAD, APPLECROSS (REC) (ATTACHMENT)**

DETAIL

The application has been assessed against the provisions of Local Planning Scheme No. 6 (LPS No.6), Local Planning Policy 3.1 'Residential Development' (LPP3.1), Local Planning Policy 1.9 'Building Height' (LPP1.9) and the relevant provisions of R-Codes. A performance assessment is required in respect of the matters listed below.

State Planning Policy 7.3 - Residential Design Codes Volume 1

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Table 1 Minimum rear setback	Minimum 6m rear setback for R12.5	A portion of the rear alfresco area has a setback of 4.5m in lieu of 6m	Requires a performance assessment against the Design Principles of the R-Codes.	Manager Statutory Planning

Local Planning Policy 1.9 – Height of Buildings

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 2.1 Permitted Building Height	External Wall (concealed roof) 9m	11.6m	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)

Given the concerns of submitters relate to the proposed building height only, further commentary in this report is confined to consideration of the impacts that those matters have on the amenity of those that have raised them, relative to the associated performance criteria as provided by the design principles of the R Codes.

I. COMMUNITY

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: Required pursuant to LPP 1.1 Planning Process and Decision Making Clause 1.7.6
 Support/Object: Two objections and one comment of support received

As part of the assessment followed by the City, amendments were sought from the applicant to address a number of planning issues including reassessment of natural ground levels. Amended plans were received which are the subject of this assessment.

A summary of the content of the objections received and an officer's response is provided in the table below.

**UP22/3989 - THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 6 (NO. 42)
DUNCRAIG ROAD, APPLECROSS (REC) (ATTACHMENT)**

Summary of Issues Raised	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Building height to have an adverse impact on the amenity of the surrounding area and adjoining property	Refer to the comments section of this report.	Not Uphold
Visual privacy - ensure that screening proposed is retained to the proposed roof terrace (regardless of the setback being greater than 7.5m) Screening be provided to the rear of the roof terrace notwithstanding the Deemed to Comply setback.	The Deemed to Comply provisions of the R Codes (Clause 5.4.1 C1.1 Visual Privacy) are achieved.	Not Uphold

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

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 by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

FINANCIAL IMPLICATIONS

There are no financial implications for the City relating to this proposal.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

There are no policy implications in relation to this proposal.

**UP22/3989 - THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 6 (NO. 42)
DUNCRAIG ROAD, APPLECROSS (REC) (ATTACHMENT)**

COMMENT

Building Height

The permitted building height for a property designed with a concealed roof under the provisions of LPP 1.9 is 9m. In this case, approval is sought for a maximum building height of 11.6m to accommodate a roof terrace stair well and storage/services area. Where a proposal exceeds the height under LPP1.9 it is required to be assessed having regard to the Design Principles contained in Clause 5.1.6 of Volume 1 of the R Codes. These design principles seek to ensure that development is appropriate to the streetscape, maintains adequate levels of sunlight to adjoining properties and maintains access to views of significances where appropriate.

The proposed building height is considered to meet the design principles for the following reasons:

- The proposed roof terrace is located towards the centre of the site and is setback 16.2m from the front boundary, 9.4m from the south west boundary and 7.6m from the north east and rear boundaries. The roof terrace is designed using similar materials to the remainder of the house ensuring that it will assimilate with the overall development.
- The roof terrace is open on three sides, using a combination of rendered and glass balustrading and covered by a slim line pergola. (See Figure 2). The setbacks provided and relatively open design mitigates adverse bulk and scale impacts on the adjoining properties and the streetscape.
- The proposed dwelling is not out of keeping with the immediate area with respect to streetscape. Figure 3 shows a streetscape montage which includes the existing dwelling to the left and potential or permitted heights on the currently vacant site adjoining to the right.
- The location and design of the terrace provides for view corridors towards the river for adjoining properties.
- The proposed roof terrace retains access to light and ventilation on adjoining properties due to its location on the lot.
- The roof terrace includes glazed balustrades which are set back from all sides. In the case of the submission received from the adjoining property at 7 The Strand, whereby concern is expressed that the use of the roof top terrace will adversely impact on the enjoyment by the occupiers of the outdoor living areas associated with 7 The Strand, it is considered that such adverse amenity impacts are avoided by the setback provided coupled with the fact that the finished floor level of the proposed roof top terrace is located at a height of 9.4m, a modest 40cms above the deemed to comply height.

**UP22/3989 - THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 6 (NO. 42)
DUNCRAIG ROAD, APPLECROSS (REC) (ATTACHMENT)**

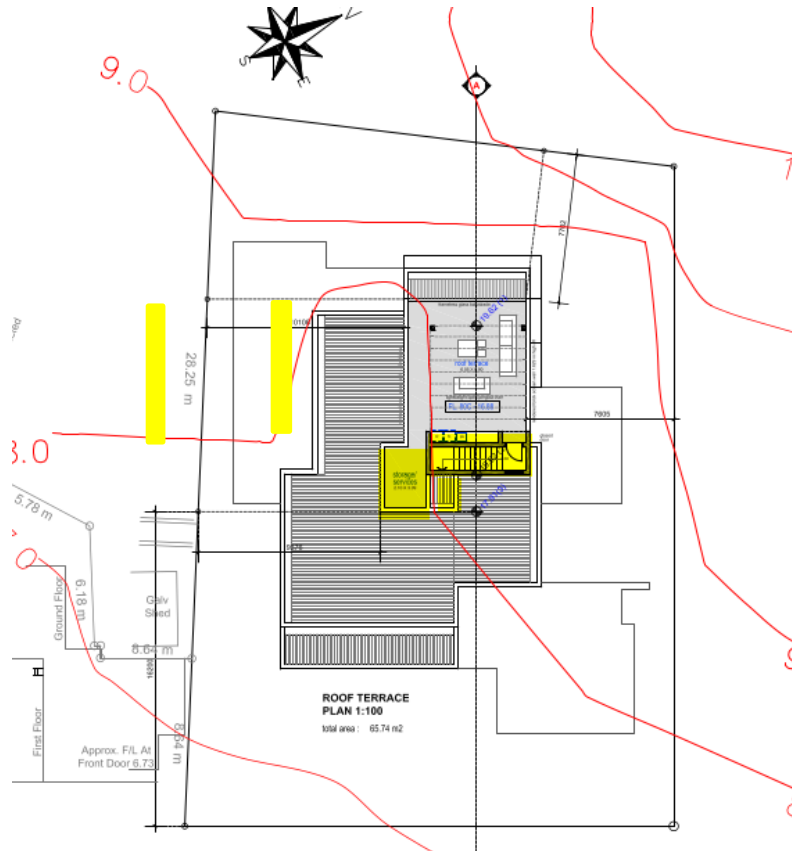


Figure 2: Yellow highlight showing enclosed area of the roof terrace above permitted height

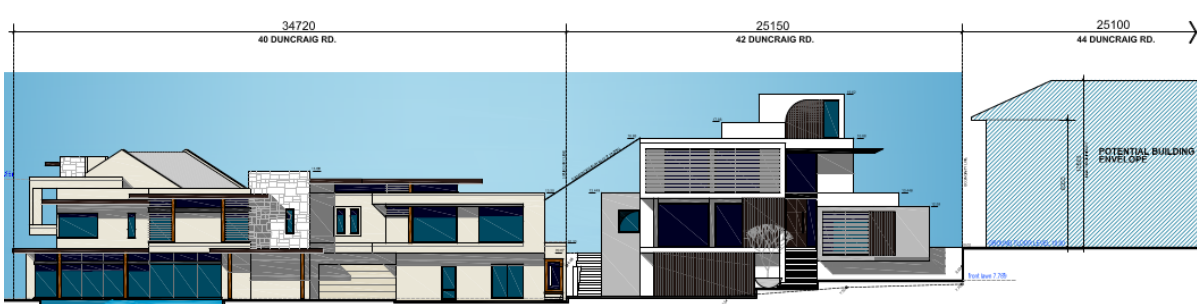


Figure 3: Dun Craig Road streetscape with permitted building heights on the adjoining vacant site at 44 Dun Craig Road

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The statutory alternative for refusal of the application for planning approval is the right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

**UP22/3989 - THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 6 (NO. 42)
DUNCRAIG ROAD, APPLECROSS (REC) (ATTACHMENT)**

CONCLUSION

This proposal has been assessed and is considered to meet the objectives with the relevant planning framework, including the relevant Design Principles of the R-Codes. Therefore, the development is recommended for approval subject to the following conditions:

OFFICER RECOMMENDATION (3989)

APPROVAL

That the Council approves DA-2021-1204 for a three storey single house with roof terrace at Lot 6 (No.42) Duncraig Road, Applecross WA 6153 subject to compliance with the following:

- 1. The development the subject of this approval must comply with the approved plans at all times unless otherwise approved in writing by the City.**
- 2. All stormwater generated on site is to be retained on site in accordance with the City's stormwater design guidelines.**
- 3. Prior to commencement of construction a crossover application shall be submitted to and approved in writing by the City's Technical Services department. The crossovers shall be designed to be;**
 - a maximum width of 6m;**
 - located a minimum of 2m away from the outside of the trunk of any street tree;**
 - and**
 - a minimum of 1m from any existing street infrastructure.**

The approved crossovers are to be constructed prior to the initial occupation of the development to the satisfaction of the City.

- 4. Where a driveway meets the street, walls or fencing within sight line areas are to meet the requirements contained under clause 5 of Local Planning Policy *LPP3.1 Residential Development*, to the satisfaction of the City.**
- 5. Prior to the initial occupation of the development, all unused crossover(s) shall be removed and the kerbing and road verge reinstated at the owners cost to the satisfaction of the City.**
- 6. Any street walls and fences (including the height of any retaining walls) constructed within the primary street setback area shall meet the requirements contained under clause 4 of Local Planning Policy *LPP3.1 Residential Development*, to the satisfaction of the City.**

**UP22/3989 - THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 6 (NO. 42)
DUNCRAIG ROAD, APPLECROSS (REC) (ATTACHMENT)**

7. All trees on the City's verge to be managed in accordance with Tree Policy (CP-029). Unless otherwise approved in writing by the City, all street tree/s shall be protected throughout construction via the installation of a Tree Protection Zone (TPZ). Each TPZ shall be installed prior to commencement of development, in accordance with the following criteria to the satisfaction of the City:
 - A free-standing mesh fence erected around each street tree with a minimum height of 1.8m and a 2m minimum radius measured from the outside of the trunk of each tree.
 - If an approved crossover, front fence, footpath, road or similar is located within the 2m radius, the TPZ fencing shall be amended to be the minimum distance necessary to allow the works to be completed.
 - Fixed signs are to be provided on all visible sides of the TPZ fencing clearly stating 'Tree Protection Zone – No Entry'.
 - The following actions shall not be undertaken within any TPZ:
 - Storage of materials, equipment fuel, oil dumps or chemicals
 - Servicing and refuelling of equipment and vehicles
 - Attachment of any device to any tree (including signage, temporary service wires, nails, screws, winches or any other fixing device)
 - Open-cut trenching or excavation works (whether or not for laying of services)
 - Changes to the natural ground level of the verge
 - Location of any temporary buildings including portable toilets
 - The unauthorised entry by any person, vehicle or machinery
 - No unauthorised pruning of the canopy or roots of any Street Tree is permissible under the City of Melville's Tree Policy CP-029. Pruning may only be undertaken by the City's approved contractors following a written submission to and approval by the City.
8. Temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, sales, administration and construction activities are permitted to be installed within the property boundaries of the subject site(s) for the duration of the construction period. These structures are to be located so not to obstruct vehicle sight lines of the subject site, the adjacent road network or of adjoining properties to the satisfaction of the City and are to be removed prior to initial occupation of the development.
9. The on-site tree/s to be retained (as marked in red on the approved plans) shall be maintained in perpetuity, to the ongoing satisfaction of the City.

UP22/3990 – REVIEW OF LOCAL PLANNING POLICIES (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- The City regularly reviews its local planning policies to ensure that these are relevant, aligned with the state planning framework and easy to interpret.
- For the reasons outlined in the body of this report and as highlighted at a recent series of Elected Member Engagement Sessions, the following policies are considered to be outdated and are recommended to be revoked:
 - Local Planning Policy 1.11 Canning Highway Precinct Design Guidelines
 - Local Planning Policy 1.15 Market Use
 - Local Planning Policy 2.3 Chemists in Medical Centres
 - Local Planning Policy 4.3 Heathcote Precinct Signage Strategy
 - Local Planning Policy 4.2 All Saints Masterplan
- The Local Planning Policy 4.4 Murdoch Health and Knowledge Precinct Design Guidelines is functioning appropriately and is recommended to be rolled over without change:
- Subject to Council endorsement the revocation of the LPP's identified above these policies will be the subject of an advertisement in the local press as per the requirements of the Planning and Development (Local Planning Schemes) Regulations 2015. The LPP being rolled over without change will be noted as such and will be scheduled for a further review in three years' time as per the City's procedures.

BACKGROUND

Under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) there is no requirement to review local planning policies once they have been adopted. Despite this, the City is committed to regularly reviewing its local planning policies in order to ensure these are consistent with the current planning framework and the City's organisational objectives. The City has recently been part of the Small Business Friendly Approval Process (SBFAP) and is also committed to progressing an Economic Development program to ensure that business is given the support that it needs to grow and prosper in the City of Melville. There are a range of tasks which need to be completed as a part of the SBFAP and the Economic Development projects including a review of Local Planning Policies and local laws.

In addition to the above, the State Government is also progressing changes to the planning framework as part of its ongoing programme to reform the system. The key pillars of this reform program include ensuring planning is easier to understand and navigate, and that systems are consistent and efficient.

The review of the local planning policies has been undertaken with these considerations in mind. A number of other policies are currently being reviewed and will be the subject of separate Council reports in 2022.

UP22/3990 – REVIEW OF LOCAL PLANNING POLICIES (REC) (ATTACHMENT)

Scheme Provisions

MRS Zoning	:	N/A
LPS Zoning	:	N/A
R-Code	:	N/A
Use Type	:	N/A
Use Class	:	N/A

Site Details

Lot Area	:	N/A
Street Tree(s)	:	N/A
Street Furniture (drainage pits etc)	:	N/A
Site Details	:	N/A

DETAIL

Local Planning Policy 1.11 Canning Highway Precinct Design Guidelines

Local Planning Policy 1.11 Canning Highway Precinct Design Guidelines (LPP 1.11) was formerly known as Council Policy CP-75 Canning Highway Precinct Design Guidelines, and adopted under the provisions of Community Planning Scheme No. 5. It was subject to a minor review in 2010 to make it more prescriptive and bring it up to date with the Council policy formatting template. In 2016 a further minor review was undertaken to make reference to Local Planning Scheme No.6 and to reflect the new naming conventions in the Regulations.

The policy makes a series of statements in Clauses 1 to 3 which are based on sound planning principles. These statements include allowing for dwelling diversity, ensuring adequate vehicle access and providing for high quality built form outcomes.

While the provisions are sound there are no enforceable development provisions contained within the policy. In addition, some policy provisions overlap with the requirements set out in other planning documents or conflict with them.

While LPP 1.11 encourages the consolidation of vehicle access points, the other documents in the planning framework take a stronger approach. Some sections of Canning Highway have a split zoning where the higher density is only applicable where vehicle access is taken from a road other than Canning Highway. State Planning Policy 7.3 Residential Design Codes (Volumes 1 and 2) encourage consolidation of access points and contain provisions which make secondary street access the preference for corner sites. In addition, where vehicle access is only available from the primary street, Canning Highway in this instance, MRWA will generally only permit a single access point. These various provisions combine to ensure that consolidated vehicle access will be achieved without the need for a separate local planning policy.

UP22/3990 – REVIEW OF LOCAL PLANNING POLICIES (REC) (ATTACHMENT)

Secondly, while LPP 1.11 encourages new development to be designed to respect the scale of the existing residential character, the provisions of LPS No.6, the R-Codes and Local Planning Policy 1.9 Height of Buildings allow for development which is more intense than currently exists along some stretches of Canning Highway in terms of density, height, scale and open space provision. This added intensity is consistent with the City's local planning strategy of promoting densification along transport routes and in centres in order to provide housing choice and encourage use of active transport options such as walking, cycling and public transport.

Where a policy is vague in its application and does not contain enforceable provisions, it becomes unusable for assessing officers, is confusing for proponents and is likely to be given limited weight by a determining body such as the Joint Development Assessment Panel, or on appeal to the State Administrative Tribunal.

The provisions of various planning instruments such as LPS No.6, the R-Codes Volumes 1 and 2 are considered sufficient to ensure that new development along Canning Highway is of high quality, with consolidated vehicle access arrangements and high levels of streetscape interaction. In this context Local Planning Policy 1.11 is not required and therefore is recommended to be revoked.

[3990 LPP 1.11 Canning Highway Precinct Design Guidelines](#)

Local Planning Policy 1.15 Market Uses

Local Planning Policy 1.15 Market Uses (LPP1.15) sets out the preferred location for Market uses across the City, the hours of operation, the access and parking arrangement, waste and signage matters.

There are a range of markets operating on a regular basis across the City of Melville, such as the Perth Makers Market at Goolugatup Heathcote, Palmyra Farmers Market at Palmyra Primary School and the Melville Markets at Melville Plaza.

The influence of these markets is positive, providing activation to underused spaces, encourage local economic development, providing a sense of community and giving people the opportunity to walk or ride to local events. These benefits are consistent with the Community Aspirations set out in the community plan.

It is not necessary to have a standalone planning policy to guide the location of market uses. Where a market is proposed it can be considered on its merits in each instance. The information provided as a part of the application can be requested based on a risk assessment of the proposal, its site characteristics and the surrounding context.

[3990 LPP 1.15 Market Uses](#)

UP22/3990 – REVIEW OF LOCAL PLANNING POLICIES (REC) (ATTACHMENT)

Local Planning Policy 2.3 Chemists in Medical Centres

Local Planning Policy 2.3 Chemists in Medical Centres (LPP 2.3) was adopted in 2003 under the provisions of Community Planning Scheme No. 5 (CPS No. 5). At the time there was a concern that Chemists could have a negative impact on residential amenity, particularly when located in commercial centre frames; a zone which does not now exist under Local Planning Scheme No. 6. The commercial centre frame has been replaced by the 'Mixed Use' zone.

3990 LPP 2.3 Chemists in Medical Centres

Under CPS No.5 the definition of a Medical Centre included allowance for chemists.

The definition of Medical Centre under LPS No.6 does not make reference to chemists and it included below for ease of reference:

- means premises other than a hospital used by three or more health practitioners at the same time for the investigation or treatment of human injuries or ailments and for general outpatient care.

A chemist does not meet this definition; rather it is more appropriately defined as a 'Shop':

- means premises other than a bulky goods showroom, a liquor store large or a liquor store - small used to sell goods by retail, to hire goods, or to provide services of a personal nature, including hairdressing or beauty therapy services.

The land use permissibility for these uses is set out in Table 3 – Zoning Table of Local Planning Scheme No. 6. A 'Shop' use is an 'X' use meaning it not permitted in the Residential, Mixed Use, Service Commercial, Light Industry and Private clubs, institutions, and places of worship zones and as such may not be established in this area. This is consistent with the City's strategic direction which seeks to encourage commercial development in centre zones.

Based on the above LPS No. 6 provisions, it is inappropriate to maintain a policy which sets out the particular circumstances where a shop use can be approved despite it being an X use. LPP 2.3 is therefore recommended to be revoked.

Local Planning Policy 4.3 Heathcote Precinct Signage Strategy

LPP 4.3 sets out the expectations for signage within the Heathcote precinct. The current guidance in this policy is outdated and does not reflect the City's ambitions for the precinct. In addition, as the Goolugatup Heathcote precinct is heritage listed, development approval is required for all new signage. This signage will need to demonstrate that it is respectful of the heritage character of the area as well as any future planning for the site.

The policy is not relied upon to guide future signage at this precinct and is therefore not required. It is recommended that the policy should be revoked.

3990 LPP 4.3 Heathcote Heritage Precinct Signage Strategy

UP22/3990 – REVIEW OF LOCAL PLANNING POLICIES (REC) (ATTACHMENT)

Local Planning Policy 4.2 All Saints Masterplan

Under the provisions of Local Planning Scheme No.6 development on land zoned 'Private Clubs, Institutions and Places of Worship Zone', such as the All Saints campus, should accord with a Local Development Plan (LDP) for the site.

[3990 LPP 4.2 All Saints College Master Plan](#)

The City has discussed the potential benefits of an LDP with the school administrators and it is expected that one will be progressed as part of future master planning for the college site. In the meantime, further development would not be endorsed in the absence of an LDP. As such the existing LPP is not capable of informing future development proposals and is recommended to be revoked on that basis.

Local Planning Policy 4.4 Murdoch Health and Knowledge Precinct

The development of the Murdoch Health and Knowledge Precinct is being facilitated by the State Government via Development WA. Development WA administers the following:

- The land sales process;
- The Development Assessment Panel which has been established to consider the merits of development proposals against the set of Design Guidelines for the precinct and the provisions of LPP4.4;
- The final built form via clauses in the land sales contract.

A mixed use development comprising of number of individual buildings and land uses is currently under construction and more development is expected in the coming years as new lots are released to the market.

The provisions of LPP 4.4 set out a broad range of built form expectations for the precinct including matters such as of height, setbacks and presentation to the street. They also set out the land use preferences for the area and provide an outline of the process to be followed. These guidelines are descriptive not prescriptive allowing for flexibility in the design outcomes.

The settings in this document are appropriate and will deliver a high quality built form outcome for the precinct. Discussions with Development WA indicate it is also satisfied with the content of the LPP and does not require further change.

On this basis, LPP4.4 is recommended to be rolled over unchanged and a further review undertaken in three years' time in accordance with the City's procedures.

[3990 LPP 4.4 Murdoch Health and Knowledge Precinct](#)

UP22/3990 – REVIEW OF LOCAL PLANNING POLICIES (REC) (ATTACHMENT)

STAKEHOLDER ENGAGEMENT

Advertising Required:	None
Neighbour's Comment Supplied:	None
Reason:	None
Support/Object:	None

I. COMMUNITY

If Council support the recommendation to revoke a number of planning policies, an advertisement will be placed in the local paper alerting interested parties to this in accordance with the relevant provisions of the Regulations. A notice will also be placed on the City's website.

In relation to the rollover of LPP 4.4, this will be noted and Development WA notified accordingly.

II. OTHER AGENCIES / CONSULTANTS

As noted above, the City has liaised with Development WA which has indicated its support for the LPP in its current form. No further engagement is necessary in this regard.

STATUTORY AND LEGAL IMPLICATIONS

There are no legal implications identified in relation to this matter. Under the provisions of the Regulations the City may manage its suite of LPP's as it sees fit. The revocation of local planning policies does not require consultation however a notice is required to be published in the local paper to alert people to the change.

FINANCIAL IMPLICATIONS

There are no on-going financial implications for the Council in this application.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

The policy implications are discussed in the detail section of the report above.

UP22/3990 – REVIEW OF LOCAL PLANNING POLICIES (REC) (ATTACHMENT)

COMMENT

The reasons in support of the revocation of several planning policies are provided in the detail section of the report above. While the planning framework does not require a reassessment of local planning policies on a regular basis, the City Business Management System does impose a review requirement on a three-year basis.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

A decision may be made not to revoke or roll over one or more of the policies outlined above. Such a decision may not be consistent with the strategic direction of the City, the reform program of the DPLH, the City's commitment to being 'Small business friendly' and its Economic Development Strategy.

A decision may also be made to require further changes to one or more of the policies. This will require further consideration by the City and will result in a future report being presented Council for its review.

CONCLUSION

The proposal to revoke several local planning policies and roll over two others without change is consistent with the City's strategic direction and should be supported on that basis.

OFFICER RECOMMENDATION (3990)

APPROVAL

That the Council

- 1. Approves the revocation of the following local planning policies:**
 - **Local Planning Policy 1.11 Canning Highway Precinct Design Guidelines**
 - **Local Planning Policy 1.15 Market Use**
 - **Local Planning Policy 2.3 Chemists in Medical Centres**
 - **Local Planning Policy 4.3 Heathcote Precinct Signage Strategy**
 - **Local Planning Policy 4.2 All Saints Masterplan**

- 2. Endorses the publication of a notice in the local newspaper confirming the revocation as required by the *Planning and Development (Local Planning Schemes) Regulations 2015*.**

- 3. Notes the Local Planning Policy 4.4 Murdoch Health and Knowledge Precinct Policy is functioning appropriately and will be reviewed again in due course.**

**UP22/3993 – 13 THE ESPLANADE / 64 KISHORN ROAD, MOUNT PLEASANT FUTURE
OPTIONS REPORT (REC)**

Ward	: Applecross – Mount Pleasant
Category	: Strategic
Application Number	: Not Applicable
Property	: 13 The Esplanade/64 Kishorn Road, Mt Pleasant
Proposal	: Response to Council Resolution
Applicant	: Not Applicable
Owner	: 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 M22/5890 – Ground Lease Redevelopment Agreement 13 The Esplanade and 64 Kishorn Road, Mt Pleasant – Ordinary Meeting of Council held 15 February 2022. Item M22/5895 – Motions Carried at the General Meeting of Electors Held 2 February 2022 – Ordinary Meeting of Council held 15 March 2022 Item 16.1 Motion with Notice Mount Pleasant Senior Citizens Site Being Public Open Green Space – Ordinary Meeting of Council held 15 March 2022 Item 18.1 Confidential Item M22/5890 Ground Lease Redevelopment Agreement 13 The Esplanade and 64 Kishorn Road, Mt Pleasant – Alternate Motion - Ordinary Meeting of Council held on 19 April 2022 Item 12.1 - Petition – Rezone 13 The Esplanade/ 67 Kishorn Road, Mount Pleasant to Public Open Space – Ordinary Meeting of Council held 21 June 2022
Responsible Officer	: Jeremy Rae – Strategic Land and Property Executive Gavin Ponton – Manager Strategic Urban Planning

UP22/3993 – 13 THE ESPLANADE / 64 KISHORN ROAD, MOUNT PLEASANT FUTURE OPTIONS REPORT (REC)

AUTHORITY / DISCRETION

DEFINITION

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

KEY ISSUES / SUMMARY

- | |
|--|
| <ul style="list-style-type: none"> • The Council at its Ordinary Meeting of the Council held on 15 March 2022 resolved to direct the CEO to prepare a report on 13 The Esplanade/64 Kishorn Road, Mount Pleasant. • The resolution requested a number of options be considered with a report back to the July 2022 Ordinary Meeting of Council. • The future options Council requested for consideration included restoring the former Canning Bridge Senior Citizens site to community use as public open green space (POS) with tree planting; sale of the site; identification of appropriate locations for POS in the Canning Bridge area; possible future uses for the site including commercial uses; and on how and when public consultation for uses or selling of the site is appropriate. • High level investigation of future options for the site are summarised in this report for information purposes only. Further investigation, detailed analysis and comprehensive community consultation are recommended for the site once the Canning Bridge Activity Centre Plan (CBACP) review is finalised. • This report also addresses a petition and a multi-signature letter presented to the June 2022 Ordinary Council Meeting. |
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UP22/3993 – 13 THE ESPLANADE / 64 KISHORN ROAD, MOUNT PLEASANT FUTURE OPTIONS REPORT (REC)

BACKGROUND

At the Ordinary Meeting of Council on 15 March 2022, Council adopted the following resolution in relation to the land at 13 The Esplanade/64 Kishorn Road, Mount Pleasant:

That the Council directs the CEO to prepare a Report on 13 The Esplanade/64 Kishorn Road Mt Pleasant to be presented to the July 2022 Ordinary Meeting of Council:

- 1. On restoring the former Canning Bridge Senior Citizens site to community use as public open green space with tree planting.***
- 2. On the option of selling the site.***
- 3. On identification of appropriate locations for POS in the Canning Bridge area.***
- 4. On possible future uses for the site including commercial uses.***
- 5. On how and when public consultation for uses or selling of the site is appropriate.***

CARRIED (9/3)

At the 21 June 2022 Council Meeting a petition was presented to the Council that requested that the Council:

Re-zone 13 The Esplanade/ 64 Kishorn Rd Mount Pleasant to Public Open Space making the area green space incorporating seating and tree planting.

The Reasons Supporting this action: The Canning Bridge precinct is devoid of green space and with its proximity to high traffic volume (Freeway and Canning Hwy), thus creating a heat island and increase in air pollution. The population of this area is rapidly increasing and there already is a greater need for people to have open space nearby. The closest park is on the corner of Clive/Ogilvie Streets (800 metres away) and Deep Water Point (1.4kms) which does not conform with the City's policy of having a park within 400 metres of every dwelling."

The City has also received a multi signature letter that related to the future use of this property that stated that:

The Canning Bridge precinct is devoid of green space and with its proximity to high traffic volume (Freeway and Canning Hwy), causes an increase in air pollution. The population in this area is rapidly increasing and there will be a greater need for people to have somewhere to socialise nearby. The closest park is. on the corner of Clive/Ogilvie Streets (800 metres away) and Deep Water point (1.4 kms)

The Petitioners therefore request that 13 The Esplanade/64 Kishon Rd Mount Pleasant be turned into green space incorporating tree planting.

UP22/3993 – 13 THE ESPLANADE / 64 KISHORN ROAD, MOUNT PLEASANT FUTURE OPTIONS REPORT (REC)

Scheme Provisions

MRS Zoning : Urban
LPS Zoning : Centre C2
CBACP : M10
Use Type : Not Applicable
Use Class : Not Applicable

SITE DETAILS

Address	Legal Description	Certificate of Title	Land Area (m ²)	Current Owner
13 The Esplanade, Mt Pleasant	Lot 30 D27499	468/83A	1,060	City of Melville
64 Kishorn Road, Mt Pleasant	Lot 24 D23207	1219/736	1,012	City of Melville
			2,072	

The subject site comprises Lot 24 Kishorn Road and Lot 30 The Esplanade, Mount Pleasant. The site is approximately 80 metres long and 25m in width and has a total land area of 2,072 square metres. The site is currently vacant and was previously occupied by the Canning Bridge Senior Citizens Centre. The site is currently used for storage and car parking.

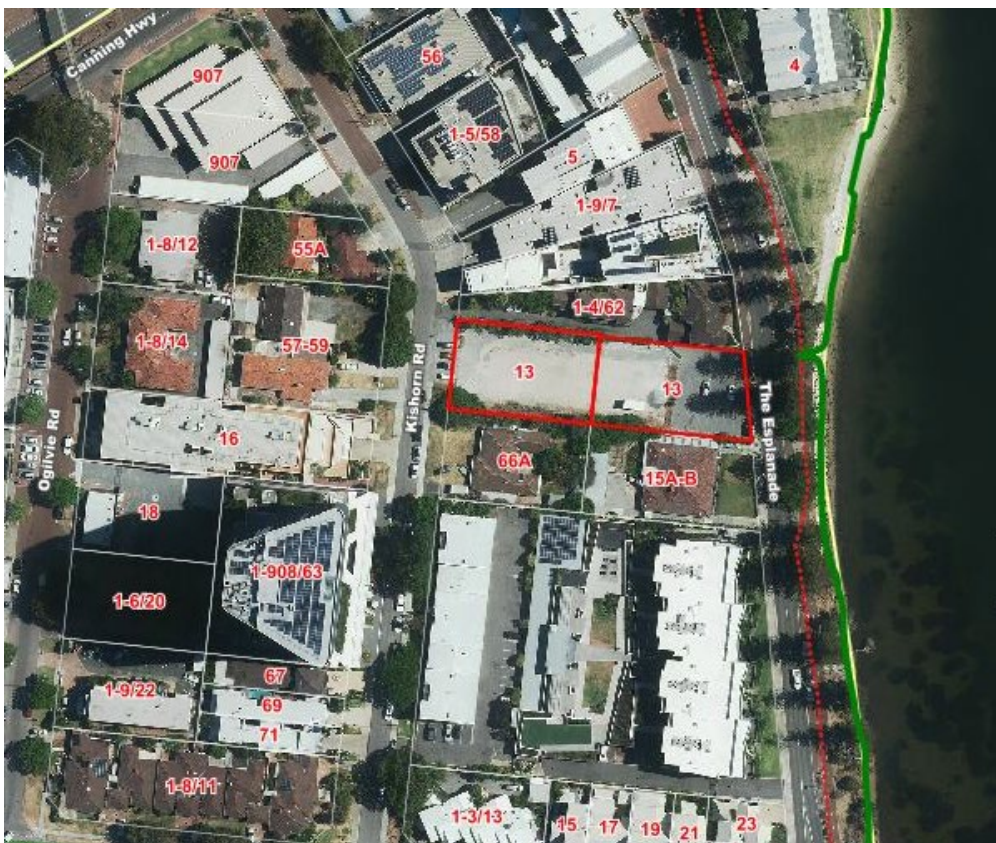


Figure 1: Location Plan

**UP22/3993 – 13 THE ESPLANADE / 64 KISHORN ROAD, MOUNT PLEASANT FUTURE
OPTIONS REPORT (REC)**

MRS Zoning	TPS 6 Zoning	Activity Centre Plans/Structure Plans
Urban	Centre C2 R-AC0	Canning Bridge Activity Centre Plan Zoning: Mixed Use up to 10 storeys (M10)

The site is located within the Canning Bridge Activity Centre (CBACP) and is identified as being within the M10 zone. This designation provides for mixed use development up to ten storeys, with additional height possible subject to provision of community benefits.

The property had been identified as a strategic land asset, with potential to generate revenue to the City. Revenue generated would be used to provide services across the City and reduce rate obligations on the community.

Colliers International ran an extensive Request for Proposal (RFP) process for the City for the sale or ground lease and redevelopment of the site which closed on 29 August 2018. As a result of this process, Council identified a preferred proposal for the site involving a long-term ground lease to an aged care provider. The proposal provided for an indexed lease payment of approximately \$650,000 per year for the 49-year ground lease (with an option for a further 40 years). The Council at its meeting held 19 April 2022 resolved not to proceed with the proposal.

DETAILS

This report responds to the five items listed in the Council resolution.

- 1. On restoring the former Canning Bridge Senior Citizens site to community use as public open green space with tree planting.*
- 2. On the option of selling the site.*
- 3. On identification of appropriate locations for POS in the Canning Bridge area.*
- 4. On possible future uses for the site including commercial uses.*
- 5. On how and when public consultation for uses or selling of the site is appropriate.*

1. Restoring the former Canning Bridge Senior Citizens Site to Community Use as Public Open Green Space with Tree Planting

Comment

This option involves converting the subject site into a landscaped public open space. The site characteristics provide for a linear park which could provide passive open space and a mid-block pedestrian linkage to the river. The space could be developed with a range of treatments including tree plantings, turfed areas, seating, play equipment etc.

The shape of the site and its east west orientation does constrain its potential usability and presents challenges given that much of the site would be likely to be impacted by shade from potential future developments. As such, the green space would most likely be more of a CBD plaza style public open space, rather than a traditional local park. The long side boundaries to the site present difficulties in terms of activation and passive surveillance. There may be opportunity for future development on adjoining sites to improve this interface.

**UP22/3993 – 13 THE ESPLANADE / 64 KISHORN ROAD, MOUNT PLEASANT FUTURE
OPTIONS REPORT (REC)**

Costs and Benefits

Development of the site for open space will provide amenity benefit to the precinct. As noted above, however, the site is not well suited to use as open space.

The Park option does not provide a revenue stream to the City in terms of lease payments or rate income. The option also quarantines the freehold land value of the site. Conversion of the site to open space with the level of specification appropriate for the precinct is estimated at \$2,072,000. Ongoing maintenance costs are estimated at \$62,000 per annum, being approximately 3% of the installation costs.

For comparative purposes, for each of the options in the Council resolution an estimation of the net financial cost/benefit to the City over a 49-year period has been calculated. The calculation is based on today's dollar value and excludes opportunity cost, loss of asset value, rate income.

Conversion and use of the site as a park is estimated to have a net financial cost of -\$6.3M. This assumes a 20-year life of asset includes full replacement of the park in year 20 and year 40.

There may be other variations to the park option such as converting portion of the site to park and making the remaining portion of the site available for sale or ground lease. These options introduce an income stream which could be used to offset the cost of creating and maintaining the park. Options to use portion of the site for development may also assist in activating the space, enhancing passive surveillance whilst maintaining an open space and pedestrian linkage function.

A summary of the 49-year net cost to the City for different park options is shown below:

Park option	49-year net cost/benefit
100% conversion to park	-\$6.3M
70% park; 30% sale	-\$3.2M
30% park; 70% ground lease	\$5.5M
30% park; 70% sale	\$2.6M

2. The Option of Selling the Site.

Comment

Sale of the site would enable the freehold value of the land to be realised. Proceeds of a sale could be reassigned to products and services throughout the City and/or assigned to services within Canning Bridge precinct. If additional public open space in Canning Bridge precinct is a priority, then sale proceeds could be used to purchase a site more suited to development as a park.

Recent market valuations of the site indicate a current value of \$9M to \$9.5M excluding GST. Valuations from 2018 and 2021 are shown below:

- \$9.4M (February 2018)
- \$9.1M (November 2021)

UP22/3993 – 13 THE ESPLANADE / 64 KISHORN ROAD, MOUNT PLEASANT FUTURE OPTIONS REPORT (REC)

Selling Options

The Local Government Act 1995 (LGA) provides for the methods and process of disposal of Local Government owned property. This is detailed in Section 3.58 and Section 3.59 of the LGA. The main methods are as follows: -

1. Public Auction
2. Tender
3. Expression of Interest (Leading to Sale by Private Treaty)
4. Requests for Proposals

The requirements for Public Notice and Advertising vary under the Act depending upon which selling process is adopted.

Sales Structure Options (Strengths & Weaknesses)

The table below provides an overview of the strengths and weaknesses of each, specific to the City: -

Option	Description	Strengths	Weaknesses
Outright Vanilla Sale	Sale process against non-negotiable pre-determined sales contract open to all parties	Simple. Low cost, little management time.	May not extract full value. Site could be developed to the maximum of the M10 zoning
Expressions of Interest and Request for Proposals (EOI & RFP)	Run a process to shortlist bidders and choose best offer against pre-defined terms (no further negotiation).	Should extract more value if designed and managed well. Strong probity if terms fixed and pre-defined.	More complex than outright sale. More management time and costs.
Negotiated Sale (following modified EOI & RFP)	Negotiate the sale with preferred bidder (against predefined contract with some terms flexible and open to negotiation).	Should extract more value (both as to sale proceeds and product) if designed and managed well.	More complex than above. More management time and costs. Probity may be affected by negotiable elements.
Joint Venture/Project Development Agreement (JV/PDA)	Negotiate a joint venture with preferred bidder using EOI & RFP.	Better potential value capture for council. Otherwise effectively the same as negotiated sale.	Increased risk to Council due to JV contribution and contractual and market risks. Otherwise effectively the same as negotiated sale.

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Option	Description	Strengths	Weaknesses
Ground Lease	Lease the site long term (40+ years) to a third-party developer (subject to a Development Agreement). Suitable only for an ongoing operation or development i.e., not suited to sale of freehold strata	Provides recurrent income stream and relatively easy to contract.	Council takes credit risk against counterparty unless 100% prepaid.

Costs and Benefits

The comparative 49-year net cost to the City calculations for the option of selling the site are depicted below. As above the comparison exercise is based on today's dollars and excludes indexation, investment of proceeds etc.

Sale of the Site	49-year net cost/benefit
100% sale of site	\$9.1M

Ground Lease Proposal – Demonstration of Market Value

In addition to the above valuation information, it is noted that the recent ground lease proposal for the site (Aged Care use by Oryx Communities) provides an indication of the wider economic value of the asset in the marketplace.

The tables below outline the ground lease income to the City that would have been earned over the full lease term and the Economic Value not realized due to the proposal not proceeding.

The combined loss in Present Value terms to the City from not utilizing this asset for the 89-year ground lease opportunity is represented by: -

Loss of Ground Lease revenue (89 years)	\$18M
Loss of Rates revenue (40% of ground lease)	\$7M
Loss of Economic Value	<u>\$85M</u>
Total Combined Loss of Asset Value Measured in PV	<u>\$110M (Todays \$)</u>

The Cumulative Total Loss of Ground Lease Income Stream \$137M (Indexed by CPI)

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Ground Lease Analysis Table

Description	Term 49 Years	Term 89 Years
Cumulative Lease Income (Undiscounted)	\$41.47m	\$136.97m
Average Annual Leasing Income (undiscounted)	\$0.85m	\$1.54m
NPV Leasing Income	\$13.98m	\$18.20m
<u>Assumptions</u> CPI = 2.5%pa IRR Discount Rate = 4.5% Market Reviews = 0% Ave. Annual Growth = 2%		

Economic Impact Value

The total present value (PV) from the proposed aged care ground lease redevelopment project was expected to be ~\$85m over the 49-year period being the first term of the proposed ground lease. The discount rate applied is 7%.

The table below provides a summarised breakdown of the Present Value Benefits over the 49-year initial lease term: -

Present Value Benefits	Value (\$)
Economic Benefits	
Rates Revenue	\$720,000
Vehicle Travel Time & Operation Cost	\$20,000
Quality of Life Carers	\$37,000,000
Total Increase in Caregiver Income	\$32,900,000
Yearly Increase in Caregiver Earnings	\$900,000
Volunteering Benefits (Productivity)	\$400,000

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Health & Social Benefits	
Social Interaction	\$7,000,000
Social Isolation	\$2,200,000
Reduced Falls	\$2,500,000
Volunteering Benefits (Civic)	\$800,000
Volunteering Benefits (Individual)	\$400,000
Health Outcomes	\$600,000
Total PV of Benefits (rounded)	\$85,000,000

Benefit forecasts for the ground lease proposal also demonstrated the economic value presented by a construction project on the subject site. The Oryx aged care example was forecast to result in a cumulative employment impact both direct and indirect from the construction phase of the project is estimated to be **532 FTE's** and expected to generate **\$178M** of output impact to the economy.

3. Identification Of Appropriate Locations for Public Open Space (Pos) In The Canning Bridge Area

It is noted that Council at its meeting of 15 March 2022 resolved as follows:

That:

1. *The mover be thanked for their interest in the provision of public open space in the Canning Bridge Precinct and that Motion 3 carried at the General Meeting of Electors held 2 February 2022, relating to the rezoning of the City's landholdings in Moreau Mews and Kishorn Road Applecross, is noted however, any decisions with respect to the setting aside of the City's land the subject of the motion will be deferred until such time as the Canning Bridge Activity Centre Plan review and public open space needs of the Canning Bridge Precinct has been completed.*
2. *The Council*
 - A. *Note that the upcoming advertising of the revised draft Canning Bridge Activity Centre Plan presents the preferred opportunity to receive community feedback on the future of the Kishorn Road/Moreau Mews land.*
 - B. *Direct the CEO to prepare additional content and detail to be available in conjunction with the advertising of the Canning Bridge Activity Centre Plan with respect to:*
 - i. *Concepts for a town square/urban park in the vicinity of the Kishorn Road/Moreau Mews land.*
 - ii. *Details of mechanisms to achieve the acquisition of additional open space in Canning Bridge including enhancement of community benefit provisions and developer contribution schemes.*

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In view of the Council resolution, it is proposed to undertake further work with respect to POS needs and opportunities at Canning Bridge.

It is noted that the CBACP does not envisage the creation of additional parkland in the precinct. Instead the approach is to maximize the usability of existing spaces and streetscapes, and for these spaces to be supplemented through activation of privately owned elements. The draft CBACP prepared in response to the current review reiterates this approach. Emphasis is on enhancing the public realm and supplementing these elements with a series of small spaces and linkages on private land.

The Community Development Place Activation Plan (CDPAP) from 2020, informed through community engagement, also emphasizes the priority to enhance existing public spaces as opposed to seeking new parks. The report concludes (page 11) that the three neighborhood parks within 800 metres of the precinct are sufficient. The report also notes the need for more intimate urban piazza type spaces, one north and one south of Canning Highway. Further, the CDPAP concurs with the proposal to explore the creation of a small town square (page 15) at the junction of Kishorn Road and Moreau Mews with interface to indoor community recreation activities and mixed use opportunities.

As noted, further work is proposed with respect to POS needs and opportunities at Canning Bridge. The further investigations will supplement ongoing consideration of open space needs and opportunities as part of the review of the CBACP. In particular, the work will highlight that there are a range of options to provide for additional open space within the CBACP area without the need to forego the revenue potential of the existing strategic land holdings. These options include:

- Requirements for developers to contribute funds for acquisition of additional land for open space
- Requirement for developers on large sites to cede usable land for open space.
- Use of City owned strategic land holdings for a combination of public space, community use and revenue potential.

The approach seeks to ensure that it is the developers who contribute to the provision of additional and suitably located open space as opposed to using ratepayer funded landholdings to meet that need.

Significantly, this work will highlight that conversion of Council owned land to POS will likely satisfy any demonstrated additional demand for open space associated with new development in the precinct. Accordingly, use of Council land for POS would likely preclude the option to require developers to be responsible for the funding or provision of new open space.

The above investigations are expected to be completed to support the advertising of the draft CBACP and/or consideration of further modifications to the draft following review of submissions.

4. *Possible Future Uses for the Site Including Commercial Uses*

Comment

The zoning and location of the subject site allows for a range of commercial, community and residential land uses.

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OPTIONS REPORT (REC)**

Prior to commencing the RFP process for the site, the City engaged Urbis to provide independent advice on the City's strategic land assets, including the site. The advice included analysis of the site context and background; sales and development processes; site potential assessment and site use assessment.

With consideration to the site attributes, Urbis assessed (August 2017) that the most likely use of the site is residential apartments. Aged care is also a potential high value use. The assessment also supported some community uses and small-scale hospitality offerings however, given the proximity to Canning Highway precinct, these uses are unlikely to be extensive.

The RFP process run in 2018 produced several submissions which included the following proposed redevelopment uses for the site: -

1. Residential Apartment Living
2. Retirement Living
3. Aged Care Living

These uses aligned with the highest and best use for the land and resulted in the City receiving in some cases above market purchase or ground lease offers from the proponents. The subsequent RFP process demonstrated the capacity of the land to generate ground lease revenue of approximately \$500,000 per annum. Commercial feasibility analysis suggests that hospitality uses (hotel, café, restaurant etc.) are unlikely to be viable in this location.

The City would also have the option of considering use of the site for community purposes. Revenue opportunities for community purposes would be expected to be minimal with development and maintenance costs exceeding any income.

The above options analysis highlights the potential to use the site for a combination of open space and built form development. These options are summarized below.

1. Use site predominantly for park and small portion for commercial/residential use

This option would likely involve sale of portion of the park to an adjoining property to enable a comprehensive development of that adjoining site. Funds from the partial disposal would offset construction and maintenance costs for the park. Conditions of sale could require a future development to actively front the park to enhance vibrancy and safety. Under this scenario it is noted that a stand-alone commercial operation on portion of the park would be unlikely to be viable.

2. Use site predominantly for commercial/residential with small portion for park/pedestrian linkage:

This option would involve the sale or ground lease of a larger portion of the site to facilitate a development. The remainder of the site would operate as a pocket park and pedestrian accessway. The scenario is likely to generate revenue that exceeds construction cost of the park and ongoing maintenance. Ground lease or sale conditions could ensure future development fronts the park/accessway to maximize activation and surveillance.

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OPTIONS REPORT (REC)**

The high level, net cost/benefit comparative table discussed above is reproduced below to depict outcomes under these different scenarios:

Park option	49-year net cost/benefit
100% conversion to park	-\$6.3M
70% park; 30% sale	-\$3.2M
30% park; 70% ground lease	\$5.5M
30% park; 70% sale	\$2.6M

5. How and When Public Consultation for Uses or Selling of the Site is Appropriate

The subject property has been identified as a strategic land asset with a purpose to explore the potential to use the land to generate revenue for the community. The site represents a significant community asset with demonstrated substantial revenue generation potential. It is recommended that any consideration of alternative uses, or purposes of the site be informed through a comprehensive community engagement phase. This approach would ensure that all stakeholders are provided with an opportunity to have input into any proposals for the future of this strategic landholding.

Rezoning of the site or disposal of the site would trigger statutory public consultation processes. Given the significance of the site and the substantial financial implications of a change of use, engagement is also recommended with regard to any proposal to convert all or portion of the site to public open space. This approach would be in keeping with the aims of Local Planning Scheme 6 to involve the community in issues of significance. Engagement in these circumstances would also align with the principles of the Council's Engagement Strategy and Council Policy CP-002 Stakeholder Engagement. Policy CP-002 highlights the importance of effective stakeholder engagement and the City's alignment with the International Association of Public Participation (IAP2) Core Values of Public Participation; and the Accountability Principles as defined in the *AA1000 Stakeholder Engagement Standard 2015*. The need for engagement is also highlighted in the *Local Government Act 1995* with the Act intending to result in:

- (a) Better decision-making by Local Governments;
- (b) Greater community participation in the decisions and affairs of Local Governments;
- (c) Greater accountability of local governments to their communities; and
- (d) More efficient and effective local government.

The extent of engagement to be undertaken for any proposed change or use/purpose for the subject property would be guided through the preparation of a Stakeholder Engagement and Communications Plan.

UP22/3993 – 13 THE ESPLANADE / 64 KISHORN ROAD, MOUNT PLEASANT FUTURE OPTIONS REPORT (REC)

STAKEHOLDER ENGAGEMENT

Not Applicable. As per Item 5 above engagement is recommended in the event of consideration of alternatives uses for the subject property.

I. COMMUNITY

Not applicable

II. OTHER AGENCIES / CONSULTANTS

Consultation with other agencies would be required should processes to modify the zoning of the land under LPS6 or the designation of the land under the CBACP be proposed.

STATUTORY AND LEGAL IMPLICATIONS

Not Applicable

FINANCIAL IMPLICATIONS

The report outlines the financial implications (positive and negative) with respect to various options for the future of the subject property.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The subject property is a strategic land asset of the City. The report outlines financial implications of different options regarding future use of the lands.

Risk Statement & Consequence	Level of Risk	Risk Treatment
Quarantining of revenue potential of strategic land assets reduces City's revenue raising capacity, placing additional reliance on ratepayer funding resulting in higher-than-normal increases in annual rates. The City's ratepayers will incur the cost burden into the future.	Major consequences which are possible, resulting in a High level of risk	Decision makers understand the financial implications and acknowledge alternative POS provision models which achieve desired levels of open space whilst preserving the City's revenue generation opportunities and the implications for annual rates to increased year by year.

**UP22/3993 – 13 THE ESPLANADE / 64 KISHORN ROAD, MOUNT PLEASANT FUTURE
OPTIONS REPORT (REC)**

POLICY IMPLICATIONS

There are no policy implications with this proposal.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The report provides information on the range of options put forward by Council. In particular, the report notes that there are alternative approaches to securing desired areas of POS in the precinct, as opposed to using the strategic land assets for parkland. Significantly these alternative approaches have ability to meet POS needs whilst achieving significantly better amenity and financial outcomes for the community.

COMMENT/CONCLUSION:

This report responds to the Council resolution of 15 March 2022. Investigations highlight the value of the subject property and its potential to generate substantial revenue for the community. The following table summarizes the high-level cost and benefit estimates associated with a range of options for the site.

UP22/3993 – 13 THE ESPLANADE / 64 KISHORN ROAD, MOUNT PLEASANT FUTURE OPTIONS REPORT (REC)

High Level Cost/Benefit Estimates

Option	Assumptions	Income/deficit	49-year Net Outcome (Today's value/NPV) ¹	Asset Value Loss
All Park	Plaza style open space, high level of specification	Full replacement of park in year 20 & year 40. Ongoing maintenance costs estimated at 3% of install costs	-\$6.3M ²	\$9M
Sale of Site (full redevelopment potential)	Sell entire site, no control of outcome other than through Statutory approval process	\$9M-\$10M + GST	\$9.1M + rates income	\$9.1M
Ground Lease	Ground lease of land only Not suitable for all uses	\$500K + GST per annum	\$15.3M + rates income	Nil Ownership Retained –
Park (30%) Sell (70%)	Landscape 30% of site, Park, or wide access way Sell remaining 70% (reduced development potential)	\$4.5M-\$5M + GST ³	\$2.6M + GST ³ + rates income	\$9.07M
Park (30%) Ground Lease (70%)	Landscape 30% of site, Park, or wide access way Ground lease remaining 70% (reduced development potential) Not suitable for all uses	\$250K-\$300K +GST ³ per annum	\$5.5M + rates income	\$9.07M
Park (70%) Sell (30%)	Landscape 70% of site. Sell remaining 30%	\$930K -\$1M + GST ³ for land Full replacement of park in year 20 & year 40. Ongoing maintenance costs estimated at 3% of install costs	-\$3.2M + GST + rates income	\$9.03M

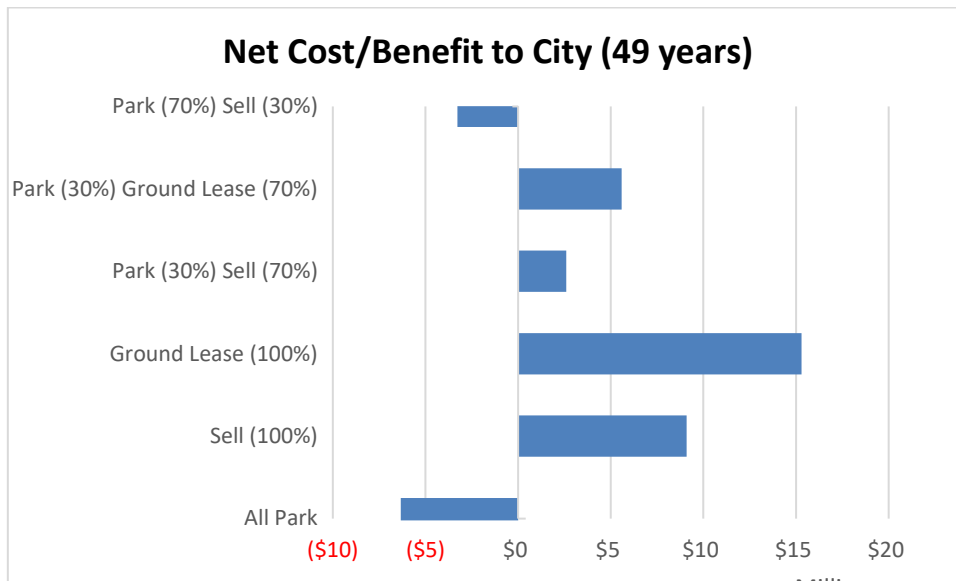
¹CPI – 2.5% average and discount rate of 4.5%

²excludes loss of rates income

³bonus height land area not met

UP22/3993 – 13 THE ESPLANADE / 64 KISHORN ROAD, MOUNT PLEASANT FUTURE OPTIONS REPORT (REC)

The long-term costs and benefits of different options for the site are described more simply in the following graph. The graph notes the conversion of the site to a park results in ongoing negative financial impact to the City, in comparison to the options involving development on the site which provide a financial benefit. The chart is for high level comparative purposes only. The depicted benefit or loss is in today's dollars only. Benefits such as rates uplift, investment potential of income, inflation, and value of the asset at the conclusion of a lease period are excluded. Loss of asset value under the park options, opportunity cost of future revenue and rates and associated economic benefits and uplift are not included. It is emphasized the comparisons are provided as a guide only.



Key conclusions from the investigation include the following:

- Conversion of the subject property to parkland would provide amenity to the locality, although the size, shape, orientation, and limited street frontage are not well suited to public open space.
- Use of the subject property for revenue generating activities has potential to provide substantial income to the City which could be used for various purposes including provision of additional products and services across the City, acquisition of additional open space, reduction in rates. Analysis also notes the wider economic benefits of a development on the subject property including economic benefits during construction phase, rates income and ongoing economic benefits to the precinct resulting from staff and residents on site.
- Similarly, sale of the subject site would realise substantial funds which could be allocated to purposes such as products and services across the City, used to acquire alternative open space, reduction in rates etc.
- A number of hybrid options exist to use portion of the site for open space and portion for development. These options provide a range of revenue scenarios which could offset/exceed costs associated with park development and maintenance.

**UP22/3993 – 13 THE ESPLANADE / 64 KISHORN ROAD, MOUNT PLEASANT FUTURE
OPTIONS REPORT (REC)**

- The review of the CBACP presents opportunities to require developers to contribute (through community benefits and/or direct contributions) to new public open space in the precinct. The approach enables the revenue potential of the City's strategic land holdings (acquired through community funds) to be preserved, whilst requiring additional open space demands to be met by developers. In addition to preserving community financial assets, the approach provides flexibility for acquisition of new public open space in more suitable locations. Conversion of existing City owned land to open space may appear to be a simple resolution to respond to open space needs. However, investigations demonstrate that alternative approaches are available and that these alternative approaches have ability to meet POS needs whilst achieving significantly better amenity and financial outcomes for the community.
- A public engagement phase is recommended as part of any consideration of alternative options for the subject property, to provide all stakeholders with opportunity to be involved in the process and in recognition of the significance of the site.
- Options analysis demonstrates that the use of the subject property for revenue generation purposes will enable the objective of providing additional equivalent open space in the CBACP to be achieved, whilst maintaining the long-term financial benefits for the City. Conversion of the site to a park achieves a similar POS outcome but without the long- term financial benefit to ratepayers.
- Consideration of options such as rezoning/converting the subject property to POS ahead of a conclusion to the review of the CBACP is considered premature and introduces a range of financial and procedural implications.

It is recommended that this report be received by Council.

OFFICER RECOMMENDATION (3993)

NOTING

That the Council:

1. **Notes the Officer's Report has responded to the instructions stemming from Council Resolution Item 16.1 Motion with Notice – Mount Pleasant Senior Citizens Site Being Public Open Space - at the Ordinary Meeting of Council held 15 March 2022;**
2. **Notes and carefully considers the options analysis for the site detailed in the Report, including the future long term financial implications for the City and its ratepayers in relation to each option for the site; and**
3. **Notes that the Officer's advice is that Council should only consider implementing a change of use for the site to Public Open Space (POS) or Community use, after the CBACP Review has been completed and the recommendations from that Review have been adopted by the Council.**
4. **Notes that in accordance with point 3 above, a response to the petitions received regarding the future of the former Mount Pleasant Senior Citizens site be held over until the conclusion of the CBACP review process.**

**UP22/3994 – THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)
FRASER ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)**

Ward : Applecross - Mt Pleasant
 Category : Operational
 Application Number : DA-2021-1315
 Property : Lot (70) No.4 Fraser Road, Applecross
 Proposal : Two Storey House With Roof Top Terrace
 Applicant : Urban Projects Pty Ltd
 Owner : Kevin & Melanie Attree
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Not Applicable
 Responsible Officer : Mark Scarfone – Acting Manager Statutory Planning

AUTHORITY / DISCRETION

DEFINITION

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

**UP22/3994 – THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)
FRASER ROAD, APPECROSS WA 6153 (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- The proposed development was presented to the Development Advisory Unit meeting held on 7 June 2022 and a report was published on the City's website. The development application has now been called up to Council by Cr Ross for determination in accordance with the procedures outlined in the Local Planning Policy 1.1.
- The reason for the call up as provided by Cr Ross is as follows: *The proposed development exceeds maximum height limits and does not comply with visual privacy controls.*
- Development approval is sought for a three storey Single House with roof terrace at Lot 70 (No. 4) Fraser Road, Ardross.
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), relevant local planning policies including Local Planning Policy 3.1 – Residential Development (LPP3.1) and Local Planning Policy 1.9 Height of Buildings, and the provisions of State Planning Policy 7.3 Residential Design Codes Volume 1 (R-Codes).
- A number of aspects of the proposed development including building height and visual privacy, require assessment against the applicable Design Principles of the R-Codes.
- The application was advertised in accordance with the provisions of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1). In response, five objections letter were received relating to the amenity impact of the building in terms of building height, loss of views and visual privacy.
- Notwithstanding the objections received, it is considered that the development is acceptable when assessed against the relevant Design Principles of the R-Codes.
- It is recommended that approval be granted subject to conditions.

**UP22/3994 – THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)
FRASER ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)**

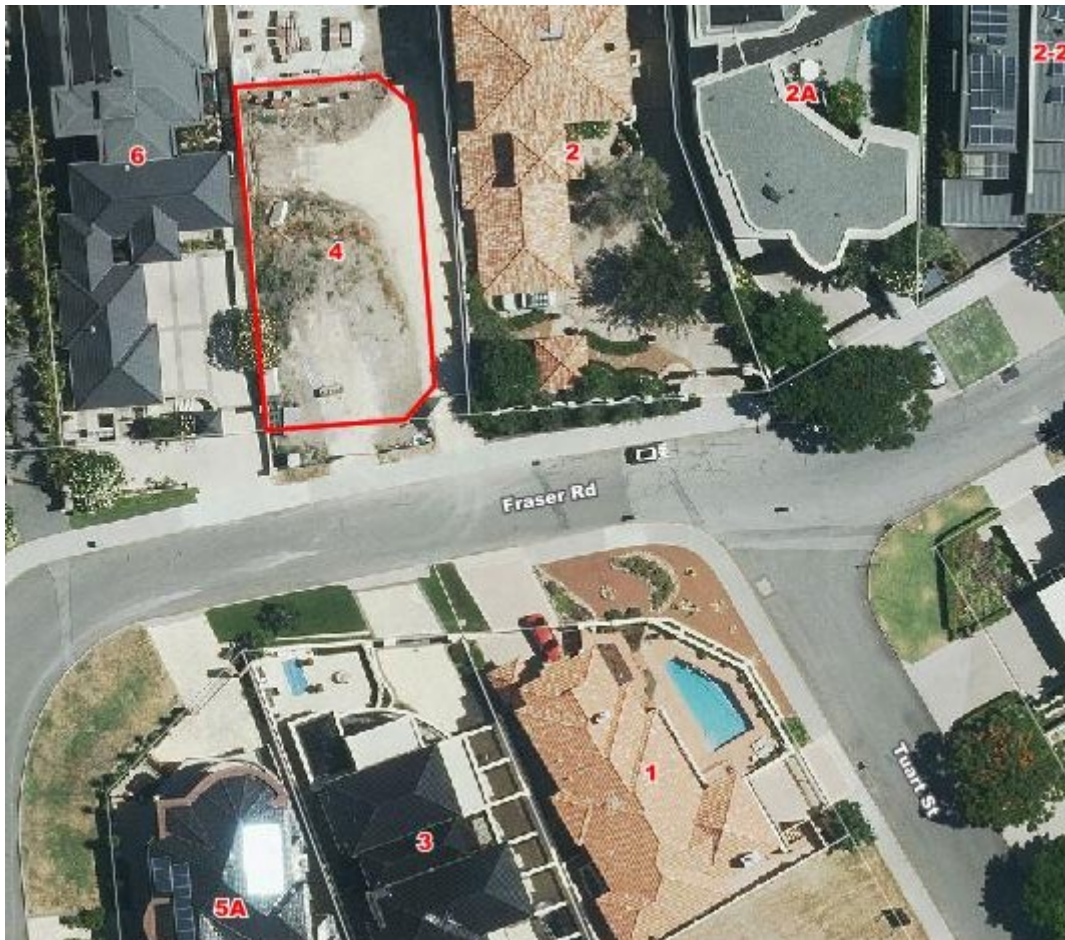


Figure 1 – Aerial Photography

BACKGROUND

Scheme Provisions

MRS Zoning	: Urban
LPS Zoning	: Residential
R-Code	: R12.5
Use Type	: Residential
Use Class	: Permitted

Site Details

Lot Area	: 500m ²
Street Tree(s)	: Not Applicable
Street Furniture (drainage pits etc)	: Yes
Site Details	: Refer photo above

[3994 Applicants Copy DA 2021 1315 Two Storey Dwelling with Undercroft 4 Fraser Road Applecross](#)

**UP22/3994 – THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)
FRASER ROAD, APPECROSS WA 6153 (REC) (ATTACHMENT)**

DETAIL

The application has been assessed against the provisions of Local Planning Scheme No. 6 (LPS No.6), relevant local planning policies and the R-Codes. A performance assessment is required in respect of the matters listed below.

In respect of the subject application plans, negotiations with the City have resulted in further amendments being made to reduce the visual privacy variations. These amended plans are the subject of this report.

R-Code Requirements

Development Requirement	Deemed to Comply	Proposed	Comments	Delegation to approve variation
5.1.6/LPP1.9 Building Height	Eaves Height - 8m Maximum Height – 10.5m Concealed Roof – 9m	The proposed house is designed with a flat roof and as such does not align with the building height maximums expressed in LPP 1.9.	Requires assessment using Performance Criteria. Refer building height section of the report below for detailed comment.	Development Advisory Unit (DAU)
Clause 5.4.1 C1.1 Visual Privacy	Unenclosed outdoor active habitable spaces with a floor level more than 0.5m above natural ground level setback 7.5m	A portion of the cone of vision falls within the adjoining the western and eastern neighbouring lots.	Requires assessment using Performance Criteria. Refer to visual privacy section of the report below for detailed comment.	Development Advisory Unit (DAU)
5.1.3 – Lot Boundary Setback	Ground Floor Garage/Ens (east) – 2.2m setback.	1.5m – 2.2m	Requires assessment using Performance Criteria	Manager Statutory Planning (MSP)
	First Floor Family/Balcony (east) 3.0m setback.	2.7m		
	First Floor Scullery/Balcony (west) – 2.7m setback	1.5m – 2.2m		

**UP22/3994 – THREE STOREY SINGLE HOUSE WITH ROOF TERRACE AT LOT 70 (NO. 4)
FRASER ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)**

Clause C7.2 Works	5.3.7 Site	Height of site works between 0.5m to 1m to be setback a minimum of 1m	North West Corner 2.6m – 3m fill North East Corner -3.7m fill	Requires assessment using Performance Criteria	Manager Statutory Planning (MSP)
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Given the concerns of submitters relate to the proposed building height and visual privacy, further commentary in this report is confined to consideration of the impacts that those matters have on the amenity of those that have raised them, relative to the associated performance criteria as provided by the design principles of the R Codes.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Advertising Required: Yes
 Neighbour's Comment Supplied: Yes
 Reason: Required pursuant to LPP 1.1 Planning Process and Decision Making Clause 1.7.6
 Support/Object: Five objections received

A summary of the content of the objections received and an officer's response is provided in the table below.

Summary of Issues Raised	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Overlooking and loss of privacy	Refer to the comments section of this report.	Not Uphold
The building height does not comply with Policy/Residential Design Codes, Volume 1.	Refer to the comments section of this report.	Not Uphold
The additional building heights will impact views of significance and is not in keeping with the existing built form.	Refer to the comments section of this report.	Not Uphold
Concerns regarding the addition soil on site and in correct natural ground levels.	Refer to the comments section of this report.	Not Uphold
The proposed height also poses an issue of overshadowing onto the adjoining property	Refer to the comments section of this report.	Not Uphold

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II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

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 by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

FINANCIAL IMPLICATIONS

Should the City of Melville refuse the application for planning approval and the applicant chooses to have the decision reviewed, there are likely costs for the City including legal fees and consultant fees.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

The proposal has been assessed against the prevailing planning policy framework. A performance assessment is sought in respect of a number of matters including building height and visual privacy. (see comments section below).

COMMENT

This 500sqm freehold lot is located within an established residential area of Applecross approximately 25m away from the river foreshore reserve. In common with other areas of Applecross, the street here is in the process of systematic renewal, with older properties being demolished, some single lot subdivisions taking place, and new contemporary homes being developed. These newer homes are typically larger, two to three storeys in height, and of striking modern style designed to take advantage of the proximity to the river and associated river/city views.

The dominant characteristic of this precise location is the topography, there being a significant slope across the lots from south to north, including the subject lot. This is depicted in the aerial image below (see Figure 2), noting that for the subject lot there is a fall of some 7 to 8 metres across the site from the SW corner close to Fraser Road, to the NE at the rear driveway truncation. This is therefore a challenging site to develop, particularly in the context of aligning the design of a building to the maximum building height levels.

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Figure 2: Site topography

In that vein, the proposed dwelling has been designed in a way which responds to the topography of the site as well as taking advantage of the sites' proximity to the river and associated views. The proposed lower ground level sits below the Fraser Road verge level and as such does not have any impact on the street at all. This ensures that the building presents to the street at two storey plus a roof terrace.

The surrounding dwellings along Fraser Road exhibit a wide range of residential building styles, ages and heights. It is noted that two and three storey buildings are common in the Applecross area and there are many examples of these within close proximity to the site. Like this proposal many of the surrounding dwellings take advantage of the topography of the land to create a third storey at the lower ground level to provide additional internal living space as well as capitalising on available views.

Building height

The proposed building height requires a performance assessment having regard to the design principles contained in Clause 5.1.6 'Building Height' of the R-Codes. These design principles seek to ensure that development is appropriate to the streetscape, maintains adequate levels of sunlight to adjoining properties and maintains access to views of significance where appropriate. It is noted that given the challenges posed by the levels on this lot and those that characterise neighbouring lots, recent nearby developments do generally include over height building elements reflective of the topography. The proposed development in this case is no different in that respect.

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- In common with other recent development within this side of the street, the building is designed in a considerate manner to present as a two storey house to the street and utilise the significant downward slope of the land to create a lower ground floor level. The roof top terrace balustrades are also setback from the street in excess of the deemed to comply standards to ensure that any adverse bulk impacts are avoided.
- Access to the roof terrace is provided via a roof hatch rather than a traditional stairwell. This design feature ensures that the bulk impact towards the street is minimised.
- The proposed building is well articulated, through the use of varied setbacks, floor to ceiling windows, landscaping and a mix of materials which combine to reduce the bulk impact on to the adjoining properties and the streetscape.
- The proposed building height does not have any adverse impact on the amenity of the adjoining landowners to the east and west for the following reasons:
 - The tallest section of the building is located at the rear portion of the site. As noted above the setbacks to the west meet the design principles of the R-Codes and as such there is no impact in terms of building bulk. The roof terrace is setback further from the first and second floor below, in excess of the deemed to comply provisions providing further mitigation of bulk impacts.
 - In respect to the eastern property as noted above the lot setbacks meet the design principles and therefore there is no negative bulk impact from the additional height. In this respect it is noted that the neighbour to the east is separated from the subject site via a three metre wide access leg.
 - The height will have minimal bulk impact on the properties to the east and west and due to the orientation of those properties such that there are no associated loss of views of significance, nor access to direct sunlight.
 - The proposed height will also have no impact on the house at No.5A Fraser Road to the south of the site on the opposite side of Fraser Road. This is because 5A is oriented with its primary frontage to the east to take advantage of river views and is designed with a wall on the boundary and a wall with no major openings on its northern elevation. This ensures there is no visual relationship between the two properties and no bulk impact caused by the proposed building height that is now sought.
- The term 'views of significance' is not defined, nor is detail provided in the explanatory sections of the R-Codes. It is therefore the City's role to make a determination as to whether or not the proposed development maintains access to views of significance. The following paragraphs provide a detailed analysis of the surrounding built form to demonstrate views of significance are not impacted in this case.

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No.1 Fraser Road

- This property will still have access to significant views as its main viewing corridor is towards the north east. This is based on the dwelling's major openings and balconies main viewing corridor being towards the NE towards the river, Perth Central Business District and the Darling Ranges, See Figure 3 street view image and Figure 4 aerial photo below showing the orientation of the dwelling. For orientation purposes, the vehicle shown within the blue square below is parked in front of the development site.



Figure 3: Street View Image of 1 Fraser Road.



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Figure 4: Aerial View depicts aspect towards the east, avoiding the application site to the NW.

No.3 & No.5A Fraser Road

- The applicant has provided cross-sections (See Figure 5 & 6 below) showing the floor level of the roof top terrace (marked in yellow) and the balcony levels (marked in yellow) of the properties at No.3 & No.5A Fraser Road. These properties are considered to be the most impacted by the proposed development. These floor levels were obtained by a surveyor and the floor level of 5A Fraser Road has been crossed checked against DA-2006-1488, approved floor level.
- These cross sections assist in demonstrating that these two properties will maintain access to views over the proposed house toward the river and Perth skyline. It should also be noted that all three properties will still have access to other views to the east and north east.

In Figure 7 below view corridors have been shown in blue, yellow and pink.

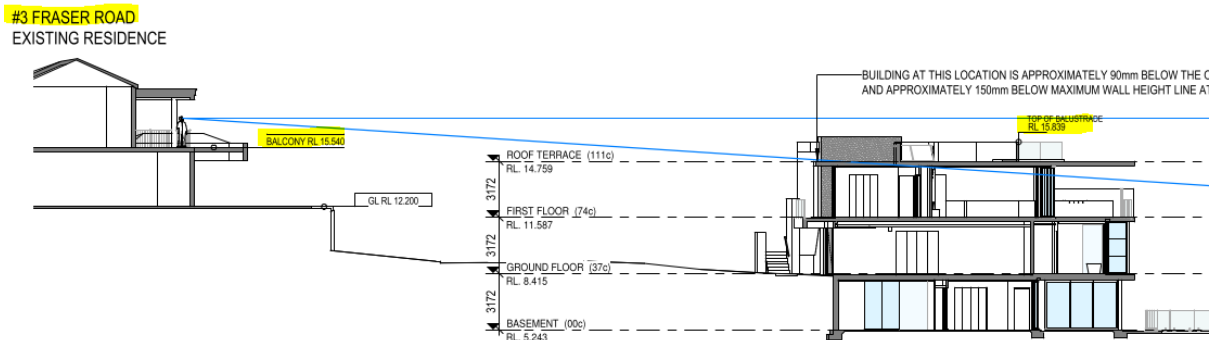


Figure 5: Cross- Sections

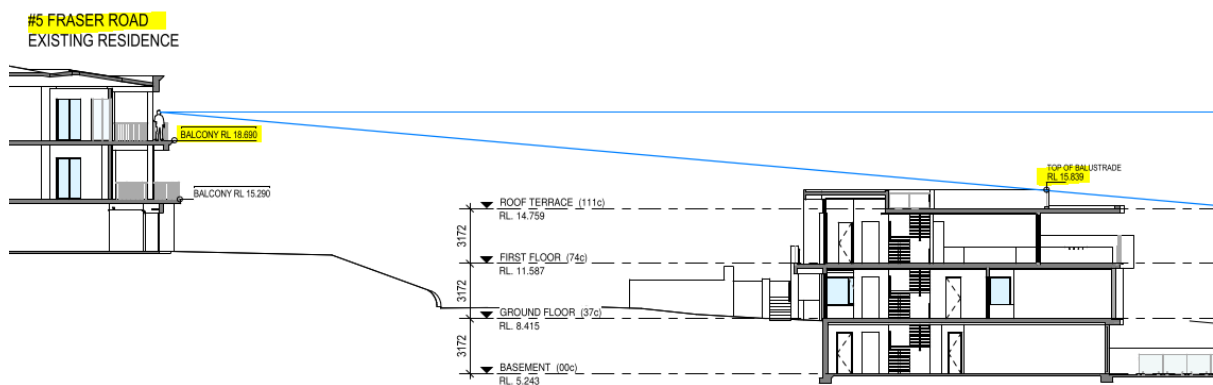


Figure 6: Cross- Sections

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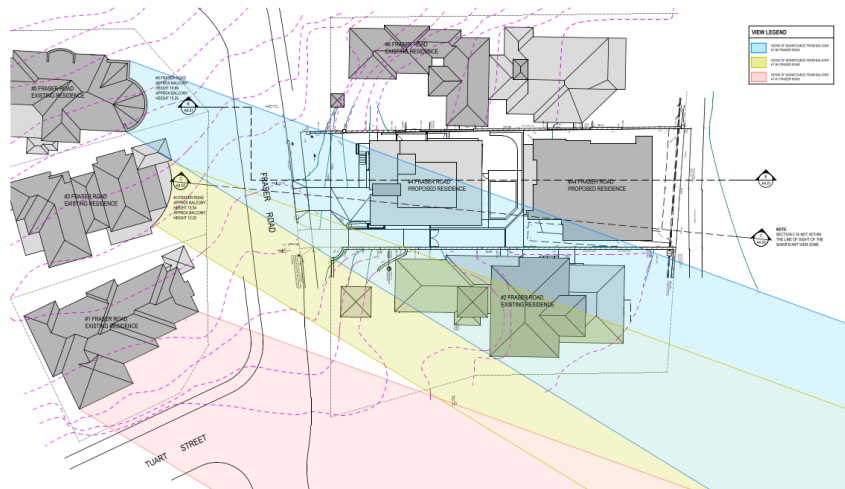


Figure 7: View Corridors

Unauthorised Fill

A number of residents have raised concerns regarding unauthorised fill on the site and have questioned the natural ground levels. In response to these concerns a revised site plan was requested based on Water Corporation BG 2000 Maps Sheet Series and cross checked with a site plan prepared in 2003 for a subdivision application.

On the basis of the information provided the site levels shown on the plans are considered to be an accurate representation of the natural ground levels on site. The assessment of heights has been undertaken based on Water Corporation BG 2000 Maps Sheet Series and the 2003 site plan. As demonstrated above the overall height is considered to meet the design principles of the R-Codes.

Visual Privacy

The proposed development requires a performance assessment in respect of the roof top terrace visual privacy. The proposed visual privacy setbacks are considered to meet the relevant design principles as:

- Seen from Figure 9 below, views from the roof top terrace primarily fall onto the roof of No.2 & No.6 Fraser Road. The roof of house below creates an oblique angle which prevents any direct overlooking down into any habitable windows or active habitable spaces.
- A small portion of the roof top terrace cone of vision falls into No.2 & No.6 Fraser Road, see Figure 10 below. These spaces are not part of the outdoor living areas of the adjoining lots, nor are they part of any sensitive portion of the lot where people are expected to enjoy outdoor living. The primary outdoor living areas of both of these properties is to the north towards the river frontage. In addition, the oblique angle of view ensures that any potential adverse overlooking impacts are avoided.

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The proposed dwelling meets the design principles of the R-Codes in terms of visual privacy and is considered to be acceptable on that basis.

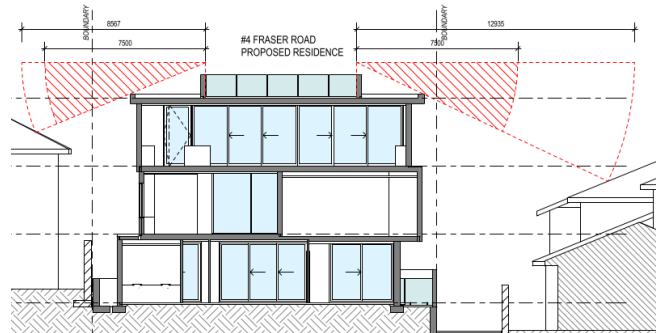


Figure 9: Visual Privacy Cross-Section

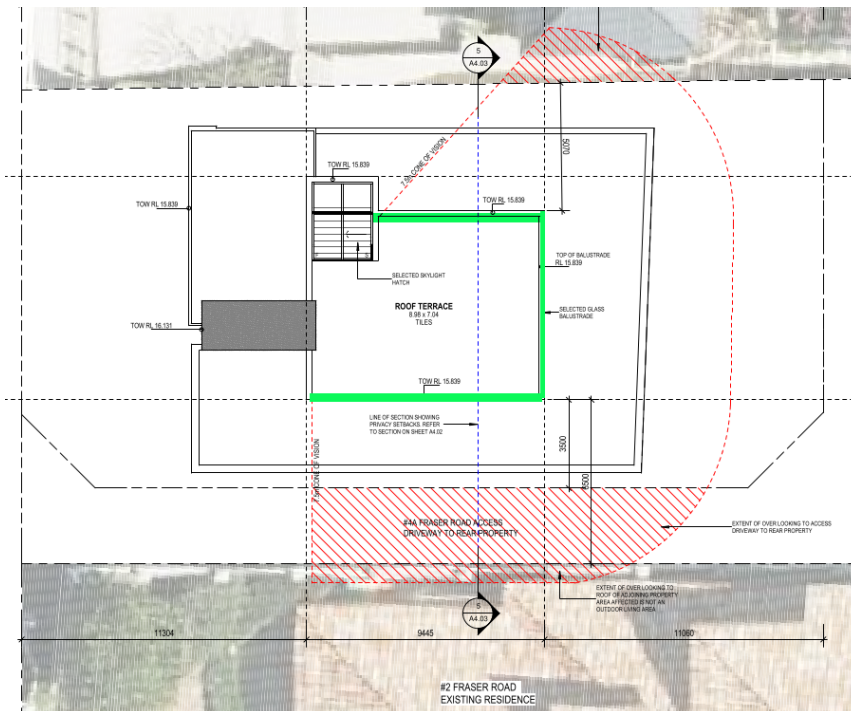


Figure 10: Green highlight showing enclosed area of the roof terrace.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The statutory alternative for refusal of the application for planning approval is the right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

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CONCLUSION

The application is considered to satisfy the provisions of LPS6, the Design Principles of the Residential Design Codes, and Local Planning Policy. On this basis, it is recommended that the proposal be approved subject to conditions.

OFFICER RECOMMENDATION (3994)

APPROVAL

That the Council approves DA-2021-1315 for a Three Storey Single House at Lot 70 (4) Fraser Road, Applecross WA 6153 subject to compliance with the following:

- 1. The development the subject of this approval must comply with the approved plans at all times unless otherwise approved in writing by the City.**
- 2. All stormwater generated on site is to be retained on site in accordance with the City's stormwater design guidelines.**
- 3. Prior to commencement of construction a crossover application shall be submitted to and approved in writing by the City's Technical Services department. The crossovers shall be designed to be:
a maximum width of 6m;
located a minimum of 2m away from the outside of the trunk of any street tree;
and a minimum of 1m from any existing street infrastructure.**

The approved crossovers are to be constructed prior to the initial occupation of the development to the satisfaction of the City.

- 4. Where a driveway meets the street, walls or fencing within sight line areas are to meet the requirements contained under clause 5 of Local Planning Policy *LPP3.1 Residential Development*, to the satisfaction of the City.**
- 5. Any street walls and fences (including the height of any retaining walls) constructed within the primary street setback area shall meet the requirements contained under clause 3 of Local Planning Policy *LPP3.1 Residential Development*, to the satisfaction of the City.**

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6. Temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, sales, administration and construction activities are permitted to be installed within the property boundaries of the subject site(s) for the duration of the construction period. These structures are to be located so not to obstruct vehicle sight lines of the subject site, the adjacent road network or of adjoining properties to the satisfaction of the City and are to be removed prior to initial occupation of the development.
7. The on-site tree/s to be retained (as marked in red on the approved plans) shall be maintained in perpetuity, to the ongoing satisfaction of the City.
8. The privacy screening/obscure glazing shown on the approved plans shall meet the deemed to comply standards of cl. 5.4.1 of State Planning Policy 7.3 Residential Design Codes Volume 1. The privacy screening/obscure glazing shall be installed prior to initial occupation of the development and thereafter retained in perpetuity to the ongoing satisfaction of the city.
9. Prior to the initial occupation of the development, the boundary wall/s shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the city.
10. The balustrades to the roof terrace shall be constructed of clear glazing unless otherwise approved in writing by the City.

15 MOTIONS WITH PREVIOUS NOTICE

16 MOTIONS WITHOUT PREVIOUS NOTICE (approval by absolute majority)

17 MATTERS FOR WHICH MEETING WAS CLOSED TO THE PUBLIC

18 DECISIONS MADE WHILE MEETING WAS CLOSED TO THE PUBLIC

19 CLOSURE