AGENDA

FOR THE

ORDINARY MEETING OF THE COUNCIL

TUESDAY, 17 NOVEMBER 2020
COMMENCING AT 6.30PM

Held electronically in accordance with Regulation 14D(2)(a) of the Local Government (Administration) Regulations 1996.

Due to the State of Emergency declared in Western Australia, effective 16 March 2020 and the subsequent government directives with regard to public gatherings, in order to meet the requirements of Regulation 14E(3)(b) of the *Local Government (Administration) Regulations 1996,* the public may view this meeting electronically and the minutes and audio recording of the meeting will be available on the City's website as soon as practicable after the meeting.

Use this link to attend electronically, Register for the Ordinary Meeting of Council 17 November 2020

Public questions and deputations may be submitted electronically to this meeting please see information at Council Meetings and Forums during COVID 19

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

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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 will be available within 10 days of the meeting and may be accessed at www.melvillecity.com.au in accordance with the provisions of the Policy.

DISTRIBUTED: 30 October 2020

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NOTICE OF MEETING

I respectfully bring to the attention of Elected Members that an Ordinary Meeting of the Council will be held electronically in accordance with Regulation 14D(2)(a) of the *Local Government (Administration) Regulations 1996* on Tuesday, 17 November 2020 commencing at 6.30pm.

The business paper for the Meeting is scheduled below and your attendance is requested.

Marten Tieleman
Chief Executive Officer

AGENDA

1. OFFICIAL OPENING

The Presiding Member will cause the Acknowledgement of Country to be read aloud by an Elected Member.

The Presiding Member will cause the Disclaimer to be read aloud by the Manager Governance and Property.

The Presiding Member will cause the Affirmation of Civic Duty and Responsibility to be read aloud by an Elected Member.

Affirmation of Civic Duty and Responsibility

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

2. PRESENT

3. IN ATTENDANCE

4. APOLOGIES AND APPROVED LEAVE OF ABSENCE

4.1 APOLOGIES

4.2 APPROVED LEAVE OF ABSENCE

Cr Duncan Macphail – Bateman-Kardinya-Murdoch Ward

5. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION) AND DECLARATIONS BY MEMBERS

5.1 DECLARATIONS BY MEMBERS WHO HAVE NOT READ AND GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPERS PRESENTED BEFORE THE MEETING.

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

6. QUESTION TIME

7. AWARDS AND PRESENTATIONS

8. CONFIRMATION OF MINUTES

8.1 ORDINARY MEETING OF THE COUNCIL – 20 & 21 OCTOBER 2020

Minutes 20 & 21 October 2020

RECOMMENDATION

That the Minutes of the Ordinary Meeting of the Council held on 20 & 21 October 2020, be confirmed as a true and accurate record.

8.2 NOTES OF AGENDA BRIEFING FORUM – 3 NOVEMBER 2020

(Notes of the Agenda Briefing Forum will be available on Friday, 6 November 2020)

RECOMMENDATION

That the Notes of Agenda Briefing Forum held on Tuesday, 3 November 2020, be received.

8.3 SPECIAL MEETING OF THE COUNCIL – 4 NOVEMBER 2020

RECOMMENDATION

That the Minutes of the Special Meeting of the Council held on 4 November 2020, be confirmed as a true and accurate record.

8.4 GOVERNANCE COMMITTEE – 19 OCTOBER 2020

RECOMMENDATION

That the Minutes of the Governance Committee Meeting held on Monday, 19 October 2020 be noted.

NB:
Minutes to be confirmed at next Governance Committee Meeting

8.5 FINANANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE – 16 NOVEMBER 2020

RECOMMENDATION

That the Minutes of the Financial Management, Audit, Risk and Compliance Committee Meeting held on Monday, 16 November 2020 be noted.

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

9. DECLARATIONS OF INTEREST

The Members' and Officers' attention is drawn to the following provisions of the *Local Government Act 1995* regarding disclosures of interest;

9.1 FINANCIAL INTERESTS

A declaration under this section requires that the nature of the interest must be disclosed. Consequently, a member who has made a declaration must not preside, participate in, or be present during any discussion or decision making procedure relating to the matter the subject of the declaration.

9.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

Councillors and staff are required, in addition to declaring any financial interest, to declare any interest arising from the City of Melville Code of Conduct, that might cause a conflict. The member/employee is also encouraged to disclose the nature of the interest. The member/employee must consider the nature and extent of the interest and whether it will affect their impartiality. If the member/employee declares that their impartiality will not be affected then they may participate in the decision making processes.

10. DEPUTATIONS

11. APPLICATIONS FOR NEW LEAVES OF ABSENCE

12. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

13. PETITIONS

14. REPORTS OF THE CHIEF EXECUTIVE OFFICER

P20/3878 – ADOPTION OF AMENDMENT NO.7 TO LOCAL PLANNING SCHEME 6 – MARSHALL ROAD LOCAL CENTRE, MYAREE (REC) (ATTACHMENT)

Ward	:	Central Ward
Category	:	Strategic
Application Number	:	DA-2020-506
Property	:	208 Leach Highway, Myaree 1 Marshall Road, Myaree 9 Marshall Road, Myaree 11 Marshall Road, Myaree
Proposal	:	Request for Scheme Amendment - Additional Uses in the Marshall Road Local Centre.
Applicant	:	Planning Solutions.
Owner	:	Various
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	P20/3860: Initiation of Amendment No.7 to Local Planning Scheme 6 (21 and 22 July 2020)
Responsible Officer	:	Gavin Ponton Manager Strategic Urban Planning

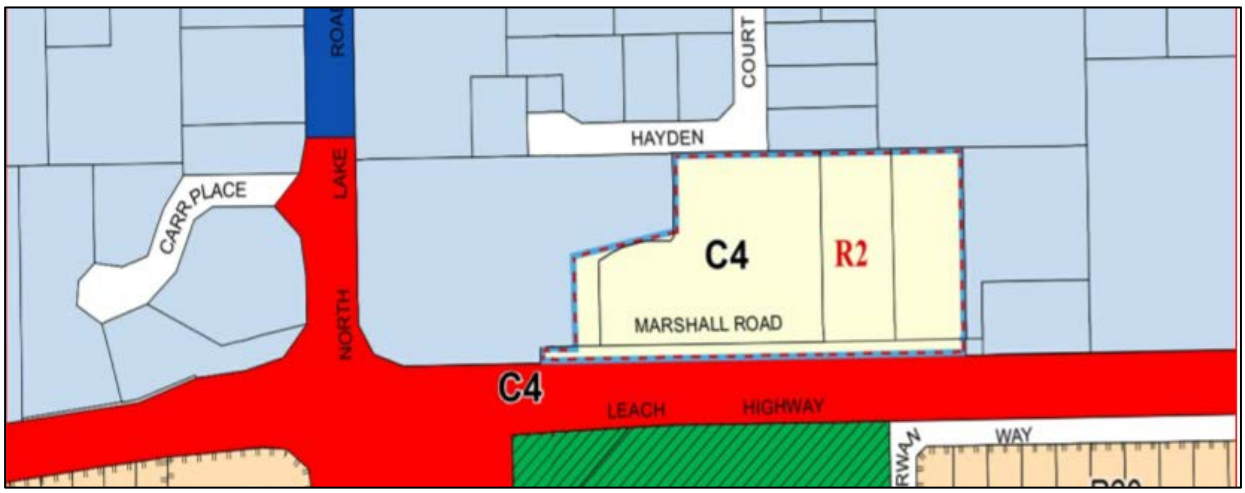
AUTHORITY / DISCRETION

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

P20/3878 – ADOPTION OF AMENDMENT NO.7 TO LOCAL PLANNING SCHEME 6 – MARSHALL ROAD LOCAL CENTRE, MYAREE (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- A Local Planning Scheme (LPS6) amendment application was received in May 2020 to expand the range of uses in the Marshall Road Local Centre.
- The Council initiated Local Planning Scheme 6 - Amendment 7 at its Ordinary Meeting held on 21 and 22 July 2020. The amendment proposes to remove the restricted use (R2) classification and apply an additional (A19) classification to allow for four new additional uses; Bulky Goods Showroom, Industry (Light), Trade Supplies and Warehouse / Storage.
- The proposed amendment was advertised for 42 days and 3 submissions were received on the proposal. The primary concern identified in these submissions relates to existing traffic, access and parking problems in the centre and the potential traffic and parking impact that the amendment will have, if approved.
- The amendment relates to changes to the land use permissibility in the zone. The land use changes are not considered likely to adversely impact traffic and parking conditions. In any event, the traffic and parking implications of any new development or change in use will be addressed through consideration of development applications.
- It is recommended that Council adopt the proposed amendment. As noted in the initiation of the amendment, it is recommended that the wording include a requirement that future development fronting Marshall Road / Leach Highway is of a scale and form in keeping with main street design principles.



LPS6 zoning map of subject site and surrounds

P20/3878 – ADOPTION OF AMENDMENT NO.7 TO LOCAL PLANNING SCHEME 6 – MARSHALL ROAD LOCAL CENTRE, MYAREE (REC) (ATTACHMENT)

BACKGROUND

An application was received in May 2020 to expand the range of uses in the Marshall Road Local Centre. The submission was prepared by Planning Solutions on behalf of Carrooda Pty Ltd and Sansom Nominees Pty Ltd, the owners of No. 208 Leach Highway (Lot 801: Bunnings Warehouse) and No. 1 Marshall Road (Lot 802: Melville Central), Myaree.

The applicant originally requested to amend LPS6 by:

- Removing the restricted use (R2) classification (allowing the normal Centre Zone C4 land use permissibility to apply ; and
- Applying an additional (A19) classification to allow for five new additional uses indicated in the table below. An additional use involves the identification of "additional" permitted uses over and above those already able to be approved within the Centre (C4) Zone that applies to the land.

Proposed Additional Uses for subject site (in addition to those able to be approved under the centre C4 zone):

19.	Marshall Road Local Centre (Land Zoned 'Centre – C4')	Bulky Goods Showroom Industry – Light Trade Supplies Warehouse / Storage Liquor Store - Large

Council considered a report on the request at its Ordinary Meeting held on 21 and 22 July 2020 and resolved that the Council:

1. *In accordance with Part 5 of the Planning and Development (Local Planning Schemes) Regulations 2015 resolves to accept the following proposed amendment to the Local Planning Scheme No.6 for the purpose of advertising:*
    a. *Remove the Restricted Use (R2) classification from the Marshall Road Local Centre; and*
    b. *Introduce an Additional Use (A19) classification to the Marshall Road Local Centre to allow the following uses: Bulky Goods Showroom, Industry (Light), Trade Supplies and Warehouse / Storage.*

2. *The amendment is a "standard" amendment under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reasons:*

    a. *The amendment is consistent with the City's Local Planning Strategy and the Centre C4 zone of Local Planning Scheme 6;*
    b. *The scope of the amendment is limited to the subject site*
    c. *The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.*
    d. *The amendment satisfies the definition of a standard amendment and does not reflect the characteristics of a complex or basic amendment.*

P20/3878 – ADOPTION OF AMENDMENT NO.7 TO LOCAL PLANNING SCHEME 6 – MARSHALL ROAD LOCAL CENTRE, MYAREE (REC) (ATTACHMENT)

3. *Notes that a further report will be presented to the Council at the conclusion of the advertising period to enable consideration of submissions and recommendations to the Western Australian Planning Commission on whether the proposed amendment should be approved or modified.*

4. *Notes that support for the progress of the amendment is based on inclusion of a requirement that a Local Development Plan is prepared to ensure that the design of future development toward the Marshall Road / Leach Highway frontage is high quality and is of a scale and form in keeping with main street design principles in accordance with the objectives of the Centre Zone (C4).*

It is noted that the original amendment as proposed by the applicant sought to include the land use "liquor store (large)" as an additional use. In initiating the amendment Council resolved to remove this land use form the permissible additional uses.

Scheme Provisions

MRS Zoning	:	Industry
LPS Zoning	:	Centre C4
R-Code	:	None
Use Type	:	Not Applicable
Use Class	:	Not Applicable

Details

Subject properties outlined in Red.

P20/3878 – ADOPTION OF AMENDMENT NO.7 TO LOCAL PLANNING SCHEME 6 – MARSHALL ROAD LOCAL CENTRE, MYAREE (REC) (ATTACHMENT)

The proposed amendment was initiated by the Council at its Ordinary Meeting held on 21 and 22 July 2020. The amendment proposes to remove the restricted use (R2) classification and apply an additional (A19) classification to allow for four new additional uses; Bulky Goods Showroom, Industry (Light), Trade Supplies and Warehouse / Storage.

The proposed amendment was advertised for 42 days. The City has engaged with the community via Melville Talks on the City of Melville website, via a newspaper advertisement and via letters to all properties within the centre and immediately adjoining the centre.

A total of 3 submissions were received. One of the submissions was received from a nearby business in the Service Commercial zone and the other two submissions were from residential properties located 600m and 1.5km away from the centre. The comments received in these submissions are detailed below:

No.	Submission	Response
1	Curious what lot 801 and lot 802 plan to occupy the rezoned land with. Their intentions are not clear in the proposal except that is consistent with the purpose and intent of the MRS. If the land is developed, will there be too heavy traffic flow through an already very busy car park and create not enough of a mixed commercial land use. Smaller businesses have to thrive somewhere.	Noted. The current application is for an amendment to introduce four new uses as detailed above. If the amendment is approved, these uses will become permitted (P) uses within the centre. A development application will still be required for any new development within the centre and will be assessed against the provisions of LPS6. There are no current development applications on lots 801 and 802. The Local Centre Zone C4 is intended to still function as a local centre, meeting the day to day needs of the surrounding businesses and community. It is expected that the site will continue its “local centre” role with a mix of smaller shops and large format commercial outlets. In this regard a condition on the Additional Use requirements will specify that larger format land uses are located towards the rear of the site with the sections of the site towards Leach highway maintaining a scale and form in keeping with the local centre zone.

P20/3878 – ADOPTION OF AMENDMENT NO.7 TO LOCAL PLANNING SCHEME 6 – MARSHALL ROAD LOCAL CENTRE, MYAREE (REC) (ATTACHMENT)

No.	Submission	Response
2	Concerned about the traffic entering through Hayden Court as it is very congested already now with the Bunnings deliveries, McCoy street workers parking on Hayden Court every day and also used as a bypass from McCoy street.	Noted. As above, this process relates to land use permissibility and not applications for proposed development. Functionality and suitability of traffic and parking impacts of any proposed developments will be considered as part of the development application assessment process. Further, applications that alter access points or significantly increase traffic flow along Leach Highway will also be referred to Main Roads WA for assessment of implications to regional traffic movements. Main Roads WA have also been invited to comment on the proposed amendment, however no submission has been received.
3	Before the centre gets bigger and busier you would think that the entry and access points would be improved first. As it is already so hard to get in and out of the complex. Hopefully common-sense might prevail for a change and people don't get dictated to by Bunnings/Wesfarmers and the almighty dollar. Fix the access and departure problems first.	Noted. As above, this process is only seeking approval for changes to land use permissibility as opposed to any development. Functionality and suitability of traffic and parking impacts of any proposed developments will be considered as part of the development application assessment process. Further, applications that alter access points or significantly increase traffic flow along Leach Highway will also be referred to Main Roads WA for assessment of implications to regional traffic movements. Main Roads WA have also been invited to comment on the proposed amendment, however no submission has been received.

3878_Attachment_2_Public_Submissions_LPS6_Amendment_7

P20/3878 – ADOPTION OF AMENDMENT NO.7 TO LOCAL PLANNING SCHEME 6 – MARSHALL ROAD LOCAL CENTRE, MYAREE (REC) (ATTACHMENT)

The proposed scheme amendment is considered suitable for approval for the following reasons:

- The scheme amendment maintains the Centre C4 zoning of the land. Removal of the restricted use classification over the site would enable the standard range of uses for a Centre Zone C4 to be approved. Removal of this restriction on land uses is not likely to detract from the purpose of the zone.
- The proposed additional uses also are not likely to detract from the locality. Two of the proposed additional uses, Industry –Light and Warehouse/Storage, are permitted under the current LPS6 requirements. The other two proposed additional uses, Bulky Goods Showroom and Trade Supplies, are also considered generally compatible with the locality.
- The Local Centre Zone C4 is intended to function as a local centre, meeting the day to day needs of the surrounding businesses and community. It is expected that the site will continue its "local centre" role with a mix of smaller shops and large format commercial outlets.
- To ensure that the larger format land uses do not dominate the centre it is likely that if the scheme amendment proceeds, that additional controls will be required to maintain a local centre character and function particularly to the Marshall Road / Leach Highway frontage. To achieve this objective, measures could be considered as part of the amendment to require development towards the Marshall Road / Leach Highway frontage of the site to be based more on local centre design principles with any larger format land uses located to the rear / north of the precinct away from Leach Highway.

STAKEHOLDER ENGAGEMENT

Advertising Required: Yes

I. COMMUNITY

The amendment to LPS6 is a 'standard' scheme amendment and therefore is required to be advertised for a minimum of 42 days as per the *Planning and Development (Local Planning Schemes) Regulations*.

Amendment 7 was publicly advertised from 10 September to 22 October 2020 (48 days). Submissions received are documented in this report.

II. OTHER AGENCIES / CONSULTANTS

The application was referred to the Environmental Protection Authority (EPA) in accordance with Section 81 of the *Planning and Development Act 2015.* The EPA has advised that the proposed Amendment should not be assessed under Part IV Division 3 of the Environmental Protection Act 1986 and that it is not necessary to provide any advice or recommendations.

The following relevant agencies were also consulted on the proposed amendment: Main Roads WA, Department of Transport, Public Transport Authority, Water Corporation, Western Power, Alinta Gas and WAPC. The submissions from public authorities are summarised below.

P20/3878 – ADOPTION OF AMENDMENT NO.7 TO LOCAL PLANNING SCHEME 6 – MARSHALL ROAD LOCAL CENTRE, MYAREE (REC) (ATTACHMENT)

Agency	Summary of Submission	Support/ Objection	Officer's Comment	Action (Uphold / Not Uphold
Department of Transport (DoT)	The (DoT) has no comment for the propose amendment. DoT recommends the City to contact MRWA and obtain their comments in relation to the above application.	Comment only	Noted	Uphold
Water Corporation	It is noted that the amendment report does not contain any information or assessment of water, wastewater and drainage infrastructure in the locality. The Water Corporation has not had any contact with the owners of the land or their consultants regarding servicing of the proposed developments. Any upgrades or extensions required to the water and sewer reticulation mains in order to service the additional development will need to be undertaken and coordinated between the landowners in consultation with the Water Corporation.	Comment only	Noted	Uphold

STATUTORY AND LEGAL IMPLICATIONS

The process undertaken is being followed as per LPS6 and the *Planning and Development (Local Planning Schemes) Regulations 2015*.

The amendment was initiated by Council in July, including the commencement of advertising. Following advertising, all submissions are reported to Council for consideration (current step). The resolution from Council will then be forwarded to the Western Australian Planning Commission (WAPC) and subsequently the Minister for Planning for determination.

Notwithstanding Council's decision with regard to determination of submissions and progression of the Amendment, the Minister for Planning has the final decision in regard to this Amendment.

FINANCIAL IMPLICATIONS

There are no financial implications with this request.

P20/3878 – ADOPTION OF AMENDMENT NO.7 TO LOCAL PLANNING SCHEME 6 – MARSHALL ROAD LOCAL CENTRE, MYAREE (REC) (ATTACHMENT)

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Adoption of an amendment is in keeping with the Local Planning Strategy.

POLICY IMPLICATIONS

There are no policy implications with this proposal.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council could decide not to adopt the scheme amendment, if its preference was to maintain the existing zoning and restricted uses. Under this option the scheme amendment would be forwarded to the WAPC with a recommendation that the amendment not be proceeded with. The WAPC and ultimately the Minister for Planning would determine the amendment outcome.

Council may choose to modify the content of the proposed amendment. Depending on the extent of proposed modifications it may be necessary to readvertise the proposed amendment.

CONCLUSION

The proposed amendment to delete the restricted use classification and replace this with an additional use classification is supported at this time as the Centre (C4) zoning will continue to apply consistent with the strategic planning framework and planned activity centres hierarchy.

The removal of the restricted uses will align the centre with the standard LPS6 zoning table and the allowable uses in City's other local centres identified in the Local Planning Strategy.

The proposed additional uses will allow for development that has historically been considered suitable for this location and, subject to a local development plan being provided for development fronting Marshall Road / Leach Highway will not detract from the objectives of the local centre zone.

In view of the above, it is recommended that the amendment be approved.

P20/3878 – ADOPTION OF AMENDMENT NO.7 TO LOCAL PLANNING SCHEME 6 – MARSHALL ROAD LOCAL CENTRE, MYAREE (REC) (ATTACHMENT)

OFFICER RECOMMENDATION (3878) **APPROVAL**

That the Council, pursuant to Part 5 of the Planning and Development Act 2005, adopts Scheme Amendment No. 7 to Local Planning Scheme No. 6 for final approval as follows:

1. **Amending Table 5 - Restricted uses for land in Scheme area – by removing the Restricted Use (R2) Marshall Road Local Centre.**
2. **Amending Table 4 - Specified additional uses for zoned land in Scheme area – by Introducing an Additional Use (A19) as follows:**

No.	Description of Land	Additional Uses	Conditions
19	Marshall Road Local Centre (Land Zoned 'Centre – C4')	Bulky Goods Showroom Industry – Light Trade Supplies Warehouse / Storage	Large format land uses are required to be located towards the northern portion of the site. Land uses and built form within the southern portion of the site towards Marshall Road / Leach Highway are required to maintain a scale and form in keeping with the local centre zone. A Local Development Plan may be required to demonstrate achievement of this condition.

3. **Amending the Scheme Map to remove the R2 designation and add A19 designation as per amendment map in 3878_Attachment_1_LPS6_Amendment_7 Formal_Docs**

P20/3880 - PARKS & RESERVES ZONED RESIDENTIAL IN LOCAL PLANNING SCHEME NO.6 (REC)

Ward	:	All
Category	:	Strategic
Application Number	:	Not Applicable
Property	:	Various
Proposal	:	Response to Council resolution (P20/3871). Report on parks and reserves zoned residential in LPS6
Applicant	:	Not Applicable
Owner	:	Various
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item P20/3871 – Response to petition – Phil Ward Reserve, 11 Cottrill Street, Myaree – 22 September 2020 Ordinary Meeting of Council.
Responsible Officer	:	Gavin Ponton Manage Strategic Urban Planning

AUTHORITY / DISCRETION

DEFINITION

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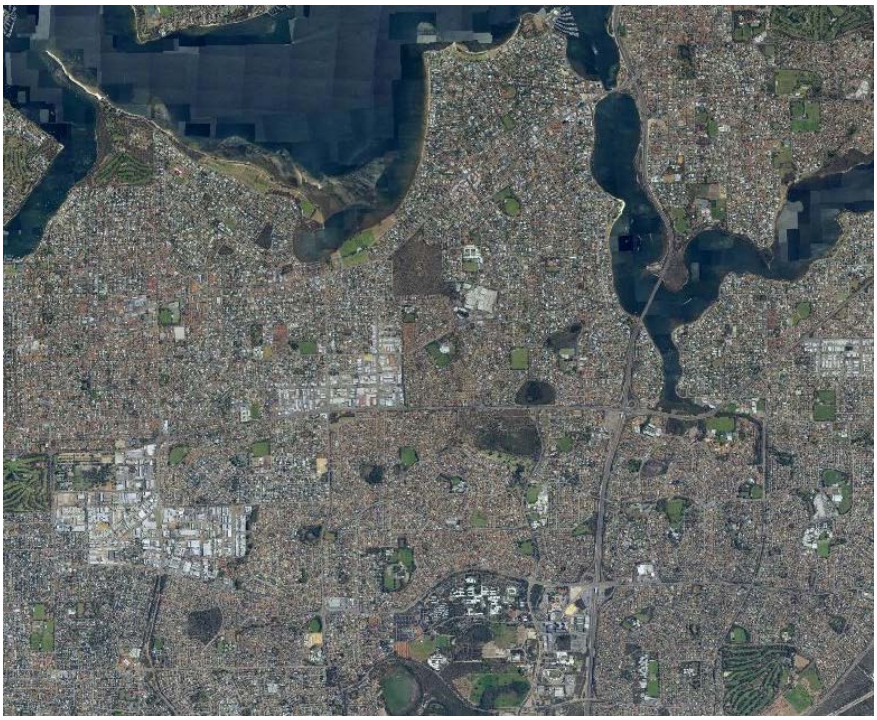
☒	**Information**	***For the Council/Committee to note.***

P20/3880 - PARKS & RESERVES ZONED RESIDENTIAL IN LOCAL PLANNING SCHEME NO.6 (REC)

KEY ISSUES / SUMMARY

- At the Ordinary Meeting of Council held on 22 September 2020 the Council passed a resolution directing the CEO to report on what parks/reserves in Local Planning Scheme No.6 (LPS6) have been rezoned to residential for Council to consider whether any such parks/reserves should be rezoned for Public Open Space.
- A preliminary review of the City's records for parks/reserves has identified a total of twenty-one parks/reserves that include 'Residential' zoning.
- Nine parks have been identified that are zoned 'Residential' in LPS6 having previously been zoned 'Local Open Space' in Community Planning Scheme No.5 (CPS5).
- A further twelve parks have been identified as being zoned 'Residential' in LPS6, however, these parks were also zoned 'Residential' under CPS5.

- This report lists each of the twenty-one parks/reserves identified in the preliminary review as containing a 'Residential' zoning, however, details regarding each parks context and appropriateness for pursuing rezoning to Public Open Space are yet to be comprehensively investigated.
- It is recommended that the City further investigate the twenty-one identified parks/reserves and provide a complete assessment of each park to Council for consideration prior to a decision being made on whether to rezone any of the listed parks.



P20/3880 - PARKS & RESERVES ZONED RESIDENTIAL IN LOCAL PLANNING SCHEME NO.6 (REC)

BACKGROUND

At the Ordinary Meeting of Council held on 16 June 2020 the Council considered a petition signed by 188 residents of the City of Melville that requested, amongst other things, that the Council rezone Phil Ward Reserve from 'Residential R40' to 'Public Open Space'.

The Council considered a report responding to the petition (Item P20/3871) at the Ordinary Meeting of Council held on 22 September 2020 and Council resolved to support the request contained in the petition to rezone Phil Ward Reserve. The Council's resolution also included direction to the CEO to report to the November 2020 Ordinary Meeting of Council on what other parks/reserves have been rezoned in LPS6 to residential for Council to consider whether any such parks/reserves should also be rezoned for Public Open Space.

DETAIL

Part 5 of Council Resolution (3871) passed at the Ordinary Meeting of Council held on 22 September 2020 states in part:

That the Council:

5. *Directs the CEO to provide a report to Council by no later than the November 2020 Ordinary Meeting of Council on what other parks/reserves referred to in LPS 6 have been rezoned to residential, for Council to decide whether the designation of any of such parks/reserves should also be changed to Local Reserve for Public Open Space.*

A preliminary review of the City's records of parks/reserves has identified a total of twenty-one sites that include 'Residential' zoning.

Nine parks/reserves have been identified that are zoned 'Residential' in LPS6 having previously been zoned 'Local Open Space' in CPS5. These are:

- Ces Deceau Reserve, Brentwood;
- Harry Clemens Reserve, Myaree;
- Hugh Corbett Park, Booragoon;
- Jack Jeffery Park, Kardinya;
- Marguerite Smith Reserve, Attadale;
- Norm Godfrey Reserve, Kardinya;
- Phil Ward Reserve, Myaree;
- Pitman Park, Myaree;
- Prosser Park, Myaree.

P20/3880 - PARKS & RESERVES ZONED RESIDENTIAL IN LOCAL PLANNING SCHEME NO.6 (REC)

A further twelve parks, or part thereof, have been identified as being zoned 'Residential' in LPS6, however, these parks were also zoned 'Residential' under CPS5. These are:

- Baden Powell Reserve, Ardross;
- Bicton Substation, Bicton;
- Charles Eckert Reserve, Applecross;
- Davis Lawlor Park, Attadale;
- Geo Thompson Park (part), Palmyra;
- Ogilvie Road Reserve, Mount Pleasant;
- Reg Seal Reserve (part), Mount Pleasant;
- Robert Henwood Park (part), Kardinya.
- Laurie Withers Reserve (part), 20 Dalston Cr, Kardinya
- Jack Martin Reserve, 32 Dalston Cr, Kardinya
- Unnamed Park, McBeth Way, Kardinya
- Unnamed Park, 12 Lockwood Court, Bicton

Consideration of the merits of zoning each of the above sites as local open space or similar will require a thorough assessment of each park/reserves context such as ownership, applicable management orders, valuation implications and use details. This level of investigations has not been achievable within the requested timeframe. Accordingly, further investigation for each of the twenty-one listed parks/reserves is recommended prior to Council making a decision on whether to initiate scheme amendments to rezone any of the parks/reserves.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not applicable. Stakeholder engagement would occur following initiation of any scheme amendments.

II. OTHER AGENCIES / CONSULTANTS

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

A scheme amendment to rezone any of the listed parks/reserves would require a resolution of the Council to initiate the process. Procedures are specified by the *Planning and Development (Local Planning Schemes) Regulations 2015*. It is noted that once a scheme amendment is initiated it is open for the Minister for Planning to proceed to determine the application or to make modifications to the content of the amendment.

FINANCIAL IMPLICATIONS

The City's parks and reserve represent significant assets to the community and City. The function, operation and intended future of these assets is determined by a number of factors such as land tenure, vesting orders, management orders, leasing arrangements and conservation status.

P20/3880 - PARKS & RESERVES ZONED RESIDENTIAL IN LOCAL PLANNING SCHEME NO.6 (REC)

The reservation and/or zoning of these sites under LPS 6 is just one of the factors informing the current and future use of these parks and reserves. As with any parcel of land, its financial value is influenced by the zoning or reservation of the land. Whilst there is no intention to change the land use status of any of the identified parks and reserves, a change in the zoning or reservation status may impact the value of the land and this may in turn have implications if a future change in land tenure of the park were to be explored. Changes to land tenure and contact with the Department of Planning Lands and Heritage on land matters relating to vesting, management orders and freehold land are not uncommon. The value of different land parcels will have an impact on the outcome and potentially costs of these transactions. Changing the reservation or zoning of the identified parks and reserves will have a financial implication. Further investigation is required to understand the magnitude of those implications.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are some strategic risk implications in considering whether to rezone the listed parks/reserves to 'public open space' as summarised in the risk table below:

Risk Statement & Consequence	Level of Risk	Risk Treatment
Rezoning the identified sites to public open space will have unforeseen financial implications in terms of future land tenure negotiations	Major consequences which are possible resulting in a **High** level of risk	Further investigations to be undertaken to understand context and financial and other implications prior to making a decision on scheme amendments.
Scheme amendments not supported by Department of Planning/WAPC due to insufficient detail on background/context and justification of proposals.	Moderate consequences which are possible resulting in a **Medium** level of risk.	Further investigations to be undertaken to understand context and financial and other implications prior to making a decision on scheme amendments.
Parks and reserves identified are developed for alternative purposes.	Major consequences which are rare resulting in a **Low** level of risk	The ongoing use of the identified sites for parks and reserves is protected by multiple statutory controls at both local and state level. Processes to change the use of the identified sites are extensive and include community engagement.

POLICY IMPLICATIONS

The following City policies have been considered in preparing this report:

- (CP-005) Land and Property Retention, Disposal and Acquisition
- (CP-103) Improving Public Spaces Policy and Public Spaces Strategy
- Corporate Business Plan 2020-2024

P20/3880 - PARKS & RESERVES ZONED RESIDENTIAL IN LOCAL PLANNING SCHEME NO.6 (REC)

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Council could immediately resolve to initiate a scheme amendment to rezone any or all of the listed parks/reserves. This is not recommended at present as details regarding the context and financial implication of each park/reserves zoning is not yet available for Council's consideration. Commencing a scheme amendment without consideration of sufficient information may undermine the likelihood of an amendment being supported by the West Australian Planning Commission and/or the Minister for Planning. As outlined above, there is no current intention to change the current parks and recreation usage of the identified sites.

CONCLUSION

A preliminary review of the City's records of parks/reserves has identified a total of twenty-one that include 'Residential' zoning. The results of these preliminary investigations are presented to Council in response to the resolution from 22 September 2020. Further investigation into the details for each of the subject parks/reserves is recommended prior to Council making a decision on whether to initiate scheme amendments to rezone any of the parks/reserves to public open space. The investigations are not likely to be completed to meet the December 2020 round of meetings and a report back to Council in March 2021 is suggested.

OFFICER RECOMMENDATION (3880) **APPROVAL**

That the Council:

1. **Notes the twenty-one listed parks and reserves identified as being zoned 'Residential' under Local Planning Scheme No.6.**

2. **Directs the CEO to provide a further report with detailed assessment of each of the twenty-one parks/reserves, including recommendations for whether each park/reserve should be rezoned to 'Public Open Space', be provided to the March 2021 Ordinary Meeting of Council.**

P20/3881 - ADDITIONS AND ALTERATIONS TO EXISTING SINGLE STOREY GROUPED DWELLING LOT 1 (No.36) ZENOBIA STREET, PALMYRA WA 6157 (REC) (ATTACHMENT)

Ward	:	Palmyra - Melville - Willagee Ward
Category	:	Operational
Application Number	:	DA-2020-976
Property	:	Lot 1 (No.36) Zenobia Street, Palmyra WA 6157
Proposal	:	Additions and Alterations to Existing Single Storey Grouped Dwelling
Applicant	:	Ox Studio
Owner	:	Mrs Kirra May Green and Mr Thomas Edward McBeath
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Responsible Officer	:	Peter Prendergast Manager Statutory Planning
Previous Items	:	N/A

AUTHORITY / DISCRETION

		DEFINITION
☐	Advocacy	*When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☐	Executive	*The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
☐	Legislative	*Includes adopting local laws, town planning schemes & policies.*
☐	Review	*When the Council operates as a review authority on decisions made by Officers for appeal purposes.*
☒	**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 (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.***
☐	Information	*For the Council to note.*

P20/3881 - ADDITIONS AND ALTERATIONS TO EXISTING SINGLE STOREY GROUPED DWELLING LOT 1 (No.36) ZENOBIA STREET, PALMYRA WA 6157 (REC) (ATTACHMENT)

KEY ISSUES/SUMMARY

- Development approval is sought for additions and alterations to an existing single storey grouped dwelling at Lot 1 (No.36) Zenobia Street, Palmyra.
- The proposed alterations include the construction of a carport and front deck within the street setback area, as well as ground and first floor additions to the rear of the property
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), the provisions of State Planning Policy 7.3- Residential Design Codes Volume 1 (R-Codes) and relevant local planning and council policies.
- In accordance with Part 4 of the R-Codes and Clause 3.4(a) of Draft Local Planning Policy 1.1 'Planning Process and Decision Making', the proposed development was advertised to the adjoining owners and occupiers. One of the adjoining property owners provided the City with an objection relating to the impact of building bulk, loss of visual privacy and overshadowing.
- The application was referred to the Development Advisory Unit (DAU) on 22 September 2020. The DAU determined that the application be recommended for approval subject to conditions.
- Following the DAU meeting, the development application was called up to Council for determination in accordance with the procedures outlined in the Draft Local Planning Policy 1.1.
- On 7 October 2020, the applicant submitted revised plans. These plans now form the basis of the assessment in this case.
- Notwithstanding the objection received, it is recommended that the Council approve the application subject to conditions

Figure 1 – Aerial Photography

P20/3881 - ADDITIONS AND ALTERATIONS TO EXISTING SINGLE STOREY GROUPED DWELLING LOT 1 (No.36) ZENOBIA STREET, PALMYRA WA 6157 (REC) (ATTACHMENT)

BACKGROUND

Scheme Provisions

MRS Zoning	:	Urban
LPS6 Zoning	:	Residential
R-Code	:	R20
Use Type	:	Residential
Use Class	:	Permitted

Site Details

Lot Area	:	Strata Lot - 432.00sqm
Retention of Existing Vegetation	:	No
Street Tree(s)	:	N/A
Street furniture (drainage, pits, etc.)	:	Not applicable
Site Details	:	Refer photo above – Figure 1

DETAIL

In August 2020, a development application was lodged for additions and alterations to an existing single storey house at Lot 1 (No.36) Zenobia Street, Palmyra. The proposed additions include the construction of a carport, a deck located at the front of the property and ground floor and first floor additions to the rear of the property.

On 7 October 2020, the applicant submitted revised drawings. These drawings amend the length of the wall to the upper floor addition to 9m. This reduction in length means that the proposed addition is now setback 1.2m in accordance with the deemed to comply provisions of the R Codes. This setback is acceptable on that basis, and this aspect of the proposed development is therefore no longer a consideration for this report. .

The application was assessed against the provisions of LPS6, State Planning Policy 7.3 Residential Design Codes Volume 1 (the R-Codes) and relevant local planning and council policies. The proposal complies with all the relevant development requirements with the exception of those matters listed below.

3881_Floor_Plan_and_Elevelations

State Planning Policy 7.3 *Residential Design Codes* Vol. 1

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 5.4.1 C1.1 - Visual Privacy	Raised Deck-7.5m setback from boundary	Setback at 1.3 metres	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning

P20/3881 - ADDITIONS AND ALTERATIONS TO EXISTING SINGLE STOREY GROUPED DWELLING LOT 1 (No.36) ZENOBIA STREET, PALMYRA WA 6157 (REC) (ATTACHMENT)

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 5.1.3 C3.1(i)- Lot Boundary Setback (Pantry to Deck)	1.5 metres	Setback at 1 metres	Requires assessment against the Design Principles of the R-Codes Refer to details in report below.	Development Advisory Unit (DAU)

Local Planning Policy 3.1- *Residential Development*

Design Element	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
C2.1(i)- Street Setback	6 metres (average)	5.91 metres	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
C1.2- Setbacks of Carports	3 metres	2.5 metres	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
Boundary Walls Cl.3.2(ii)	Average wall height of 3 metres	Average height of eastern boundary wall at 3.5 metres	Requires assessment against the Design Principles of the R-Codes. Refer details in report below.	Development Advisory Unit (DAU)
		Average height of southern boundary wall at 3.5 metres	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

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

P20/3881 - ADDITIONS AND ALTERATIONS TO EXISTING SINGLE STOREY GROUPED DWELLING LOT 1 (No.36) ZENOBIA STREET, PALMYRA WA 6157 (REC) (ATTACHMENT)

A summary of the objection received and a response is provided in the table below.

Summary of Issues Raised	Comments	Action (Condition/ Uphold/ Not Uphold)
The bulk impact of the dwelling on the adjoining properties outdoor living area/entertaining area	Refer to the comments section of this report	Not Uphold
The proposed additions will overshadow the adjoining property	Clause 5.4.2 'Solar access for adjoining sites' of the R-Codes requires an assessment of the shadow cast to adjoining properties at midday on 21 June. Due to the orientation of the development site, the shadow cast from it falls towards the grouped dwelling to the rear of the site, and not towards the adjoining property the subject of the submission. The developments meets the deemed-to-comply requirements of in the R-Codes	Not Uphold
Loss of privacy from the rear addition	The upper floor windows facing east has a sill height of 1.6metres and as such are classed as minor openings from which overlooking cannot occur. The rear addition meets the deemed-to-comply requirements of 5.4.1 Visual Privacy.	Not Uphold
Potential impact upon future renovations	The development does not compromise the redevelopment potential of 38 Zenobia Street. Any future renovations will be assessed as per the R-Codes.	Not Uphold

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

Any decision issued may be the subject of review by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005.*

P20/3881 - ADDITIONS AND ALTERATIONS TO EXISTING SINGLE STOREY GROUPED DWELLING LOT 1 (No.36) ZENOBIA STREET, PALMYRA WA 6157 (REC) (ATTACHMENT)

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 for the City relating to this proposal.

COMMENT

Lot Boundary Wall Height

In accordance with Clause 3.2(iii) of LPP 3.1 'Residential Development Policy', boundary walls in areas coded R20 and above are to have an average wall height of 3m, a maximum wall height of 3.5 metres and a maximum length of 9m or 1/3 of the lot boundary (behind the front setback). It is noted that whilst there are two boundary wall variations in this case, the proposed boundary wall variation to the south is not the subject of an objection from the adjoining neighbour, and as such is accepted on its merits in accordance with the Design Principles of the R Codes. The boundary wall to the east is the subject of a submission from an adjoining neighbour and as such is a focus for consideration in this report.

The eastern side boundary wall has an average wall height of 3.5m, and therefore requires a performance assessment. The proposed wall is considered to meet the Design Principles of the R-Codes for the following reasons:

- The height of a boundary parapet wall is taken from the natural ground level at the boundary on the subject lot. In this instance the area where the parapet wall is to be built is between 440mm to 950mm below the ground level on the adjoining lot. This difference in ground levels between the adjoining lots serves to mitigate any adverse impact that the over height boundary wall may have towards the neighbouring property. When this difference in ground level is taken into account, the height of the wall experienced by the adjoining neighbours will be equal to a compliant outcome (Figures 2 and 3). Further, there are two sheds and a storage area located adjacent to the proposed parapet wall. This will further diminish the bulk impact caused by the parapet wall;

- Building up to the side boundary is considered to be an effective use of space that allows the owners of the subject lot to have a consolidated outdoor living area whilst avoiding unusable space between the extension and the lot boundary.

P20/3881 - ADDITIONS AND ALTERATIONS TO EXISTING SINGLE STOREY GROUPED DWELLING LOT 1 (No.36) ZENOBIA STREET, PALMYRA WA 6157 (REC) (ATTACHMENT)

- There are no visual privacy or overshadowing variations created by the proposed boundary wall, as each of these aspects meets the relevant deemed-to-comply provisions of the R-Codes

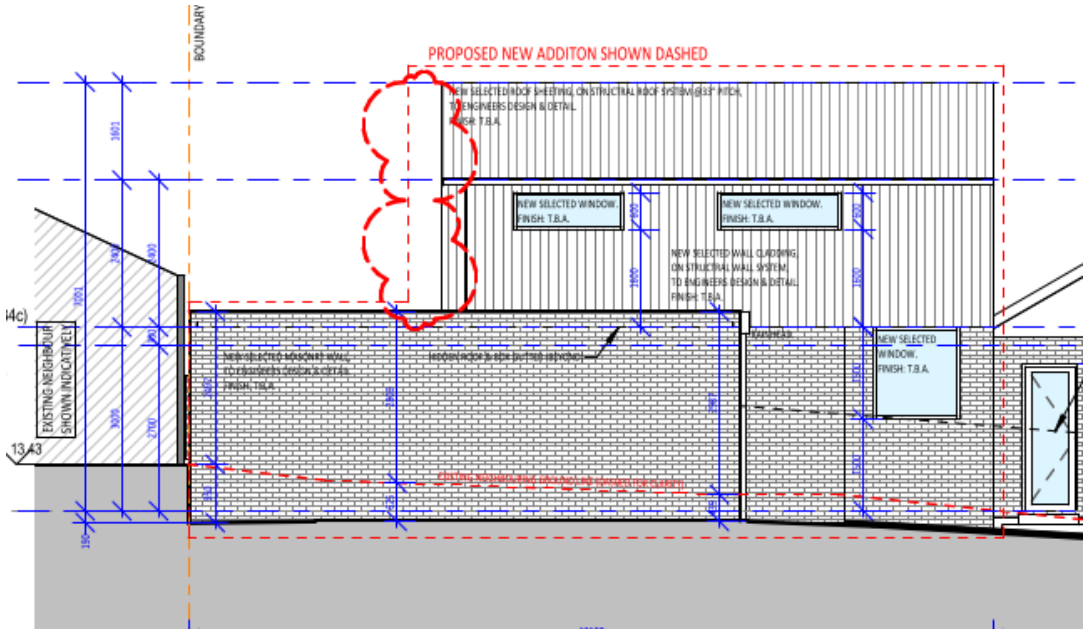


Figure 2: Proposed rear extension. The higher level of the neighbouring property is denoted by the sloping red dashed line

Figure 3: View of the neighbouring property from the subject site. This section of the existing fence is to be the location of the eastern parapet wall**.** Note the difference in ground levels and the adjacent sheds on the eastern neighbour's boundary.

P20/3881 - ADDITIONS AND ALTERATIONS TO EXISTING SINGLE STOREY GROUPED DWELLING LOT 1 (No.36) ZENOBIA STREET, PALMYRA WA 6157 (REC) (ATTACHMENT)

Ground Floor Lot Boundary Setback (Deck – Pantry)

In accordance with Table 2A of the R-Codes, walls no higher than 3.5 metres are to be setback 1.5 metres from the lot boundary when they exceed 9 metres in length. Excluding the boundary parapet wall previously discussed, the remainder of the ground floor is setback from the eastern boundary by 1.0 metre, and is greater than 9m in length. As such a performance assessment in accordance with Clause 5.1.3 of the R Codes is sought. The proposed boundary setback is considered to meet the Design Principles of the R-Codes for the following reasons:

- The length of wall in question comprises the existing retained dwelling plus the proposed front deck and the rear pantry addition. The only major opening on the adjoining property that addresses this length of wall is a kitchen window, which is opposite the existing retained dwelling (see Figure 4). Since the pantry and deck additions do not abut habitable spaces or major openings, there is considered to be no bulk impact from their addition.

- The proposed deck and associated balustrade is an open roofed lightweight structure. This ensures that it has minimal bulk impact. In addition the deck is proposed to be located adjacent to the carport of the adjoining property, not an active habitable space or outdoor living area.

- The fact that the subject site is situated at a lower ground level, combined with its western orientation ensures that the proposal meets the deemed-to-comply requirements of Clause 5.4.2 of the R Codes 'Solar Access'.

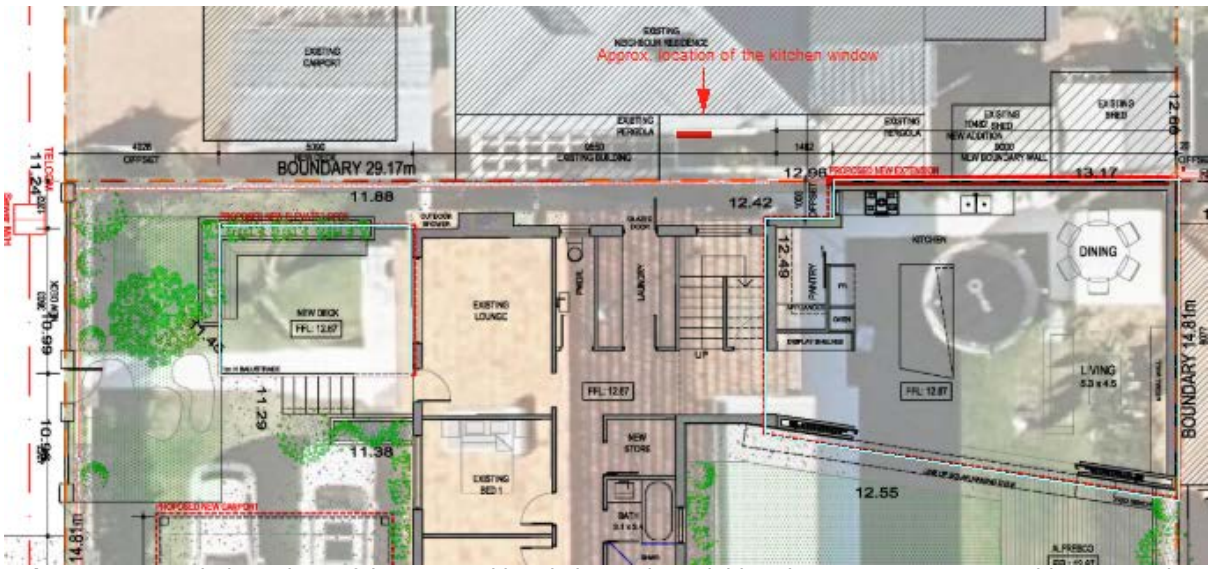


Figure 4: Ground Floor plans of the proposal in relation to the neighbouring property at 38 Zenobia Street. The additions are marked in blue and the approximate location of the kitchen window on the adjoining property is denoted by the red line.

P20/3881 - ADDITIONS AND ALTERATIONS TO EXISTING SINGLE STOREY GROUPED DWELLING LOT 1 (No.36) ZENOBIA STREET, PALMYRA WA 6157 (REC) (ATTACHMENT)

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council may choose to refuse to grant approval for the proposed development and provide a reason for doing so. If the Council chooses to refuse the application, the applicant may exercise a right of review to the State Administrative Tribunal.

CONCLUSION

Given the design principle assessment that has been applied in this case concludes that the development is acceptable in principle, it is recommended that approval for the development be granted, subject to conditions.

OFFICER RECOMMENDATION (3881) **APPROVAL**

That the Council approves the development at Lot 1 (No. 36) Zenobia Street, Palmyra subject to the following conditions:

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 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.**

4. **Any street walls and fences (including the height of any retaining walls) constructed within the primary street setback area (as marked in red on the approved plans) shall meet the requirements contained under clause 4 of Local Planning Policy LPP3.1 Residential Development to the satisfaction of the City.**

5. **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.**

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.**

P20/3881 - ADDITIONS AND ALTERATIONS TO EXISTING SINGLE STOREY GROUPED DWELLING LOT 1 (No.36) ZENOBIA STREET, PALMYRA WA 6157 (REC) (ATTACHMENT)

7. Prior to commencement of construction a crossover application shall be submitted to and approved in writing by the City's Technical Services Department. The crossover 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 crossover is to be constructed prior to the initial occupation of the development to the satisfaction of the City.

P20-3882 – KARDINYA DISTRICT CENTRE – PROPOSED ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

Ward	:	Bateman – Kardinya - Murdoch
Category	:	Strategic
Application Number	:	N/A
Property	:	Various
Proposal	:	A proposed Activity Centre Plan (ACP) has been submitted to the City by the owners of the Kardinya Park Shopping Centre. The proposed ACP relates to the Kardinya District Centre. The City is required to forward a report to the Western Australian Planning Commission (WAPC) recommending approval, modification or refusal of the proposed ACP.
Applicant	:	Element Advisory Pty Ltd
Owner	:	Dato Holdings Pty Ltd
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	N/A
Responsible Officer	:	Gavin Ponton Manager Strategic Urban Planning

AUTHORITY / DISCRETION

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

P20-3882 – KARDINYA DISTRICT CENTRE – PROPOSED ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- The City is required to provide a recommendation to the West Australian Planning Commission (WAPC) as to whether it supports a proposed Activity Centre Plan (ACP) submitted for the Kardinya District Centre, supports a modified version of the proposed ACP or does not support the ACP.
- The ACP has been prepared by a private landowner and under the Planning and Development (Local Planning Scheme) Regulations 2015 and the City is required to assess and advertise it for community comment prior to referring it for determination to the WAPC.
- The ACP is assessed under State Planning Policy 4.2 which requires an ACP to be prepared for all District Centres and sets out a range of matters that must be addressed in an ACP. There are a number of concerns and issues with the ACP as submitted with the main issues related to the proposed ACP boundary, densities and maximum heights.
- Advertising resulted in a substantial response with the majority of submissions /comment (including a petition) objecting to the submitted ACP as advertised. Major concerns related to proposed densities and heights and possible traffic issues arising from them.
- The ACP as submitted is not supported. Modifications can be made to the ACP as submitted that will address the issues identified and which it is considered will achieve an acceptable balance between the requirements of the State Planning Framework, community concerns and the City's obligations which require implementation of an ACP.
- Proposing balanced modifications that can be demonstrated as meeting policy requirements while responding to the issues identified and raised by the community is considered the most effective means of securing the best outcome for the City and the local community. Recommending refusal carries the risk that the WAPC could still approve the ACP with little influence from the City resulting in an outcome that may not secure the best outcome for the City and local community.
- Under the Regulations the City must provide a response to the WAPC by the 3rd of December at the latest. If modifications are proposed however, the proposed modifications can be advertised for further community input prior to Council being required to provide its final recommendation to the WAPC.
- It is recommended the proposed ACP be modified as outlined in the report and that the proposed modifications be advertised for further community review.

B**ACKGROUND**

A proposed Activity Centre Plan (ACP) has been submitted to the City by the owners of the Kardinya Park Shopping Centre. The proposed ACP relates to the Kardinya District Centre, within which the Kardinya Park Shopping Centre is located. The proposed ACP documentation as submitted is included as Attachment 1.

3882_Attachment_1_Kardinya_District_Centre_Activity_Centre_Plan_May_2020

The City is required to forward a report to the Western Australian Planning Commission (WAPC) recommending approval, modification or refusal of the proposed ACP.

P20-3882 – KARDINYA DISTRICT CENTRE – PROPOSED ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

Development approval for the redevelopment of the Kardinya Park Shopping Centre was issued by the Development Assessment Panel on the 8th of June 2020. The proposal comprised a proposed redevelopment of the Kardinya Park Shopping Centre site incorporating undergrounding of the existing at grade car parking, expansion of the shopping centre internal mall, introduction of a new roof top food and beverage precinct, a cinema complex, a 12 storey residential apartment building and a number of perimeter developments.

The City recommended a decision on the development proposal be deferred to enable preparation and approval of an Activity Centre Plan for the Kardinya District Centre that would provide an appropriate context for consideration of such a major development. The DAP determined to approve the proposed development in the absence of an ACP but modified the proposed development to reduce the Apartment building height from 12 to 9 storeys.

The proposed ACP has been prepared by a private landowner and has been submitted to the City for assessment. While this is unusual, all other ACP's within the City of Melville have been prepared by the City, State Planning Policy 4.2 - Activity Centres for Perth and Peel (SPP 4.2), which governs the preparation of ACP's, does acknowledge that an ACP may be prepared by a private landowner.

Where an ACP is submitted to the City, the City is required to advertise the proposed ACP for Community comment, refer to relevant agencies, assess the proposed ACP against the planning framework and provide a report to the Western Australian Planning Commission with recommendations as to how the WAPC should determine the proposed ACP within a required statutory period. The City has a statutory obligation to forward its recommendation to the WAPC by at the latest the 3rd of December 2020.

An ACP is a strategic planning document that is intended to provide guidance for the future use and development of the area to which it applies and to which due regard should be given in the consideration/determination of development propositions within that area.

Statutory planning requirements are enforced by the local planning scheme and therefore any proposals within the ACP related to controls applied under the planning scheme need to be reflected in that scheme. As such alteration to proposed density codes for example, while recommended in an ACP need to be enacted in the Scheme in order to take effect.

On this basis any proposals identified within the ACP which are different to the existing Scheme can only be implemented upon gazettal of an amendment to the Scheme to modify it to reflect the proposals contained within the ACP.

Scheme Provisions

MRS Zoning	:	Urban
LPS Zoning	:	Centre C3, Residential
R-Codes	:	R25, R40, R50, R80

P20-3882 – KARDINYA DISTRICT CENTRE – PROPOSED ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

Site Details

The Kardinya District Centre essentially comprises the Kardinya Park Shopping Centre and adjoining Kardinya Square sites and is bounded by North Lake Road to the west, South Street on the south, Gilbertson Road to the east and Brophy Street and Dalston Crescent on the north.

DETAIL

An ACP is a strategic plan intended to provide a vision for the future form, use and development of centres. It is intended to address a wide variety of elements including the centre's context, all forms of movement within and to the centre, activity within the centre, the urban form of the centre, resource conservation and how the ACP will be implemented.

While a range of State and Local planning framework elements inform preparation of an ACP, most primary amongst these is SPP 4.2. This includes within it the Model Centre Framework that specifies the range of matters that should be addressed within an ACP in order to respond to the above elements via an ACP planning checklist.

This is intended to ensure that a sufficient and appropriate level of analysis is completed in order to inform and justify the proposals forwarded within the ACP. Integral to this is obtaining a detailed understanding of the nature and context of the subject area, and the evolution of a cohesive vision for its future involving/including community participation in the creation of this vision.

Proposals then incorporated within an ACP should be based on this process to ensure that they are achievable within the context of the locality as well as the planning framework.

P20-3882 – KARDINYA DISTRICT CENTRE – PROPOSED ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

PROPOSED ACTIVITY CENTRE PLAN

The main components of the proposed ACP as submitted is summarised as follows;

Identification of a proposed ACP area centred upon the Kardinya District Centre comprising the adjoining Kardinya Park and Kardinya Square shopping centre sites and a surrounding residential catchment area. Note, SPP 4.2 generally identifies the residential catchment as comprising an approximate 400m radius around the commercial centre (i.e. a 5 minute walk), however, the residential catchment area as proposed in the ACP does not reflect a consistent 400m radius.

Commercial/mixed use focus within district centre component (that area comprising the shopping centres and which is zoned “Centre” in Local Planning Scheme No.6) proposing commercial oriented and higher density oriented use with maximum building heights ranging from 15 to 20 storeys.

Adjoining/surrounding residential catchment area proposed for increases in residential density ranging from R40 to R160 designed to encourage apartment development based on heights ranging from a maximum of 2 to 5 storeys Introduction of a range of additional uses into residential zoning along part of Gilbertson Road. Proposed widening of Gilbertson Road at the intersection of South Street. Range of alternative road frontage treatments.

COMPLIANCE WITH PLANNING FRAMEWORK

State Planning Policy 4.2

State Planning Policy 4.2: Activity Centres Perth and Peel, identifies the Kardinya District Centre and subsequently the requirement for preparation of an Activity Centre Plan applicable to the District Centre and its immediate surrounds. It sets out matters to be addressed in an ACP and includes requirements that an ACP should meet such as dwelling targets.

The ACP includes a Model Centre Framework to provide a guide to matters that should be included and an MCF checklist to assist in this regard. These all outline matters that should be considered within an ACP, it is, however, the responsibility of assessing agencies/authorities to determine if these matters have been satisfactorily addressed and if sufficient assessment and investigation has been completed to ensure that the proposals contained within the ACP addressing these items are an appropriate response to the policy framework and the character, identity and potential of the subject area.

While the proposed ACP complies with SPP 4.2 in that an ACP has been prepared and its contents include reference to the matters that are required to be considered, beyond that questions remain as to whether sufficient detail and rigour in considering these items and the necessary analysis to ensure proposals within the ACP are sufficiently founded on appropriately detailed analysis has been undertaken.

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As a consequence there are a number of items identified which raise concerns with the ACP as submitted. These are addressed in subsequent parts of this report.

City of Melville Local Planning Strategy

The Local Planning Strategy (LPS) aligns with SPP 4.2, identifying the Kardinya District Centre and adopting the dwelling target for an ACP contained within SPP 4.2 of 30 dwellings per hectare. It states that a focus of the LPS is to intensify District Centres to encourage a better mix of activities, including residential, in order to consolidate their role as community focal points.

The LPS identifies potential opportunities for the future development of activity centres including;

- Encouraging and planning for appropriate "Main Street" development within activity centres
- Aligning transport and activity centre functions
- Encouraging increased employment within appropriate activity centres

It encourages the continued transformation of the district centres into more diverse activity centres, supports increasing the density and diversity of housing in and around activity centres to improve land efficiency, housing variety and support centre facilities within SPP 4.2 guidelines.

The LPS also indicates increased densities along major transport routes including North Lake Road and South Street.

Murdoch Specialist Centre Activity Centre Structure Plan

While the Kardinya District Centre is sited at the western extremity of the Murdoch Specialist Activity Centre Structure Plan (SACP), it remains peripheral to the Murdoch SACP and hence there is little specific content in relation to Kardinya. It acknowledges the Kardinya along with the Bull Creek District Centre at the eastern end of the Murdoch SACP, as activity nodes which bookend the Murdoch SACP.

The Murdoch SACP indicates development of the activity node should be in accordance with SPP 4.2, but identifies a dwelling target of 35 dwellings per hectare specific to the District Centre (as opposed to the wider Kardinya ACP area which is subject to the SPP 4.2 dwelling target of 30 dwellings per hectare).

It also identifies a 50-80% active ground floor frontage as being required along North lake Road and South Street, an urban frontage with a restricted setback around the perimeter of the District Centre and within the "Urban Frame" under the Murdoch SACP, within which the District Centre is located, a maximum height limit of 6 storeys at key sites.

ISSUES/CONCERNS WITH PROPOSED ACTIVITY CENTRE PLAN

A number of potential issues/concerns have been identified with the proposed ACP.

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ACP boundary

SPP 4.2 suggests that the boundary of a proposed ACP should be defined by factors such as existing zoning, topographical features, major infrastructure elements and a walkable catchment around a centre and public transport stops. A walkable catchment is generally an approximate distance of 400m considered equivalent to an average 5 minute walking time.

The submitted ACP proposes an irregular ACP boundary which in some place exceeds the 400m nominal catchment and in others excludes areas that would normally be captured in such a catchment. In particular, with the exception of one larger property, any residential land west of North Lake Road nominally within the 400m catchment has been excluded while the extent of the ACP extends well beyond the 400m catchment to both the north and north east of the district centre.

The ACP documentation advises that "*Whilst SPP 4.2 prescribes a 400m walkable catchment from a District Centre to achieve 30 dwellings per hectare, it was determined that this did not necessarily create the most appropriate streetscapes and building interfaces."* Later within the ACP documentation it is stated that *"Whilst a key emphasis was placed on ensuring the ACP boundary was guided by the 400 metre walkable catchment, this didn't always provide the best outcome and future interface. In this regard, a detailed site analysis and street audit was conducted to assess, where required, where the ACP boundary should conclude. This analysis looked at site features such as roads; POS and existing PAW's that would assist in buffering and transitional density."*

The proposed ACP then includes a description of what it identifies as the "northern", "eastern", "western" and "southern" residential catchments. While these are acknowledged, questions remain over the basis for identification of the ACP boundary as proposed. The possibility that some areas have been included within the ACP that would not normally be included due to the exclusion of other areas (such as west of North Lake Road), is noted.

To seek further clarity in this regard additional input was requested from the proponents in a number of follow up communications, in particular in relation to the exclusion of residential land within the 400m catchment west of North Lake Road. In this regard the most recent communication received suggested that the area west of North Lake Road was not suitable for inclusion because;

- The housing topologies and demographics are much different to the north, east and southern residential properties;
- The levels of investment and property values were such where redevelopment and actual density was less likely to be achieved;
- This residential land is undulating across the suburb making redevelopment problematic;
- This residential area is excluded from being included within the MSACSP;
- The road layouts are even more confined with cul-de-sac heads and limited access and egress roads than the surrounding residential area.

In response, while the area west of North Lake Road was originally developed more recently than the other parts of the proposed ACP catchment, the housing typologies and demographics are not of such substantial difference as to justify exclusion of this area from consideration within the ACP. Housing types and lot sizes for example are similar to those areas included. Landform is undulating across all areas within the potential ACP catchment; again this factor is not sufficiently different as to justify the area west of North Lake Road being excluded.

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Siting within the Murdoch SACP is not a criteria for inclusion or otherwise within the ACP area. The criterion for inclusion is proximity to the district centre and the requirements of SPP 4.2 and as such this reason has no standing. Reference to the road layouts also lacks substance. The road pattern is very similar to that of the areas that have been included and in fact that portion of the area west of North Lake Road that would fall within the 400m catchment contains no cul-de-sac's, unlike the areas immediately to the north and east of the district centre that have been included within the proposed ACP boundary.

In summary the ACP boundary proposed is questioned. It is irregular and results in some areas close to the district centre being excluded while other locations substantially further away which would normally not be included within the ACP area being included. The explanation provided within the ACP documentation and in subsequent liaison with the proponents does not sufficiently justify the definition of the ACP boundary as proposed in the submitted ACP.

Proposed precincts

The ACP as submitted proposes three precincts being a "Core" comprising the Kardinya Park Shopping Centre (KPSC) property, a "Frame" precinct comprising the Kardinya Square property being the balance of the "Centre" zone and a "Residential" precinct consisting of the balance of the ACP area zoned "Residential".

The ACP argues that the district centre has *'always been separated into Core and Frame precincts, with Lot 17* (KPSC) *being established as the predominant commercial hub as the Core, whilst Lot 31* (Kardinya Square) *being located within the Frame, intended for lower intensity commercial uses and activity'*.

While historically the centre may have developed where the larger KPSC has dominated development of the overall site, the statement that the adjoining property is '*intended for lower intensity commercial uses and activity'* is misleading. There is no policy or element of the planning framework that stipulates this portion of the district centre as being intended for lower intensity development.

The current nature of uses across the two sites is similar with both larger and smaller retail components dominating each site, although the presence of the tavern as well as fast food/restaurant uses might suggest there is actually higher intensity activity within lot 31. There is not sufficient divergence in the nature of both existing and proposed activity between the two sites to support separation into two precincts. All statutory elements relevant to the "Centre" zoned portion can be accommodated within one "Core" precinct covering the whole "Centre" zone.

One precinct for "residential" zoned parts of the ACP is appropriate; however, the eastern side of Gilbertson Road between Williamson Road and South Street contains a number of mixed use developments and is also subject to various existing "additional" uses as listed in Table 4 in Local Planning Scheme No. 6 (LPS 6). The ACP also proposes to introduce further additional uses to support the evolving mixed use nature of this strip located bordering the "Centre" zoned "core" area.

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The evolution of this side of Gilbertson Road is an ongoing process, is a logical response to its location bordering the "centre" zoned core and is consistent with the intent and objectives of activating the district centre and surrounds promoted in SPP 4.2. The approach of incrementally introducing further additional uses is, however, a clumsy mechanism to do this and a precinct based approach whereby this portion of the ACP is included as part of a mixed use/residential precinct is a logical approach which has been consistently applied across ACP's previously prepared for other activity centres by the City.

Building heights "Centre" zone

The ACP proposes a default building height of 15 stories across the District Centre ("Centre" zone) with a potential of up to 20 stories at two "landmark locations" being the corner of South Street and North Lake Road and the corner of South Street and Gilbertson Road. By way of justification it is suggested the 15 stories is required in order to meet the dwelling yield target for the District centre of 35 dwellings per hectare under the Murdoch SACP. The 20 storey height proposal is justified solely upon the view that the two corner sites are considered landmark locations at the major intersections to the centre; there is no other criteria proposed such as demonstrating additional community benefit etc. to justify additional height.

The only other location within the City that such heights could be potentially sought is at the Canning Bridge Activity Centre. Such heights are nowhere else contemplated including at the Melville City Centre in Booragoon or at comparative district centres with ACP's in place such as The Melville or Riseley District Centres.

The recent approval for redevelopment of the Kardinya Park Shopping Centre (KPSC) property indicates no more than 2 stories at the intersection of South Street and North Lake Road while a maximum height of 9 stories was imposed for the residential apartment component of that proposal, reduced from the 12 stories originally proposed.

The decision of the Development Assessment Panel (DAP) to restrict height to 9 stories as part of the KPSC approval essentially establishes a benchmark for height within the centre, albeit still higher than the permitted height at a comparative district centre such as Melville District and Riseley Street. This decision reduced the permitted height from that contained in the original development proposal, which in turn was still less than what is now proposed in the ACP.

The residential development approved by the DAP proposes 78 apartments equating to approximately a third of the dwelling target for the "Centre" zone as contained in the Murdoch SACP, suggesting heights above 9 stories are not necessary to enable this target to be reached as only two further buildings at this height could likely meet the target. It is also noted that while the Murdoch SACP promotes a dwelling target for the centre zone of 35 dwellings, it also recommends a maximum height of 6 stories, implying that excessively high buildings are not required to achieve this target.

A default maximum height for the centre has now been established by the DAP at 9 stories and the necessity for buildings within the centre zoning to be any higher, particularly as acceptable dwelling yield can be achieved, is questioned.

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The ACP takes a contradictory approach along the Gilbertson Road frontage of the "centre" zone by at the corner identifying potentially up to 20 storeys and then proposing a maximum of five storeys along the remainder of the Gilbertson frontage. The five storey limit is explained as required to ensure consistency with potential building heights along the eastern side of Gilbertson Road opposite, however, this explanation is then contradicted by the proposed potential height of up to 20 storeys available for over a third of the "Centre" zoned western frontage of Gilbertson Road.

Varying the maximum height as proposed in the ACP is not required and as noted, the recent DAP decision has established a default of a maximum building height of nine storeys within the "Centre" zoned part of the ACP area.

Proposed residential densities

The ACP proposes a variety of densities within the "Residential" zoned part of the ACP area. These range from R40 at the edge of the ACP through R60, R80, R100 and R80/160 to straight R160. In summary, the rationale provided in the ACP documentation for these densities is that the higher densities have been provided to meet dwelling targets under the policy framework closer to the district centre with densities then gradating downwards the further away from the district centre to provide a transition from the core of the activity centre to the area outside the proposed ACP area.

Under SPP 4.2 a dwelling target of 30 dwellings per gross hectare is identified for Activity Centre Plans. Densities proposed should therefore be sufficient to support this target but in a manner that reflects local circumstances and characteristics, and that can be delivered in a manner that mitigates/minimises impacts. This requires a balanced approach and there is concern that the densities proposed are higher than needed in order to meet required targets and they exceed the capacity of the locality to sustain an appropriate scale of development.

Proposed residential heights

Proposed residential heights are tied to proposed densities and reflect maximum heights as outlined in Design WA Volume 2. The submitted ACP contains a building height plan which indicates a maximum height of 5 storeys adjacent to the "centre" zone to the north (R160) then gradating away from the "centre zone via maximum heights of 4 (R80/R160, R100 and R80),3 (R60) and 2 (R40) storeys at the periphery of the ACP area to the north and south.
If as is suggested above the proposed densities exceed what is either required or sustainable for the locality at this time then the need for those densities is questioned.

A reduction in the proposed densities achieving a balance between meeting policy requirements and what the locality can appropriately sustain will result in a reduction in building heights in the residential catchment area.

Proposed statutory elements

The ACP contains two sections being Part 1: Statutory Section and Part 2: Explanatory Section. The statutory section includes statutory elements that will guide implementation of the ACP. The explanatory section provides background and explanation of the content of the ACP.

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Statutory controls as proposed in the ACP generally relate to proposed precincts and address matters such as development controls related to land use and development standards related to the precincts proposed. Many of these controls relate to possible issues to be discussed following and therefore many of the current statutory proposals contained in Part 1 are queried.

Dwelling targets

The proposed ACP states that it is calculated to provide for 1,875 dwellings based on "*a moderate growth scenario with 50% uptake of redevelopment potential to the full development potential as advocated within SPP 4.2. The moderate growth scenario also takes into consideration the likelihood of under-development of some of the properties"*. The proposed ACP includes an estimate of additional dwellings that will be generated over the next 30 years based upon an average and gradual density uptake based on 50% growth of the available yield.

The ACP indicates it will achieve an additional 1,875 dwellings within the ACP area by 2050 based upon a 50% development of the total number of dwellings that the ACP could potentially accommodate under its proposed densities etc. and that this figure of 1,875 dwellings equates to 32 dwellings per gross hectare and therefore meets the SPP 4.2 target for the ACP of 30 dwellings per gross hectare.

This implies that the densities proposed in the ACP could theoretically accommodate twice the number of dwellings stated (3,750 additional dwellings) possibly equating to a yield in the order of 64 dwellings per gross hectare.

The concern is that the densities identified in the ACP may in fact be higher than required as a consequence of applying such a long operational period for the ACP and then assuming a 50% take up rate (which could substantially vary over that longer period).

It is noted that the statutory timeframe for an ACP is 10 years. SPP 4.2 does also not include any consideration in relation to the rate of potential take up, but simply requires the ACP to demonstrate that it provides for accommodating the SPP target. The rate of take up and any implications arising from it is considered as part of the review and preparation of a new ACP after 10 years.

As such the approach outlined in the ACP does not reflect what is identified in SPP 4.2 and may consequently be artificially inflating proposed densities.

Built form outcomes

Built form outcomes, particularly within the district centre are highlighted as a matter requiring careful consideration. While the built form residential development outcomes within the residential components of the ACP area are essentially addressed via Volumes 1 & 2 of the Design WA Codes, within the centre zoned portion of the district centre, the built form vision both for buildings and the public context within which they sit needs to be guided by the ACP. The proposed ACP provides some limited comment in this regard, however, more detailed guidance is considered necessary.

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Activity centre streets

The ACP is intended to guide the future evolution of the district centre. SPP 4.2 requires ACPs to guide the future urban form of a district centre and states that district centres "*should incorporate a network of streets and public spaces as principal elements*".

Commentary provided in the proposed ACP in this regard, is not sufficient to establish the level of guidance considered necessary and required under SPP 4.2.

Gilbertson Street road widening

The ACP identifies proposed widening of Gilbertson Road ranging from 1m to 3.5m at the intersection with South Street on the north west, north east and south west sides of the intersection. This is stated as required to support improved intersection performance and it is understood is related to minimising queuing time at intersections further along South Street by getting more traffic through the Gilbertson intersection quicker. The ACP suggests this widening will be secured by ceding of this land as a condition of development on properties adjacent to Gilbertson identified as affected by this widening requirement.

The ACP as proposed places the onus for securing the identified widening with the City in a manner that is wholly dependent upon redevelopment of affected properties at some future currently unknown point. The ACP provides no other guidance including any indication as to what point construction of a modified intersection becomes an imperative.

Comment has been sought from Main Roads WA in reference to this matter, however, it would appear that the widening is related more to traffic flow along South Street rather than matters specific to Gilbertson Road. Given the 10 year timeframe for the proposed ACP, it may be more appropriate that the need for any widening be assessed at the time of review of ACP. If there is a greater imperative for its earlier implementation then this would be more appropriately implemented via either purchase or reservation of required land by relevant State agencies.

Additional uses

Existing "additional uses" are identified within Local Planning Scheme 6 on properties along the eastern side of Gilbertson Road south of Williamson Road to South Street and also the Service Station site on the south east corner of the South Street/Gilbertson Road intersection. The ACP acknowledges these and promotes the inclusion of further additional uses to encourage ground floor commercial land uses within mixed use development to frame Gilbertson Road opposite the district centre.

Recent developments along this side of Gilbertson Road have reflected this increased mix of use and activity which is a natural evolution of Gilbertson Road as a main street abutting the district centre. This process will continue as the district centre on the western side of Gilbertson Road continues to develop over time and will assist in establishing land use mix and diversity.

The approach of simply adding more additional uses to the residential zone is, however, somewhat clumsy and an alternative approach better suited to the circumstances is appropriate.

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Road frontage proposals

The ACP proposes four alternative road frontage types labelled Active, Passive, Landscaped and High Speed. The ACP then proposes different treatments for each frontage type. This approach results in some streets being required to provide high quality treatments to the street frontage while much lessor quality treatments are required for others.

This is justified on the basis that the lessor frontage treatments will be applied to less attractive/pleasant street environments or contexts such as South Street or North Lake Road. The City's Design Review Panel (DRP) highlighted this approach as a matter of some concern. In particular the DRP was of the view that proposed frontage treatments should be targeted to improving all streets as part of the public realm and that this was particularly important where the street in question was less welcoming.

In the DRP's view, street frontages were either good or bad, and where they were bad the objective should be to make them good. The approach outlined in the ACP does not support this objective.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Process

The Planning and Development (Local Planning Schemes) Regulations 2015 stipulate the statutory requirements and process for advertising a proposed ACP and seeking community comment. The regulations stipulate that an ACP is to be advertised for no more than 28 days and that following completion of advertising a local authority has 60 days in which to forward a report to the WAPC recommending how the determination of the ACP should be made.

If modifications are proposed to the ACP as a consequence of the advertising period, the local authority may readvertise the modifications proposed once, with the 60 day period for preparation and forwarding of a report and recommendation to the WAPC to commence again from the conclusion of the readvertising period.

With the advent of the COVID 19 pandemic the State Government introduced "exemptions" related to a range of planning processes. These exemptions included the potential to increase the period for advertising of an ACP from 28 to 42 days and the period for the City to forward a report to the WAPC with its recommendations from 60 to 90 days. The City has applied these increased periods in assessment of the Kardinya District Centre ACP.

The engagement process was initiated via forwarding just under 1,500 letters to individual properties within the proposed ACP area, properties immediately abutting the proposed ACP and properties within approximately 400m of the District Centre but which had been excluded from the ACP area. These letters advised that the proposed ACP had been submitted to the City, provided details of links to view the ACP documentation and how to make a submission.

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In addition a sign advising of the proposed ACP was erected in a prominent location at the main entrance to the district centre from South Street, a prominent advertisement placed in the Melville Gazette and an engagement page established via Melville Talks on the City website.

Correspondence was also sent to relevant service/infrastructure and government agencies advising of receipt of the proposed ACP and the WAPC via the Department of Planning Lands and Heritage (DPLH) was advised of the commencement and methods of advertising as required under the Regulations.

Submissions

A total of 253 submissions were received by closure of the advertising period. 107 (42%) were from within the proposed ACP area, 23 (9%) from outside the proposed ACP area but from within the mail out area and 123 (49%) from outside the ACP/mail out area. Overall there were 223 objections (88%), 26 submissions in support (10%) and 4 classified as neutral (2%).

Within the proposed ACP there were a total of 94 objections (88%), 12 indications of support (11%) and 1 neutral (1%). Outside the proposed ACP area but still within the ACP area there were 18 objections (78%), 4 indication s of support (17%) and 1 neutral (5%). Outside both the proposed ACP and mail out areas there were 111 objections (90%), 10 indications of support (8%) and 2 neutral (2%).

85% of submitters who objected raised concerns about proposed heights and densities in the residential catchment surrounding the district centre and 70% expressed concern over traffic and parking impacts generated by the proposed high densities. 16% of submitters also raised concern over the proposed heights within the “centre” zoned area.

Other issues of concern identified related to the proposed boundary of the ACP, potential services upgrading and noise and pollution/social issues perceived as arising from the proposed increases in height and density. There was also some confusion over the separate processes of the recent development application for the Kardinya Park Shopping Centre property and this ACP proposal which includes that site but incorporates a wider area, particularly given that the ACP has been submitted by the owners of the Kardinya Park Shopping Centre.

The major theme arising from the engagement process was the perceived implications arising from the proposed ACP proposals in relation to in particular heights, primarily in the residential catchment. As heights are tied to density in the proposed ACP, concerns over the densities were also strongly expressed. While there was general acceptance of two stories as the preferred height within the residential area, anything above two stories was considered to have potentially very substantial negative impacts on the locality, particularly as the majority of the residential area was indicated as accommodating heights of three storeys and above.

A schedule of submissions of all submissions received is included as attachment 2:

3882_Attachment_2_Table_of_Submissions - v1

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Late Submissions

A total of 10 late submissions were received following conclusion of the engagement period. Of these 8 submissions indicated support for the proposed ACP as submitted and 2 submissions were opposed.

A late submissions schedule is included as Attachment 3.

3882_Attachment_3_Late_Submissions

Petition

A petition was also received during the engagement period objecting to the proposed ACP. The petition made the following statement;

"We, the undersigned, all being electors of the City of Melville and living within or adjacent to the boundaries of the area proposed for rezoning, respectively request that the Council take note that we strongly oppose the Kardinya District Centre Activity Plan and associated urbanisation of this part of our suburb. The proposed rezoning of R codes will significantly impact on the character of our suburb and adversely affect the welfare of Kardinya residents. We have major concerns about the proposed plan in regards to the rezoning of residential areas, the height of buildings, increased traffic flow on small suburban roads, adverse changes to the character and demographics of the suburb. We request that the City of Melville oppose the proposed Kardinya District Centre Activity Plan in its report to the Western Australia Planning Commission."

To ensure any misunderstanding with reference to the above, it should be noted that the ACP is a strategic document intended to provide a guide to the planning and future development of the area to which it is subject, it of itself does not amend existing zoning or the statutory framework as it currently applies. A separate scheme amendment process is required in order to effect any changes arising from the ACP. Such an amendment would be guided by the final outcomes of the ACP process.

The petition as submitted contained 401 entries, however, four entries have not been counted as one had no signature, one entry contained no name and address details, one signature was entered twice and the address provided for an entry could not be located. On that basis a total of 397 signatures have been confirmed.

Of the 397 signatures confirmed, 198 signatures are from properties located within the proposed ACP area (50%), 68 are from properties outside the ACP area but within the mail out area (17%) and 131 signatures are from outside both the ACP and mail out areas (33%). There were 70 instances of two signatories from the same property, three instances of three signatories from the same property and two instances of four signatories from the same property.

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41 households within the ACP area comprised multiple signatures (84) and 114 households contained only one signature resulting in a total of 155 households within the ACP area represented within the Petition. 12 households outside the ACP area but within the mail out area comprised multiple signatures (33) and 35 households contained only one signature resulting in a total of 47 households outside the ACP area but within the mail out area represented. There were 22 households with multiple signatures (46) from outside the mail out/ACP area and 85 households containing one signature, resulting in a total of 107 households. 70 signatories of the petition also made individual submissions.

The petition is included as Attachment 4.

3882 Attachment 4 Petition Opposition to Proposed Kardinya Park Activity Centre Plan

II. OTHER AGENCIES / CONSULTANTS

Letters were sent to relevant service and infrastructure agencies requesting comments re the proposed ACP. A response has been received from Main Roads Western Australia (MRWA), the Water Corporation (WC), the Public Transport Authority (PTA) and Department of Water and Environmental Regulation (DWER).

Department of Water and Environmental Regulation has advised it has no objection to the proposed ACP.

The PTA advised that while it supports creation of a mixed use activity centre that can build upon existing and proposed public transport services along South Street and acknowledges that a light rail could be a long term possibility to serve the proposed ACP area, justifying a light rail investment along South Street would be dependent on a number of factors including population demand, patronage forecasts and budget. Currently population densities are not sufficient to justify an investment in light rail.

PTA did indicate that while it was supportive of achieving incremental improvements to the existing bus network in the ACP area and supportive of improvements to the quality and safety of bus stops and pedestrian access along South Street, plans to undertake any upgrade works along South Street are currently unfunded. The PTA also identified a number of errors and inaccuracies in the ACP documentation in reference to various figures and information referring to bus routes and has requested that these be corrected as part of the final ACP documentation.

The WC confirmed that a reticulated water supply and sewerage gravity system is currently available in the proposed ACP area, states that the proposed densities within the residential catchment do not appear to impact upon this reticulation infrastructure but notes that the proposed R-ACO codes in the “Centre” zoned area may result in increased yields currently unknown and if this occurs then the existing single feed reticulation main in South Street may need to be upgraded. If this is the case the developer/disturber responsible would be expected to fund any such upgrading work.

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The subject area is identified as falling within the Brentwood drainage Catchment and the WC advises that its drainage system can only accommodate pre development flows. As such any development arising from the proposed ACP will need to accommodate any additional drainage within development landholdings and a drainage and water management plan will need to be provided at the time of development.

MRWA raised concerns with information provided within the original ACP documentation and requested the provision of a range of additional information. It advised that until said requested information was received and assessed its position was that it did not support the proposed ACP as submitted. The requested information was supplied by the proponents on the 21 September 2020 and forwarded to MRWA on that date. MRWA comment further to assessment of the ACP documentation and additional information is yet to be received and as such the original MRWA advice that it does not support the ACP as submitted remains in place.

The proposed ACP has also as been considered by the City's Design Review Panel (DRP). In summary the DRP raised a number of concerns with the ACP including that sufficient detailed analysis appeared not to have been completed to support the density being proposed, including typological studies for the lots envisaged as a consequence of the densities proposed, detailed assessment of the capacity of the existing area to support such densities and investigation as to the public realm improvements that need to be contemplated in conjunction with the densities identified.

Other items included questions over the separation of the "centre" zoned district centre into the "Core" and "Frame" precincts rather than one cohesive precinct and a view that the "frame" is in reality across the street from the core, i.e. south of South Street and east of Gilbertson Road. The four edge/frontage treatments proposed in the ACP were also identified as an issue.

STATUTORY AND LEGAL IMPLICATIONS

Part 5 of the Planning and Development (Local Planning Schemes) Regulations 2015 governs the preparation and approval of an ACP. This confirms the WAPC as the determining authority for an ACP and outlines the statutory timeframes and procedures to be followed in the consideration and determination of a proposed ACP.

Essentially upon receipt of an ACP, the City must advertise the proposed ACP within 28 days of confirmation of the documentation for no more than 28 days. Following completion of the advertising period the City is then required to provide a report to the WAPC with its recommendation within 60 days. As a consequence of State Government exemptions in response to the COVID19 pandemic an ACP can be advertised for up to 42 days and the period to forward the recommendation to the WAPC has been extended to 90 days. The 90 days for forwarding of a recommendation to the WAPC concludes on the 3rd December 2020. If no recommendation is forwarded by the required deadline the WAPC can make a determination in the absence of a recommendation.

P20-3882 – KARDINYA DISTRICT CENTRE – PROPOSED ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

If modifications are proposed to the ACP as a consequence of comments received during the initial advertising period the City can advertise the proposed modifications once with the statutory periods described recommencing. The WAPC has 120 days within which to make a determination.

A right of Review to the State Administrative Tribunal in accordance with the Town Planning and Development Act 2005, Part 14 of a decision by the WAPC not to approve the ACP is available.

FINANCIAL IMPLICATIONS

The proposed ACP will provide additional development opportunity in the ACP area. Whilst there are no direct financial costs implications with the ACP new development will provide revenue opportunities for the City as well as need for additional services. It is noted that the applicant has been required to pay an application fee to offset the administrative costs associated with the assessment of the ACP.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement & Consequence	Level of Risk	Risk Treatment
As a result of the City not providing a recommendation to the WAPC within the required statutory timeframe the WAPC determines the ACP in the absence from the City	Moderate consequences which are likely resulting in a high level of risk	Ensure item is considered and a resolution made at the November Council meeting

POLICY IMPLICATIONS

No specific policy implications.

COMMENT

The City has a statutory obligation to make a recommendation to the West Australian Planning Commission which has the final decision in relation to the proposed ACP. This recommendation could be either to support approval of the ACP as submitted, recommend refusal of the ACP as submitted, or support approval of the ACP subject to modifications.

P20-3882 – KARDINYA DISTRICT CENTRE – PROPOSED ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

The ACP as submitted is not supported and as such the options for the City are to support either a modified version of the ACP or to recommend refusal. An ACP is required to be prepared and implemented for the Kardinya District Centre under the requirements of SPP 4.2. It is considered that the ACP as submitted can be modified to enable compliance with SPP 4.2 while addressing the majority of concerns raised during community engagement and responding to the issues identified.

On this basis the following modifications are appropriate;

Modify the proposed ACP boundary.
The ACP boundary should be modified to more accurately reflect a 400m walkable catchment and to ensure the boundary is consistently located within road reservations. This will involve deletion from the proposed ACP of some areas included in the submitted ACP and the inclusion of some areas, particularly west of North Lake Road, which was not included in the ACP as originally submitted. Refer Attachment 5.

Attachment 5 – Proposed ACP Boundary Modification Map v2

Modify the proposed precincts.
The precincts should be modified to include the whole of the "centre" zone (the district centre) within the "Core" Precinct. The eastern side of Gilbertson Road between Williamson Road and South Street should be included in a "Mixed Use Frame" Precinct considered a more appropriate mechanism to address the evolution of this strip as part of the ACP rather than expansion of additional uses. The balance of the ACP area being the residential catchment should be included within a "Residential Frame" Precinct. Refer Attachment 6.

Attachment 6 – Proposed ACP Precinct Modification Map v2

Modify the maximum building height in the ACP Core.
The ACP should be modified to establish a maximum building height of 9 storeys within the district centre reflecting of the height established in the JDAP decision for the redevelopment of the Kardinya Park Shopping Centre site. Refer Attachment 7.

Attachment 7 - Proposed ACP Maximum Building Height Modification Map v2

Modify residential densities.
The proposed residential densities are considered excessive and should be modified to reduce proposed densities to R40, R60 and R80 as per Attachment 8. The R80 density mirrors the maximum residential density already existing within the ACP area and the introduction of a small area of R80 as part of the Mixed Use Frame precinct. The R60 density would provide for an interface immediately abutting the district centre itself, an interface between the proposed R80 in the Mixed Use Frame Precinct and adjoin residential, and to facilitate development where lots fronting South Street can only be developed where alternative road access can be secured. The balance of the ACP area would be R40.

Attachment 8 Proposed ACP Densities Modification Map v3

The distribution of densities as per Attachment 8 significantly reduces the densities from those proposed in the ACP as submitted, an issue identified as of significant concern during community engagement, and reduces area identified for higher densities while still achieving a dwelling target for the ACP of 32-33 dwellings per gross hectare as required in SPP 4.2.

P20-3882 – KARDINYA DISTRICT CENTRE – PROPOSED ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

This is considered a balanced outcome and is similar to the approach to residential densities undertaken in existing approved ACP s for district centres comparative to Kardinya such as the Melville District Centre ACP. Any further reduction in the proposed densities will however likely result in not being able to meet the dwelling target requirement.

Modify proposed residential heights in the Residential Frame.
Maximum residential heights are tied to proposed residential densities. With the reduction in densities as recommended overall maximum heights will be substantially reduced. This will result in the majority of the residential catchment having a maximum height of 2 storeys at R40. A maximum of three storeys would apply to smaller areas of proposed R60 while the 4 storeys at R80 will mainly apply to existing R80 designated areas. Refer Attachment 7.

Attachment 7 - Proposed ACP Maximum Building Height Modification Map v2

Modify the proposed ACP to delete Gilbertson Road Widening
Justification for any widening of the Gilbertson Road/South Street intersection is yet to be confirmed. The ACP should be modified to remove reference to widening of this intersection as this is more appropriately secured through other State Planning mechanisms.

Modifications in response to various other issues identified
A range of other issues including potential built form outcomes, activity centre street design/layout and road frontage proposals have been identified. The ACP should also be modified to resolve these issues. Proposed modifications are listed in Attachment 9.

3882 Attachment 9 Kardinya Activity Centre Plan List of Suggested Modifications

Modify statutory elements.
The modifications described above have implications for the statutory components of the ACP as submitted. These statutory items will need to be modified to reflect other modifications proposed. Proposed modified statutory clauses are outlined in Attachment 10.

3882 Attachment 10 Modified ACP Statutory Provisions (2)

P20-3882 – KARDINYA DISTRICT CENTRE – PROPOSED ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Alternative Options	Implication
Council recommends support for the proposed ACP as submitted.	WAPC will determine proposed ACP taking into account City recommendation.
Council recommends refusal of proposed ACP as submitted.	While WAPC will determine the proposed ACP taking into account City recommendation, adoption of an ACP for district centres is a requirement of the State Planning Framework and it is anticipated the WAPC will adopt an ACP for Kardinya in some form and the City will lose the opportunity to influence the outcome.
Council recommends modifications to proposed ACP as submitted.	The proposed modifications will be advertised for further community input resulting in an extension in time for the City to finalise its recommendations.

CONCLUSION

The City has a statutory obligation to provide a recommendation to the WAPC re the proposed ACP within the required timeframes. The ACP as submitted is not supported; it contains a number of issues of concern to both the City and the community. The City therefore should recommend either refusal of the ACP as submitted or that the ACP be modified to address the concerns of the City and community.

A recommendation of refusal will potentially result in determination of the ACP by the WAPC in a manner that does not address the issues of concern and results in an approved ACP that does not reflect the City's preference but which the City will be obligated to implement.

A resolution proposing modifications designed to respond to the issues will enable those modifications to be considered by the community prior to a final recommendation being required to be provided to the WAPC.

This is considered the most appropriate approach to secure an ACP at the Kardinya district centre that will most closely align with City and community aspirations. As outlined above , this approach will provide a further opportunity for the community have input on the proposed modification to the Plan and give Council a further opportunity to consider the content of the Plan.

P20-3882 – KARDINYA DISTRICT CENTRE – PROPOSED ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

OFFICER RECOMMENDATION (3882)

That the Council:

1. **in considering submissions made in response to the advertising of the proposed Kardinya District Centre Activity Centre Plan, resolves that modification to the Plan are required as outlined in Attachments 5 to 10 of this report with respect to the Activity Centre Plan boundary, identification of precincts, maximum building height, density controls, Gilbertson Road widening, other matters and statutory provisions.**

2. **in accordance with Clause 35 (1) (d) of the Planning and Development (Local Planning Schemes) Regulations 2015, directs the Chief Executive Officer to advertise the proposed modifications for public comment.**

3. **Directs the Chief Executive Officer to advise the West Australian Planning Commission in writing of its decision.**

4. **Directs the Chief Executive Officer to advise the lead petitioner of the petition received during the public comment period (Attachment 4) of the above decision.**

P20/3883 - INITIATION OF AMENDMENT TO MODIFY SOUTHERN BOUNDARY OF THE CANNING BRIDGE ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

Ward	:	Applecross - Mt Pleasant
Category	:	Activity Centre Plan
Application Number	:	Not Applicable
Property	:	Not Applicable
Proposal	:	Initiation of activity centre plan and scheme amendments to modify the southern boundary of the Canning Bridge Activity Centre Plan
Applicant	:	Not Applicable
Owner	:	Not Applicable
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item P20/3851– Petitions seeking modification to the south western boundary of the Canning Bridge Activity Centre Plan Ordinary Council Meeting 19 May 2020 Item 18.2 Motion Without Notice - Relocation of Southern Boundary Canning Bridge Activity Centre Plan Ordinary Council Meeting 20 and 21 October 2020
Responsible Officer	:	Gavin Ponton Manager Strategic Urban Planning

AUTHORITY / DISCRETION

DEFINITION

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

P20/3883 - INITIATION OF AMENDMENT TO SOUTHERN BOUNDARY OF THE CANNING BRIDGE ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- The City is currently undertaking a review of the CBACP. Consideration of modification to the southern boundary of the CBACP is part of the scope of that review.
- Council had earlier considered the modification of the southern boundary of the CBACP at the 19 May 2020 Meeting of Council. At this meeting Council resolved to consider the boundary modification issue as part of the review of the CBACP.
- At the 20 and 21 October 2020 Meeting of Council, the Council considered a Motion Without Notice regarding commencement of modification to the southern boundary of the CBACP. An Advice Note prepared in response to Motion outlined the issues associated with progressing a boundary modification outside of the CBACP review.
- At the meeting of Council on 20 and 21 October 2020 it was resolved to immediately commence the implementation of a modification to the southern boundary of the Canning Bridge Activity Centre Plan (CBACP).
- Modifying the activity centre plan boundary requires the initiation of an amendment to both the CBACP and an amendment to Local Planning Scheme No.6 (LPS6).
- In response to the October 2020 direction of Council, this report outlines the formal requirements to initiate the CBACP and Scheme amendments consistent with the *Planning and Development (Local Planning Scheme) Regulations 2015.*

BACKGROUND

Petition requesting boundary change:
At the 19 May 2020 Ordinary Meeting of Council, Council considered a petition requesting for the relocation of the CBACP boundary in the vicinity of View Road (Item P20/3851). At this meeting Council resolved:

That the Council:

1. Notes the petitioners and the Mt Pleasant Canning Bridge Activity Centre property owners' strong community expression to move the south-eastern boundary of the Canning Bridge Activity Centre Plan.

2. Supports the petitioners' request to move the south-eastern boundary of the Canning Bridge Activity Centre Plan so that the boundary follows the road carriageway of Helm Street, Sleat Road and Wren Street to Ullapool Rd.

3. Requests the Chief Executive Officer;

a. As a priority, includes the boundary change requested by the petitioners in the comprehensive review of the Canning Bridge Activity Centre Plan requested and passed by Council at its November 19, 2019 Ordinary Meeting of Council.

b. Ensures that consultants appointed to undertake the comprehensive review commence work on the review as soon as possible and expedites the completion of the review by June 15, 2021.

P20/3883 - INITIATION OF AMENDMENT TO SOUTHERN BOUNDARY OF THE CANNING BRIDGE ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

c. *Expedites the preparation of all scheme amendments to Local Planning Scheme 6 and the Canning Bridge Activity Centre Plan to give effect to the implementation of the boundary changes requested as determined by the comprehensive review of the Canning Bridge Activity Centre Plan including an investigation into the shortening of advertising periods under the COVID-19 reform legislation to be introduced to Parliament on 20 May 2020.*

d. *Update elected members as to progress of the CBACP Review on a weekly basis in the Elected Members Bulletin.*

e. *Advise the lead petitioners of this decision of Council.*

This approach also noted that a modification to the boundary of the CBACP would also involve an amendment to LPS6. With respect to part (c) of the above resolution, investigations have established that COVID 19 reform legislation has not changed the advertising requirements for scheme amendments. For activity centre plans the maximum advertising periods are increased to enable improved engagement opportunity.

WAPC advice that further modification to the CBACP should be addressed within the Review:
On 9 June 2020, in considering Amendment 5 to the CBACP, the WAPC recommended further changes to the CBACP are undertaken as part of the comprehensive review advising as follows:

> *"Advise the City of Melville it is the Western Australian Planning Commission's expectation that no further amendments are initiated for the Canning Bridge Activity Centre Plan, in lieu of undertaking a full review."*

Commencement of CBACP Review:
The review of the CBACP commenced in September 2020. Investigating the proposed boundary change is part of the review scope, enabling the matter to be considered in a thorough and comprehensive manner.

Resolution requesting commencement of amendment to CBACP boundary:
At the Ordinary Meeting of Council held 20 and 21 October 2020, the Council resolved to direct the CEO to immediately take steps to commence the implementation of a modification to the southern boundary of the Canning Bridge Activity Centre Plan so that the boundary follows the carriageways of Helm Street, Sleat Road and Wren Street to Ullapool Road, Mt Pleasant.

P20/3883 - INITIATION OF AMENDMENT TO SOUTHERN BOUNDARY OF THE CANNING BRIDGE ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

DETAIL

At the 20 and 21 October 2020 Meeting of Council, the Council considered a Motion Without Notice relating to the southern boundary of the CBACP and resolved as follows:.

"Directs the CEO to immediately take steps to commence the implementation of a modification to the south-eastern (or as described by City Officers, the south-western) boundary of the Canning Bridge Activity Centre Plan, so that the boundary follows the carriageways of Helm Street, Sleat Road and Wren Street to Ullapool Road, Mount Pleasant, in accordance with the attached proposed boundary plan. That the area removed from the Canning Bridge Activity Centre being zoned to R20."

An Advice Note prepared in response to the Motion Without Notice outlined a range of issues associated with the commencement of a modification to the CBACP boundary outside of the CBACP review including:

- A change to the boundary has wider implications which need to be taken into account
- The WAPC has advised against further amendments to the CBACP outside of the comprehensive review process
- A down coding of land proposed to be excluded from the CBACP would require substantial justification.

An adjustment to the CBACP boundary requires the initiation of an amendment to both the CBACP and an amendment to LPS6. The planning process will require the two amendments to proceed concurrently. That is an amendment to either the CBACP or the LPS6 would not be finalised until such time as necessary adjustments are actionable concurrently in each document.

The required LPS amendment is determined to be a complex amendment as by definition it is not consistent with the approved activity centre plan.

As a complex scheme amendment the LPS6 amendment will require referral to the WAPC for consideration of consent to commence advertising.

3883_Attachment_1_Proposed_Modified_CBACP_ Boundary

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

The proposed amendment to the CBACP and LPS6 will be advertised in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015* and the City's LPP1.1 Planning Processes and Decision Making Policy.

P20/3883 - INITIATION OF AMENDMENT TO SOUTHERN BOUNDARY OF THE CANNING BRIDGE ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

II. OTHER AGENCIES / CONSULTANTS

The proposed amendment to the CBACP and LPS6 will require engagement with state government agencies and infrastructure servicing authorities.

As a complex scheme amendment, in accordance with regulation 37 of the *Planning and Development (Local Planning Schemes) Regulations 2015,* the City must refer the proposed amendment to the WAPC to seek consent to commence advertising.

STATUTORY AND LEGAL IMPLICATIONS

State Government Planning Regulations outline the approval process for an amendment to an Activity Centre Plan and a Local Planning Scheme. In summary, each amendment would need to be initiated by Council, advertised for public comment, submissions considered and then a recommendation forwarded to the determining authority (WAPC for CBACP amendment; Minister for Planning for LPS6). For the CBACP amendment, endorsement of the proposal by the City of South Perth will be required.

FINANCIAL IMPLICATIONS

Preparation of an amendment to the CBACP and an amendment to LPS6 will involve costs associated with staff resources

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The CBACP aligns with the City's strategic goals and responds in particular to Priority 3 of the Corporate Plan:

"Urban development creates changes in amenity (positive and negative) which are not well understood".

Under Priority 3 from the Corporate Business Plan key strategies are:

1. Facilitate higher density development in strategic locations, consistent with the local planning framework and structure plans, design guidelines for interface areas and ensure measured change in established areas and consideration of parking and traffic issues
2. Enhance amenity and vibrancy and enhancing community safety through streetscapes, public art, pedestrian and cycle paths, place making and creating well-designed, attractive public spaces.

The City's Local Planning Strategy seeks to provide for greater intensity of development within activity centres and along key transport corridors and to leave suburban residential areas relatively unchanged.

P20/3883 - INITIATION OF AMENDMENT TO SOUTHERN BOUNDARY OF THE CANNING BRIDGE ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

Risk Statement	Level of Risk*	Risk Mitigation Strategy
Modification to the existing CBACP boundary outside of the review of the CBACP may not be supported by the decision maker (WAPC). .	Major consequences which are possible, resulting in a **High** level of risk	WAPC has advised that it is its expectation that no further amendments to the CBACP will be initiated until the review of CBACP is undertaken. It is recommended that boundary modifications are considered as part of the current CBACP review. Should the modification be progressed independently, the WAPC would need to be convinced that the boundary modification is urgent and can be adequately investigated independent of the review process.
Commencement of advertising of the CBACP boundary adjustment, given the possibility of WAPC refusal to progress an amendment, may unnecessarily raise expectations among the community that the proposal will progress.	Moderate consequences which are possible, resulting in a **Medium** level of risk	Investigation of the boundary modification as part of the review process is likely to be more acceptable to the WAPC. Should the modifications be proceeded with outside of the review process then Council may wish to delay advertising of the CBACP amendment to await direction from the WAPC (on the related scheme amendment) to avoid unnecessary work.
Down coding of land currently designated H4 in the CBACP to Residential R20 may not be supported by the WAPC and/or an alternative R-Coding identified for this land.	Moderate consequences which are possible, resulting in a **Medium** level of risk	The merit of zoning the land to be excluded from the CBACP to R20 is not clearly demonstrated. It is preferable to investigate appropriate designations through a comprehensive review process.

P20/3883 - INITIATION OF AMENDMENT TO SOUTHERN BOUNDARY OF THE CANNING BRIDGE ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

POLICY IMPLICATIONS

Not applicable

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Council may elect not to separately pursue the modification to the CBACP boundary currently being considered as part of the CBACP review.

Consideration of the boundary change to the CBACP as part of the comprehensive review is recommended as the requested change has wider implications which may require consideration of other changes to the CBACP or Local Planning Scheme 6. In particular, the manner in which the built form steps down from the core of the precinct to the new edge of the precinct is likely to require modification. Zoning of the land no longer within the CBACP as a result of the proposed boundary change also requires examination. Other options to mitigate the concerns raised, such as exploring more stringent development controls at the boundary interface, also warrant consideration.

Considering a range of options to respond to the concerns associated with the existing CBACP boundary is part of the scope of the current review. A solution to the boundary issue arrived at through the review process is considered more likely to achieve the desired outcome than a stand-alone amendment.

CONCLUSION

Officer's advice is that a modification to the southern boundary of the CBACP is best considered through comprehensive investigations as part of the current CBACP review. The WAPC has also advised that it is its expectation that no further amendments to the CBACP will be initiated until the review of the CBACP has progressed. The direction in Council's resolution of 20 and 21 October 2020 to proceed with an immediate modification to the boundary is noted. Accordingly this report outlines the process required to immediately commence the amendment process. It is noted that Council may commence advertising of the CBACP amendment without WAPC consent. WAPC consent is however required to commence advertising of the associated amendment to LPS6. To avoid redundant work, Council may wish to consider holding off commencement of advertising for the CBACP amendment until such time as feedback is provided from the WAPC on the scheme amendment.

P20/3883 - INITIATION OF AMENDMENT TO SOUTHERN BOUNDARY OF THE CANNING BRIDGE ACTIVITY CENTRE PLAN (REC) (ATTACHMENT)

OFFICER RECOMMENDATION (3883)

That the Council:

1. **In accordance with Schedule 2, Part 5 of the *Planning and Development (Local Planning Schemes)* Regulations 2015 resolves to prepare and initiate the following amendment to the Canning Bridge Activity Centre Plan for the purpose of advertising:**

   Modify the southern boundary of the Canning Bridge Activity Centre Plan so that the boundary follows the carriageways of Helm Street, Sleat Road and Wren Street to Ullapool Road, Mount Pleasant, in accordance with Attachment 1.

2. **Pursuant to Section 75 of the *Planning and Development Act 2005*, resolves to prepare and initiate Scheme Amendment No. 9 to Local Planning Scheme No. 6 as follows:**

   a) **Modify the southern boundary of the Canning Bridge Activity Centre Plan so that the boundary follows the carriageways of Helm Street, Sleat Road and Wren Street to Ullapool Road, Mount Pleasant, in accordance with Attachment 1.**
   b) **Modify the zoning of those properties excluded from the Canning Bridge Activity Centre Plan from Centre Zone RAC-0 to Residential R20.**

3. **Advise the Western Australian Planning Commission that the proposal is considered to be a complex amendment to Local Planning Scheme 6 in accordance with regulation 37 (2) of *the Planning and Development (Local Planning Schemes) Regulations 2015*, as:**

   a) **The amendment is not consistent with the Canning Bridge Activity Centre Plan and is not considered to be consistent with the local planning strategy for the scheme;**

   b) **The amendment relates to development that is of a scale, or will have an impact, that is significant relative to development in the locality.**

4. **Pursuant to regulation 37 of *the Planning and Development (Local Planning Schemes) Regulations 2015*, a copy of the proposed amendment is forwarded to the Western Australian Planning Commission for determination if the proposed amendment is suitable for advertising.**

5. **Note that a further report will be presented to the Council following the completion of the public advertising process for the amendments.**

T20/3877 – LAWLOR ROAD DRAINAGE SUMP REMEDIATION (REC)

Ward	:	Bicton - Attadale – Alfred Cove
Category	:	Operational
Subject Index	:	Drainage Sumps
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	:	CD19/8116 Former Kindergarten Site, 2 Lawlor Road, Attadale - 20 and 27 August 2019 Ordinary Meeting of Council
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Mick McCarthy Director Technical Services

AUTHORITY / DISCRETION

		DEFINITION
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☐	Legislative	*Includes adopting local laws, town planning schemes & policies.*
☐	Review	*When the Council operates as a review authority on decisions made by Officers for appeal purposes.*
☐	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 (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*
☐	Information	*For the Council/Committee to note.*

T20/3877 – LAWLOR ROAD DRAINAGE SUMP REMEDIATION (REC)

KEY ISSUES / SUMMARY

- At the Council meeting held on the 20th August 2019, the Council resolved to support the redevelopment of 2 Lawlor Road, Attadale formerly the home of the Attadale Kindergarten, as park land including the 650m^2 of fenced land currently comprising of a drainage sump.
- The resolution included investigations into the costs associated with remediating the onsite drainage sump.
- Remediating the drainage sump is estimated to cost $660,000 and is not recommended by the Officers given the high costs, environmental impact of tree loss and minimal social benefits in adding this land to the open space area of the park
- The Officer recommendation is to not progress with remediating the drainage sump and to renew the fence through a community art project involving local residents.
- The Officer recommendation would require Council to rescind part of a previous Council resolution (Item CD/8116) related to the inclusion of the drainage sump into the public open space area of the park.
- It is recommended that the Council support upgrading the existing fencing and gates around the drainage sump, inclusive of the new fencing being decorated with public art, at a cost of approximately $30,000.

BACKGROUND

At its meeting held on the 19 March 2019, the Council considered a petition requesting that No.2 Lawlor Road, Attadale, formerly the home of the Attadale Kindergarten, be re-zoned as public open space and developed as parkland. In response to the petition, at its meeting on the 20 August 2019 the Council considered several options for the site including:

1. redevelopment for childcare, remediation of the drainage sump and expansion of the park;
2. redevelopment part of the site for residential and expansion of the park excluding the drainage sump area;
3. upgrading the entire site as a park, excluding the drainage sump area; and
4. leaving the site in its current state.

The Council resolved to support developing the entire site as parkland inclusive of the drainage sump area, requested that the CEO investigate the remediation of the sump and report back to Council on associated costs for consideration.

The resolution adopted at the 20 August 2019 meeting was that the Council:

1. Approves Option 3 in this Report, being that 2 Lawlor Road (2217.6m2; Lot 1, Diagram 43154) be developed as parkland by Melville City Council. This Public Open Space parkland area also includes the approx. 650m2 of water sump area.

2. Instructs the Chief Executive Officer to investigate remediation of the sump at 2 Lawlor Road and report back to the Council on associated costs for consideration; and

T20/3877 – LAWLOR ROAD DRAINAGE SUMP REMEDIATION (REC)

3. Directs the Chief Executive Officer to continue the collaborative working partnership with the Lead Petitioner and other interested stakeholders to ensure activation of the Moreing, Lawlor and Davis Road's precinct incorporating "Place-Making" principles.

This report relates to Resolution 2, however the outcomes of the investigation has implications for Resolution 1 due to the costs of remediation.

DETAIL

Drainage Sump Evaluation

The current site area (inclusive of the parkland area and fenced drainage sump), has an area of 2,218m^2. The active sump, occupying 650m^2 of land located in the north east of the site, has an existing capacity of approximately 1,436m^3 and total contributing catchment area of 24,094m^2 or 2.4 hectares.

In its current form, the drainage sump has the capacity to safely accommodate a 1:20 year Average Recurrent Interval (ARI), 24 hour duration storm.

The area of the sump is shown below as the enclosed red rectangular area in the north eastern section of the open space area.

There are currently 13 mature native trees growing in and around the sump area, most of which are Marri trees (*Corymbia calophylla*).

T20/3877 – LAWLOR ROAD DRAINAGE SUMP REMEDIATION (REC)

Current Situation

Based on the existing topography of the area, all drainage systems within the catchment gravitate towards the drainage sump. As such, a drainage sump of some shape or form with similar capacity will always be required on the site to provide the necessary storage and infiltration for the resultant stormwater run-off from the catchment.

Council's resolution of 20th August 2019 sought investigation of options to "remediate" the drainage sump to then incorporate into the park as accessible as useable open space.

Remediation options have been investigated and are reported below.

In summary, the options comprise:

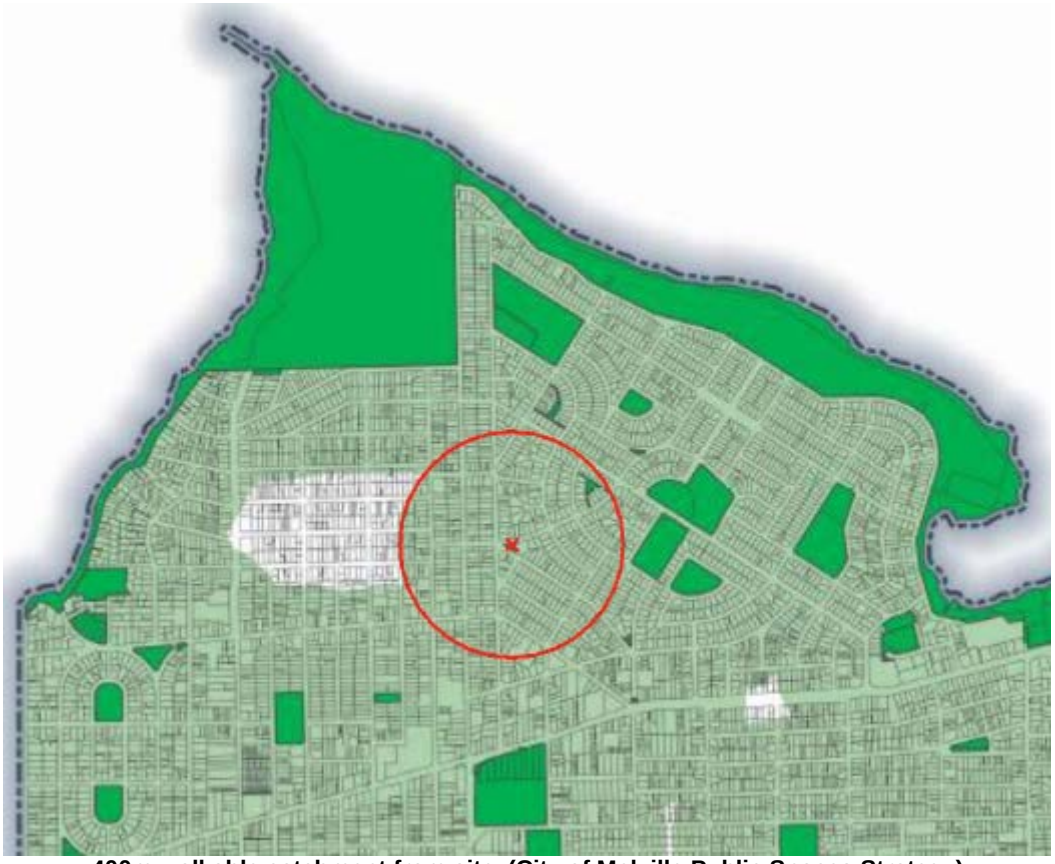
1) Installing underground "cell" technology into the sump site to perform the drainage function. This option enables accessible grass/landscaping to be placed over the cells; and

2) Leaving the sump in its current form and undertaking required upgrades to fencing to better integrate into the park setting.

As assessment of the extent of Public Open Space (POS) in the locality indicates the following:

- Bicton and Attadale are well served by regionally significant POS including Point Walter Reserve and Attadale Reserve,
- Areas of Bicton that are not within 400 metres of recognised public open spaces are quiet and shaded suburban streets well serviced by footpaths that provide amenable walking environments.
- The existing parklet within the verge of the site is recognised as POS, therefore, the expansion of the park will not change the areas POS walkable catchment coverage.
- The additional park area, excluding the drainage sump portion of the site, will substantially increase both the amount and amenity of POS in the locality.

T20/3877 – LAWLOR ROAD DRAINAGE SUMP REMEDIATION (REC)



400m walkable catchment from site (City of Melville Public Spaces Strategy)

Indicative park area excluding drainage sump

T20/3877 – LAWLOR ROAD DRAINAGE SUMP REMEDIATION (REC)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

No stakeholder engagement has been undertaken in preparing this report.

II. OTHER AGENCIES / CONSULTANTS

No other agencies have been engaged in preparing this report.

STATUTORY AND LEGAL IMPLICATIONS

There are no statutory or legal implications associated with this report.

FINANCIAL IMPLICATIONS

Option 1 – Remediate the Sump

Remediating the sump involves putting in place underground storage cells, in the location of the existing sump to cater for storage volumes, and covering the cells with fill material.

There are a range of underground storage cell type technologies such as Humes StormTrap, Atlantis Cells, Ecoblock or similar which would allow for the sump function to be accommodated underground and for the cells to be covered and turfed to extend the useable park area.

Option 1 would include the following key activities:

a) Removal of 13 mature trees within or close to the existing sump area;
b) Sheet piling along private property boundary line to protect adjacent dwellings/fences;
c) Excavation of the entire sump area;
d) Installation of Cell type structures;
e) Reconnection of existing systems;
f) Installation of Gross Pollutant Trap's (GPT's) for the two pipe inlets
g) Backfilling and removal of sheet piling;
h) Installation of landscaping treatments and furniture

Based on similar projects undertaken by the Town of Cambridge, the project is estimated to cost about $450,000 for all Civil Works, services locations and Engineering Designs.

T20/3877 – LAWLOR ROAD DRAINAGE SUMP REMEDIATION (REC)

The City's arborist undertook an evaluation of the 13 affected trees within or in close proximity to the sumps and reported as follows:-

"*Twelve of the thirteen trees within the proposed development site are indigenous local native species that are in a good to fair condition. They collectively provide valuable habitat to local wildlife and significant canopy cover in line with the focus of the City's Urban Forest Strategy. Retention of these trees is a priority and should be included in any future development designs*."

The Fair value of these 13 trees is estimated at $210,000 in total.

The arborist also reported that the estimated cost for removing and replacing the 13 affected trees is as follows:-

- Removal Cost : $ 8,000
- Replacement Cost : $ 12,500

It is estimated that a further $80,000 will also be required for turfing, irrigation and minor landscaping over the filled sump area.

No provision has been made for asbestos removal if encountered on site during excavation work.

For a system of this nature to function effectively, the system would require bi-annual maintenance to the two in-line gross pollutant traps (GPT's) and the mainline chambers of the cells.

The annual on-going maintenance cost for the drainage systems is estimated at $15,000, noting that the maintenance cost of the existing sump is minimal and undertaken at irregular intervals (e.g. removal of sediments/rubbish every five years at an approximate cost of $2,000).

To ensure that the installed landscaping is maintained at an acceptable level of standard, regular and periodic maintenance is also required for the turf, garden beds and shrubs. The cost to maintain the landscape is estimated at $15,000 per year.

Option 1 - Summary of Cost

• Initial Capital Cost for Sump Redevelopment :		$ 450,000
• Tree removal and replacement		$ 20,500
• Landscaping and turf establishment		$ 80,000
	Total	$ 550,500

Option 1 also has an on-going annual maintenance cost of $30,000 per annum for drainage management and landscaping.

Option 2 – Retaining the sump in its current form and upgrade perimeter fencing

Retaining the sump in its current form will enable it to continue to serve an above ground drainage storage and infiltration function, however the sump area will remain fenced from the rest of the site in order to restrict access. Option 2 does not require the removal of any trees.

T20/3877 – LAWLOR ROAD DRAINAGE SUMP REMEDIATION (REC)

Option 2 Summary of Costs

Upgrading the existing fencing and gates will enhance the quality and amenity value of the fence, as this option is based on using decorative fast panel structures that have been used previously by the City at a number of locations (e.g. corner of Point Walter Road and View Terrace, Bicton and Baal Street in Palmyra)

The artwork for the sump fence can be undertaken as a community art project, noting the City has adopted this approach with other sump fences using this material with successful outcomes.

It is envisaged that a community art project to paint the sump fence would be instigated to provide an opportunity for the local community to work with a professional artist and to be part of the beautification of the site.

Community participation in Baal Street sump fence (left) and image of the completed Point Walter Road sump fence (right)

This initiative would also support part 3 of Council's previous resolution that the City works collaboratively with interested stakeholders to *"ensure activation of the Moreing, Lawlor and Davis Road's precinct incorporating 'Place-Making" principles".*

The initial capital outlay for this option is approximately $30,000.

The City put forward this fencing project in its application to the Federal Government's Local Roads and Community Infrastructure (LRCI) grant program, which has been accepted by the grants program and would need to be undertaken prior to the end of June 2021.

Should Council support Option 2, these works could be undertaken with no cost to the Council for constructing the fence; however a budget of $7,500 for artwork (materials, local artist, consultation etc.) would be required.

Option 2 would be planned for completion during summer 2020-2021 should this be supported.

T20/3877 – LAWLOR ROAD DRAINAGE SUMP REMEDIATION (REC)

Given the above, it is not recommended by the officers to remediate the sump (Option 1) given the above costs, loss of existing trees and the limited benefit that this option provides in terms of creating useable open space in this location.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement & Consequence	Level of Risk	Risk Treatment
Clogging up of the Cells (Option 1)	High	Reliant on effective maintenance of the cells and GPT's to ensure that no gross pollutants and debris is allowed to build-up within the system thereby reducing its effective storage capacity. A reduction in storage will cause the system to back-up and potentially flood the surrounding areas.
Loss of trees (Option 1)	Extreme	The loss of 13 mature trees by any measure is a significant event that would drastically impact on the amenity of the space (visual, shade, increased heat) and result in loss of tree canopy, habitat and food source for the local wildlife
Excavation of asbestos containing material (Options 1 & 2)	Medium	Stop work, engage the services of specialist consultant to assess material and site, commence work following clearance of site and safe to do so.

POLICY IMPLICATIONS

1. Current Council Policy, Tree Policy CP-029 states that:-

   "*All trees are assets of the City that contribute to the well-being of the community and to the natural environment. The City recognises and values the significance of trees within the urban setting for the many social, economic and environmental benefits they provide. The City is committed to protecting, maintaining and increasing its tree population*"

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Council could resolve to remediate the sump (Option 1) at a cost of approximately $550,500, accept the fair value loss of $210,000 for the 13 trees and ongoing maintenance of $30,000 per annum as detailed above.

The costs of creating the additional open space turf area as a result of sump remediation equates to $847/m^2, which would be difficult to justify from a value for money perspective given the locality has adequate POS at the site and alterative areas within a 400 metre (5 minute walk) radius.

T20/3877 – LAWLOR ROAD DRAINAGE SUMP REMEDIATION (REC)

Any such expenditure is not currently budgeted for and would require additional budget or require funds to be redistributed from other capital works projects. Previous concepts for the site explored the sale of portion of the site in order to fund the sump remediation, which are not likely to proceed and therefore not able to provide a source of funding for the sump remediation.

CONCLUSION

The substantial capital cost to convert the existing sump area into usable open space and the additional maintenance costs when compared to the current status with fence upgrade, offers minimal community and environmental benefit considering the loss of 13 mature trees and available area of open space at this location.

The slim wall fence (Option 2) does not require the removal of trees and can be undertaken as a community art project with involvement from the local residents.

Option 2 will however require the Council to rescind part of Resolution 1 from the 20 August 2019 meeting by removing the second sentence related to the water sump being included in the Public Open Space parkland area as shown below.

> **1. Approves Option 3 in this Report, being that 2 Lawlor Road (2217.6m2; Lot 1, Diagram 43154) be developed as parkland by Melville City Council. ~~This Public Open Space parkland area also includes the approx. 650m2 of water sump area.~~**

As such, it is recommended that the Council not consider the sump remediation but instead, consider upgrading the existing fencing (Option 2) which will achieve multiple benefits and improve the aesthetics of the park as a whole.

OFFICER RECOMMENDATION (3877) **APPROVAL**

That the Council:

1. Rescinds that part of Council Resolution CD19/8116 from the 20 and 27 August 2019 Council Meeting as is necessary to effect Option 2 shown above by removing the second sentence in Point 1 above that reads "*This Public Open Space parkland area also includes the approx. 650m2 of water sump area*" with the result being that the sump area is not included as part of Davis Lawlor Park.

2. Approves the Fence upgrade and community art project as per Option 2 above using funding provided by the Federal Government's Local Roads and Community Infrastructure grant program.

M20/5784 – LOCAL LAWS REPEAL AND AMENDMENT – PUBLIC CONSULTATION (AMREC) (ATTACHMENTS)

Ward	:	All
Category	:	Legislative
Subject Index	:	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 M16/5474 – Local Law Review – Ordinary Meeting of Council – April 2016 Item M16/5467 – Conclusion of Local Law Review 2016 – Ordinary Meeting of Council August 2016.
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Anne Hill Governance Project Officer

AUTHORITY / DISCRETION
DEFINITION

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

M20/5784 – LOCAL LAWS REPEAL AND AMENDMENT – PUBLIC CONSULTATION (AMREC) (ATTACHMENTS)

KEY ISSUES / SUMMARY

- Following a review of eight of its Local Laws in accordance with *Local Government Act 1995* (the Act), Council in August 2016 agreed that certain local laws be repealed or amended.
- The Act prescribes a procedure for making new local laws, including repeal and amendment local laws
- This report seeks Council approval to issue a public notice in accordance with s.3.12 of the Act inviting submissions on the draft:
  - City of Melville Health (Eating Houses) Repeal Local Law,
  - City of Melville Bushfires (Firebreaks) Local Law, and
  - City of Melville Street Numbering Amendment Local Law

BACKGROUND

In April 2016, Council resolved to initiate the review of eight local laws, in accordance with the requirements of the *Local Government Act 1995* (the Act).

Following the review, Council resolved in August 2016 to endorse the outcome of the local law review and note that the following local laws required amendment:

☐ Activities in Thoroughfares, Public Places and Trading Local Law 2014

☐ Local Law Relating to Street Numbering 2006

☐ Local Government Property Local Law 2010

☐ Local Law Relating to Firebreaks 1997

☐ Dog Local Law

☐ Local Law (By-Laws) Relating to Fences

Council also resolved that the Health (Eating Houses) Local Laws 2001 be repealed.

This report deals with the Health (Eating Houses) Local Laws, the Local Law Relating to Firebreaks and the Local Law Relating to Street Numbering.

DETAIL

1. Health (Eating Houses) Local Laws 2001

The Health (Eating Houses) Local Laws were made under Part V Division 3 of the *Health Act 1911* dealing with the registration of eating houses and the licensing of their proprietors.

The *Food Act 2008* superseded these provisions of the Health Act with State-wide provisions regarding the registration of food businesses and the role of local governments as enforcement agencies. It also deleted Part V Division 3 of the Health Act.

M20/5784 – LOCAL LAWS REPEAL AND AMENDMENT – PUBLIC CONSULTATION (AMREC) (ATTACHMENTS)

The Health (Eating Houses) Local Laws 2001 have effectively been inoperative since 2008 At the Ordinary Meeting of Council on 16 August 2016, Council resolved by absolute majority to repeal the Health (Eating Houses) Local Law 2001.

Council is now asked to approve the commencement of the procedure under section 3.12 of the Act to make the repeal local law. A consultation draft of the proposed City of Melville Health (Eating Houses) Repeal Local Law appears as attachment 1.

The purpose and effect of this proposed local law is to repeal the City of Melville Health (Eating Houses) Local Laws 2001.

2. Local Law Relating to Firebreaks 1997

The Local Law Relating to Firebreaks was made under section 33(5a) of the *Bush Fires Act 1954.*

In August 2016, following a review, Council resolved by absolute majority to amend the local law to address some inconsistencies in wording.

However, the City's practice is to issue notices to owners and occupiers of land under section 33(1) of the Bush Fires Act, which provides for a more flexible approach to managing bush fire risk than the local law.

Section 33(5d) of the Bush Fires Act provides that where the provisions of a local law made under subsection (5a) are inconsistent with those of a notice given under subsection (1), the provisions of the notice prevail to the extent of the inconsistency.

This local law is therefore redundant and in effect is not used by the City. The City of Melville is one of very few metropolitan local governments that retains a firebreaks local law.

Repealing this local law will pose no risk to the City's capacity to manage bush fire risks as the necessary powers exist under the Bush Fires Act itself. Repealing the local law will contribute to administrative efficiency.

It is recommended that Council resolve (by absolute majority) to repeal the Local Law Relating to Firebreaks and to approve the commencement of the procedure under section 3.12 of the Act, to make the repeal local law. A consultation draft of the proposed City of Melville Bush Fires (Firebreaks) Repeal Local Law appears as attachment 2.

The purpose and effect of this proposed local law is to repeal the City of Melville Local Law Relating to Firebreaks 1997.

3. Local Law Relating to Street Numbering 2006

The Local Law Relating to Street Numbering was made under the Act. Amendment of this local law is required because:

(a) it contains outdated legislative references, and the definition of "lot" does not recognise strata lots;

M20/5784 – LOCAL LAWS REPEAL AND AMENDMENT – PUBLIC CONSULTATION (AMREC) (ATTACHMENTS)

(b) it makes reference to assigning a street number in accordance with policy, contrary to the requirements of the Joint Standing Committee on Delegated Legislation (JSCDL) whose position is that the Act does not empower local governments to adopt internal policies as laws other than by the specific inclusion of the matter in a local law;

(c) it does not contain reference to objection and appeal rights under Part 9 of the Act, as required by the JSCDL;

(d) the modified penalties in the local law are outdated.

In August 2016, Council resolved by absolute majority to amend the local law, but did not specify the amendments.

Council is now asked to approve the commencement of the procedure under section 3.12 of the Act to amend the Local Law Relating to Street Numbering to address the above matters. A consultation draft of the proposed City of Melville Street Numbering Amendment Local Law appears as attachment 3.

With reference to item (b) above, an amendment is proposed to embed in the local law the provision in policy CP-068 Street Numbering that each lot will be allocated a street number pertaining to the street from which primary access to the property is gained. It is not considered necessary to incorporate other provisions of CP-068 in the local law.

The purpose of this proposed local law is to amend the City of Melville Street Numbering Local Law 2006.

The effect of this proposed local law is to:

(a) Update legislative references in the principal local law; and
(b) Clarify the basis on which a street address will be assigned; and
(c) Insert reference to objection and appeal rights with respect to notices; and
(d) **Amend the modified penalties applying to offences against the local law**.

4. Process

In making a local law a local government must follow the procedure described in section 3.12 of the Act, in the sequence in which it is described.

(a) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that meeting and that the minutes of the meeting include the purpose and effect of the proposed local law.

(b) The local government must give local public notice including specified information including where a copy of the proposed local law may be accessed and inviting submissions before a specified day being not less than 6 weeks after the notice is given.

(c) As soon as the notice is given, a copy of the proposed local law and of the notice must be given to the Minister administering the Act and the Minister administering the Act under which the local law is proposed to be made.

M20/5784 – LOCAL LAWS REPEAL AND AMENDMENT – PUBLIC CONSULTATION (AMREC) (ATTACHMENTS)

(d) After considering submissions, the local government may, by absolute majority, make the local law as proposed or a local law not significantly different from what was proposed.

(e) After making the local law, there are requirements regarding publication in the *Government Gazette*, provision of the published version to the Minister(s), a local public notice and provision of copies to Parliament with required explanatory material.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Community stakeholder engagement will be undertaken in accordance with section 3.12 of the Act.

Local public notice will be given following Council's approval to commence the process. In addition to the statutory requirements, consultation will be undertaken via the Melville Talks Engagement page on the City's website, and people will be alerted to the opportunity to make a submission through social media and direct emails if they are on the City's engagement subscriber list.

Given the time of year, it is proposed to extend the statutory 6-week submission period until the end of January 2021.

II. OTHER AGENCIES / CONSULTANTS

The Act requires provision of the proposed local law to the Minister(s) administering the Acts under which the local laws are proposed to me made:

(a) Health (Eating Houses) Repeal Local Law – Minister for Local Government and Minister for Health;
(b) Bush Fires (Firebreaks) Repeal Local Law – Minister for Local Government and Minister for Emergency Services;
(c) Street Numbering Amendment Local Law – Minister for Local Government.

The Minister(s) may choose to comment on the proposed local law.

STATUTORY AND LEGAL IMPLICATIONS

The procedure for making a local law, including a repeal or amendment local law, is set out in section 3.12 of the Act and summarised above.

FINANCIAL IMPLICATIONS

There are no significant financial implications arising from the recommendations of this report. Minor costs will be incurred in advertising the public notice and in publishing the local law in the *Government* Gazette, and will be met under the existing budget.

M20/5784 – LOCAL LAWS REPEAL AND AMENDMENT – PUBLIC CONSULTATION (AMREC) (ATTACHMENTS)

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no environmental management implications in this matter. No additional risk will be incurred in bush fire management as existing processes are unchanged.

Risk Statement & Consequence	Level of Risk	Risk Treatment
Redundant and/or outdated local laws cause confusion and do not meet their intended purpose	Mediuim consequences which are unlikely, resulting in a Lowlevel of risk.	Review, amend or repeal local laws regularly to ensure they continue to be relevant and effective

POLICY IMPLICATIONS

There are no policy implications associated with this item.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Council could choose not to repeal the City of Melville Health (Eating Houses) Local Law 2001. Since the legislative head of power for this local law no longer exists, it has no legal force, but its presence on the City's website may cause confusion for people regarding the correct process for the registration of food businesses.

Council could choose not to repeal the City of Melville Local Law Relating to Firebreaks 1997. The City would continue to use notices as its primary mechanism for reminding owners and occupiers of land of their bushfire management obligations and to the extent that a notice was inconsistent with the local law, the local law would have no effect.

Council could choose not to amend the City of Melville Local Law Relating to Street Numbering. This would leave the local law with outdated and incomplete legislative references and it would be inconsistent with good practice as prescribed by the Joint Standing Committee on Delegated Legislation.

CONCLUSION

The Council is asked to approve the commencement of the statutory process for making local laws to:

(a) repeal the Health (Eating Houses) Local Law 2001 because the primary legislative provisions underpinning it no longer exist;

(b) repeal the Local Law Relating to Firebreaks 1997 because it is redundant – the City uses the processes set out in the Bush Fires Act to manage bush fire risk on private land;

(c) amend the Local Law Relating to Street Numbering 2006 to update it and align it with the requirements of the JSCDL by removing reference to policy and including provisions about objection and appeal rights.

M20/5784 – LOCAL LAWS REPEAL AND AMENDMENT – PUBLIC CONSULTATION (AMREC) (ATTACHMENTS)

OFFICER RECOMMENDATION 5784 **ABSOLUTE MAJORITY**

That the Council:

1. **Resolves to repeal the City of Melville Health (Eating Houses) Local Laws 2001.**

2. **Resolves to repeal the City of Melville Local Law Relating to Firebreaks 1997.**

3. **Resolves to amend the City of Melville Local Law Relating to Street Numbering 2006 as shown in the proposed Street Numbering Amendment Local Law.**

4. **Authorises the CEO to commence the process under section 3.12 of the *Local Government Act 1995* to give effect to resolutions 1 – 3**

   a) **Give local public notice and invite public submissions in accordance with section 3.12(3)(a) on the proposed:**

      (i) **5784 Proposed Health (Eating Houses) Repeal Local Law;**

      (ii) **5784 Proposed Bush Fires (Firebreaks) Repeal Local Law;**

      (iii) **5784 Proposed Street Numbering Amendment Local Law.**

   b) **give a copy of the public notices and proposed local laws to the relevant Ministers in accordance with section 3.12(3)(b);**

   c) **after the last day of submissions, prepare and present a report for Council to consider and determine whether to make the local laws in accordance with section 3.12(3)(4).**

M20/5786 – REPORT OF REVIEW OF CITY OF MELVILLE MEETING PROCEDURES LOCAL LAW 2017 (AMREC) (ATTACHMENT)

Ward	:	All
Category	:	Legislative
Subject Index	:	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 M16/5474 – Local Law Review – Ordinary Meeting of Council – April 2016 Item M16/5467 – Conclusion of Local Law Review 2016 – Ordinary Meeting of Council August 2016.
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Anne Hill Governance Project Officer

AUTHORITY / DISCRETION
DEFINITION

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☒	Legislative	*Includes adopting local laws, town planning schemes & policies.*
☐	Review	*When the Council operates as a review authority on decisions made by Officers for appeal purposes.*
☐	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.*
☐	Information	*For the Council/Committee to note.*

M20/5786 – REPORT OF REVIEW OF CITY OF MELVILLE MEETING PROCEDURES LOCAL LAW 2017 (AMREC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- A review has been conducted of the City of Melville Meeting Procedures Local Law 2017 in accordance with section 3.16 of the *Local Government Act 1995* (the Act).
- Six submissions were received during the public comment period 20 August to 5 October 2020 and have been analysed by the review officer.
- Officers have compared the Meeting Procedures Local Law to the Meeting Procedures Local Law Template commissioned by WALGA, and considered Meeting Procedures Local Laws adopted by other local governments.
- This report is submitted to Council in accordance with section 3.16(3) of the Act.
- Under section 3.16(4) of the Act, after Council has considered the report it may determine (by absolute majority decision) whether or not the local law should be repealed or amended.

BACKGROUND

At the Ordinary Meeting of Council held on 16 June 2020, Council resolved that:

"The Council directs the CEO to initiate a review of the Meeting Procedures Local Law 2017 in compliance with Section 3.12 of the *Local Government Act 1995.* This includes giving local public notice of the City of Melville's intention to amend the local law and to invite suggested amendments from the public, City administrators and elected members".

The reasons for the motion included the following statement:

"Particular sections of the Local Law require amendment for a variety of reasons. These include:

- Providing greater clarity to prevent unintended processes that could inhibit sound meeting procedures.
- The ability for Elected Members to be able to appropriately carry out their roles in compliance with the *Local Government Act 1995.*
- Reducing the amount of time required to raise a notice of motion."

Local laws dealing with meeting procedures are made under the *Local Government Act 1995* (the Act), which in these matters is supported by the Local Government (Administration) Regulations 1996 (the Regulations).

Local law reviews are dealt with under section 3.16 of the Act. Under section 3.16(4) Council may determine whether to amend the local law after considering the review report including any submissions made. If Council determines that the local law should be repealed or amended, the procedure set out in section 3.12 of the Act applies.

DETAIL

In accordance with section 3.16 of the Act, local public notice of the review was given on 20 August 2020, with public submissions invited until 5 October 2020.

M20/5786 – REPORT OF REVIEW OF CITY OF MELVILLE MEETING PROCEDURES LOCAL LAW 2017 (AMREC) (ATTACHMENT)

Six submissions were received, all of which have been published on the City's website on the Melville Talks Engagement page. A record of submissions is attached with the officer's assessment of the submitted proposals against the Act, Regulations and guidelines published by the State, and the likely contribution of the submitted proposals to the purpose and effect of the local law set out in clause 1.6 of the Meeting Procedures Local Law.
5786 Report of Review - Record of Submissions

Clause 1.6 is a standard provision in the Meeting Procedures Local Law template and in equivalent local laws used by other local governments:

"1.3 Purpose and effect

(1) These Meeting Procedures provide rules for the conduct of meetings of the Council, committees and electors.

(2) These Meeting Procedures are intended to result in –
- (a) better decision making by the Council and committees;
- (b) the orderly conduct of meetings dealing with the Council business;
- (c) better understanding of the process of conducting meetings; and
- (d) the more efficient and effective use of time at meetings."

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Previous proposed amendments raised at the Special Meeting of Electors held on 20 August 2018 and the Ordinary Meeting of Council on 20 November 2018 have also been considered and are included in the record of submissions.

Officers have compared the current local law with the Meeting Procedures Local Law template originally commissioned by WALGA, on which almost all Western Australian local governments have based their own meeting procedures local laws. This in turn is based on the provisions of the Act and Regulations, guidance published by the Department of Local Government and generally accepted international meeting procedures.

The City's Meeting Procedures Local Law is largely aligned with the Meeting Procedures Local Law template and in most cases uses the same wording, but departs from the template in specific areas, notably:

- Order of business for ordinary meetings of Council and committees (clause 6.2)
- Days required for notice of motion (clause 6.4)
- Reports (clause 6.8)
- Treatment of public question time (clause 7.8)
- Treatment of deputations (clause 7.10)
- Treatment of petitions (clause 7.11)
- Forum for hearing public submissions (not addressed in the City's local law)
- Adoption by exception (clause 11.2)
- Extent of guidance regarding disclosure of interests (clause 14.5).

Legislation is effectively an enforceable manifestation of policy, and it is essential that the policy objectives are clear so that they can be reflected in the local law. In some cases, it appears that where the current local law differs from the template, it has been worded to address a perceived problem existing at the time it was drafted. However, the underlying policy objectives are not always discernible.

M20/5786 – REPORT OF REVIEW OF CITY OF MELVILLE MEETING PROCEDURES LOCAL LAW 2017 (AMREC) (ATTACHMENT)

In addition, the structure of the current local law varies from the template, which makes it difficult to follow in parts. It contains some duplication and ambiguity, particularly where it has sought to expand on matters dealt with more broadly in the Act, Regulations or local law template.

The current City of Melville Meeting Procedures Local Law, like the local law template, makes extensive use of references to the Act and Regulations. This has the significant advantage that amendments to the Act and Regulations will generally not require amendments to the local law.

The disadvantage of this approach, as was apparent in some submissions, is that the local law may not be read as a stand-alone document, but requires the reader to also consult the Act and Regulations to determine the applicable legislative provisions. A lack of specific references to sections of the Act or Regulations where these are invoked by the local law makes the reader's task more difficult. Some proposals made in submissions were substantially inconsistent with the Act.

A local law is subsidiary legislation and section 43 of the *Interpretation Act 1984* states that it must not be inconsistent with the provisions of the written law under which it is made, or of any other Act, and will be void to the extent of any such inconsistency.

The local law may not, for example, seek to subvert the provisions of the Act relating to the functions, powers and duties conferred or imposed directly on the CEO by legislation, or limit the information on which the Council bases its decisions, as was proposed in some submissions. It also may not seek to negate the safeguards built into the Act to ensure that local government decision making is fair, impartial, transparent and accountable, and directed towards the broad function of the good government of the people of the district.

Matters that are more effectively addressed through the use of policies or administrative procedures should not be dealt with in legislation, and the long term consequences of any legally binding restrictions placed on the Council, or the City more generally, must be considered. All provisions need to contribute to the purpose and effect of the local law.

It may be possible to amend the current Meeting Procedures Local Law 2017 to address matters in which it is inadequate, but the number and nature of such amendments would result in a cumbersome amendment local law that people would find difficult to understand.

It is considered that a more efficient approach would be to prepare a new local law based on the Meeting Procedures Local Law template, which is generally regarded by the State's regulators as acceptable.

The template could be amended to the minimum extent necessary to address enduring matters unique to the City of Melville, including those raised in submissions. Transient matters are better addressed administratively or through policy.

Other changes to the template may be considered to assist readers to access relevant Regulations or sections of the Act, and to address important matters on which the Act, Regulations and template are silent.

M20/5786 – REPORT OF REVIEW OF CITY OF MELVILLE MEETING PROCEDURES LOCAL LAW 2017 (AMREC) (ATTACHMENT)

It is essential that elected members be directly involved in refining the policies underpinning the local law and the objectives of the different parts of the local law. Once these are agreed, the local law will be drafted for Council to approve for public consultation, which must be undertaken for a minimum period of six weeks, and for reference to the Minister for comment.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Local public notice, as defined under section 1.7 of the Act, was given of the review in accordance with section 3.16 of the Act. This took the form of:

- A public notice in the Melville Gazette published on 20 August 2020;
- Notices displayed in all City libraries and the Civic Centre for the duration of the consultation period;
- Information about the review and a submission form published via Melville Talks Engagements for the duration of the consultation period;
- Random sample email invitations to participate sent to 2,993 recipients;
- Social media posts inviting public submissions appeared on the City's Facebook page on 20 August, 15 September and 25 September 2020, reaching more than 3,600 people.

The Elected Member Bulletins of 14 August and 18 September 2020 invited elected members to submit their views.

Fifty-three of the email recipients clicked the link to the engagement page. A total of 165 people visited the Melville Talks engagement page and spent an average of 2.03 minutes on the page. Six people are following the page for updates.

The public submission period closed on 5 October 2020 and six submissions were received:

- three from individual members of the public,
- one from a community organisation, and
- two from Elected Members.

The record of submissions and officer's analysis is attached. **5786 Report of Review - Record of Submissions**

II. OTHER AGENCIES / CONSULTANTS

No other agencies or consultants were involved in this review. The relevant guidance documents published by the Department of Local Government, Sport and Cultural Industries were consulted to assist in the interpretation of provisions of the Act and Regulations that are broad or relatively undefined in the written law.

STATUTORY AND LEGAL IMPLICATIONS

Following a review of a local law and consideration of a report from the local government, the Council may determine, by absolute majority decision, whether the local law should be repealed or amended. In either case, a new local law must be made to repeal or to amend the existing local law.

M20/5786 – REPORT OF REVIEW OF CITY OF MELVILLE MEETING PROCEDURES LOCAL LAW 2017 (AMREC) (ATTACHMENT)

In making a local law a local government must follow the procedure described in section 3.12 of the Act, in the sequence in which it is described.

(f) At a council meeting the person presiding is to give notice to the meeting of the purpose and effect of the proposed local law by ensuring that the purpose and effect of the proposed local law is included in the agenda for that meeting and that the minutes of the meeting include the purpose and effect of the proposed local law.

(g) The local government must give local public notice including specified information including where a copy of the proposed local law may be accessed and inviting submissions before a specified day being not less than 6 weeks after the notice is given.

(h) As soon as the notice is given, a copy of the proposed local law and of the notice must be given to the Minister administering the Act and the Minister administering the Act under which the local law is proposed to be made.

(i) After considering submissions, the local government may, by absolute majority, make the local law as proposed or a local law not significantly different from what was proposed.

(j) After making the local law, there are requirements regarding publication in the *Government Gazette*, provision of the published version to the Minister(s), a local public notice and provision of copies to Parliament with required explanatory material.

A local law is subject to disallowance by the Joint Standing Committee on Delegated Legislation. The Committee may refrain from disallowance and instead require a formal undertaking by the local government that it will amend the local law to the Committee's satisfaction within a certain time.

Contravention of the Meeting Procedures Local Law by an elected member is a minor breach under regulation 4 of the Local Government (Rules of Conduct) Regulations 2007.

FINANCIAL IMPLICATIONS

There are no significant financial implications arising from the recommendations of this report. Minor costs will be incurred in advertising the public notice and in publishing the local law in the *Government* Gazette, and will be met under the existing budget.

M20/5786 – REPORT OF REVIEW OF CITY OF MELVILLE MEETING PROCEDURES LOCAL LAW 2017 (AMREC) (ATTACHMENT)

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no environmental management implications in this matter.

Risk Statement & Consequence	Level of Risk	Risk Treatment
The local law does not meet the needs of the City or contribute to the legislated functions of the Council	Medium consequences which are unlikely, resulting in a Low level of risk.	Review, amend or repeal local laws regularly to ensure they continue to be relevant and effective

POLICY IMPLICATIONS

The following Council Policies are relevant to the Meeting Procedures Local Law:

CP-014 Public Question Time at Council or Committee Meetings
CP-041 Code of Conduct (Elected Members)
CP-088 Creation, Access and Retention of Audio Recordings of Public Meetings of Council
CP-108 Deputations to the Council Policy

These policies should be considered in the drafting of the new local law, and any potential discrepancies resolved.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Council could choose to make no change to the current Meeting Procedures Local Law. The current local law has proven adequate for managing Council and Committee meetings, and elected members are generally familiar with its provisions. Some dissatisfaction has been expressed due to a perceived lack of clarity and failure to address certain issues affecting Council's performance of its role. However, the submissions largely did not identify specific significant deficiencies or submit reasons for proposing particular amendments.

Amendments could be made to the existing local law to address any identified deficiencies and align it better with the Meeting Procedures Local Law template. However, the extent of the amendments required to address the structure of the local law, internal duplications and ambiguity, in addition to any substantive amendments required to address deficiencies, will result in a cumbersome amendment local law.

CONCLUSION

The review of the City of Melville Meeting Procedures Local Law 2017 has revealed some ways in which the current local law may not be contributing to its purpose and effects as well as was intended. In most cases, this is associated with departures from the Meeting Procedures Local Law template and from the provisions and inherent assumptions in the Act and Regulations. The local law contains some internal duplication, ambiguity and inconsistencies, and the structure is confusing in places.

M20/5786 – REPORT OF REVIEW OF CITY OF MELVILLE MEETING PROCEDURES LOCAL LAW 2017 (AMREC) (ATTACHMENT)

On balance, the finding of the review is that the City would most efficiently achieve an effective and legislation-compliant Meeting Procedures Local Law by repealing the existing Meeting Procedures Local Law 2017 and replacing it with a new Meeting Procedures Local Law using the Meeting Procedures Local Law template as a base, amended as necessary to reflect the City's specific enduring needs.

As part of the process of developing a new local law, Council will need to consider matters in which current practice departs from standard practice as contemplated in the Act and Regulations and determine whether a change in policy is appropriate.

The process of drafting a new Meeting Procedures Local Law will require the direct involvement of the Council to ensure matters relevant to members are fully discussed and that the manner of dealing with them is agreed prior to the drafting of a new local law for public consultation.

OFFICER RECOMMENDATION 5786 **APPROVAL**

That the Council (by simple majority):

1) **Notes and acknowledges the public submissions received during the review of the City of Melville Meeting Procedures Local Law, the analysis of the submissions and the matters raised in the officer's report;**

2) **Agrees in principle to adopt a new Meeting Procedures Local Law based on the Meeting Procedures Local Law template with such changes as Council considers necessary to reflect local circumstances, including matters raised in the public submissions.**

3) **Requests the CEO to convene a Council forum to discuss and agree on matters to be addressed in the proposed new Meeting Procedures Local Law, and to subsequently prepare a draft new Meeting Procedures Local Law for Council to approve for public consultation under section 3.12 of the Act.**

And that the Council, by absolute majority: **ABSOLUTE MAJORITY**

4) **Determines in accordance with section 3.16 (4) of the Local Government Act that the current City of Melville Meeting Procedures Local Law 2017 should be repealed and replaced with a new Meeting Procedures Local Law, subject to the requirements of section 3.12 of the Act.**

M20/5789 – PLANNING FOR CEO PERFORMANCE APPRAISAL (REC)

Ward	:	All
Category	:	Operational
Subject Index	:	Personnel File
Customer Index	:	Personnel File
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item C18/5655 - Chief Executive Officer Recruitment - Special Meeting of Council 12 November 2018. Item M19/5711 - Chief Executive Officer Performance Review - Special Meeting of Council held 4 November 2019. Item M19/5711 Chief Executive Officer Performance Review - Governance Committee held 18 November 2020 Late Item M19/5721 – Governance Committee Meeting – Chief Executive Officer Performance Review Process Ordinary Council Meeting held 19 November 2019. Item M19/5726 – Chief Executive Officer Performance Review Process – Governance Committee – 2 December 2019 Item M20/5728 – Chief Executive Officer Performance Review – Governance Committee – 5 February 2020 Item M20/5729 – Chief Executive Officer Performance Review – Special Meeting of Council held 11 February 2020 M20/5781 – Planning For CEO Performance Appraisal – Governance Committee – 19 October 2020
Works Program	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Dean McAuliffe Manager People Services

M20/5789 – PLANNING FOR CEO PERFORMANCE APPRAISAL (REC)

AUTHORITY / DISCRETION

		DEFINITION
☐	Advocacy	*When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☐	Executive	*The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
☐	Legislative	*Includes adopting local laws, town planning schemes & policies.*
☐	Review	*When the Council operates as a review authority on decisions made by Officers for appeal purposes.*
☐	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 (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*
☒	**Information**	***For the Committee to note.***

M20/5789 – PLANNING FOR CEO PERFORMANCE APPRAISAL (REC)

KEY ISSUES / SUMMARY

- In accordance with Council resolution (Item C18/5655 – Chief Executive Officer Recruitment – Special meeting of Council 12 November 2018 a five year contract with the Chief Executive Officer (CEO) was entered into which became effective from 20 November 2018.
- In keeping with the requirements of the Local Government Act 1995 the CEO's contract contains a requirement for a annual review, and there are elements of the employment contract which specify some elements that must occur.
- The annual CEO performance review process is ultimately the determination of the Council. The operational management of the process is through the direction of the Mayor, on behalf of Council and the Governance Committee. The Governance Committee has been determined by the Council to be the reviewers of the CEO performance.
- It has been for the Governance Committee to discuss the CEO's performance, future expectations, performance criteria, performance development plan and review the salary package, for recommendation to the Council.
- Each year a defined process, that has been developed by the Administration is reviewed by the Committee and adopted by the Council, incorporates a proposed performance survey to be completed by Elected Members.
- This year a consultant has been requested to review the CEO performance metrics and to review the performance review process, who is currently seeking comment from Elected Members.
- The 2019 review was concluded in February 2020 and the next 12 monthly review needs to be concluded by 11 February 2021 at the latest but ideally by the end of December 2020.
- The Presiding Member of the Governance Committee has requested that an item be prepared for presentation to the Committee of "Planning the CEO Performance Appraisal".
- This matter was considered at the Governance Committee Meeting held 19 October 2020, where the Committee resolved to recommend to the Council that:
  - Mr Hutchison of Peopleistic Pty Ltd be engaged to review the existing CEO Performance Review process with the Governance Committee; and
  - following the process review the procurement process for a suitably qualified consultant to assist with the CEO Performance Review be commenced.
- This report provides an update on activities to date on the current CEO Performance Review Process.

BACKGROUND

The CEO was appointed on 20 November 2018. The *Local Government Act 1995* requires that the Council review the CEO's performance at least once a year in relation to every year of employment. In November 2019 the Council confirmed the process for the 2019 review, which was concluded in February 2020. Clause 7 of the CEO contract details that there needs to be a review of remuneration on an annual basis at a time that is no later than three months after the anniversary of the commencement date.

M20/5789 – PLANNING FOR CEO PERFORMANCE APPRAISAL (REC)

At the 18 November 2019 the Governance Committee recommended an amended performance review process which was then approved by the Council at the Ordinary Council meeting held 19 November 2019.

> **That the Council approves the process for the Chief Executive Officer Performance Review as provided by the Mayor and amended by the Governance Committee - CEO_Performance_Review_Process**

The review was concluded in February 2020 and at the Special meeting of the Council held 11 February 2020 it was resolved:

> **That the Council commence the process for the review of the Chief Executive Officer Performance, Performance Criteria and Remuneration Review for the period up to 30 June 2020 and then annually on that date thereafter. Any remuneration amendments are to take effect from 20 November of that same year.**

This resolution gave effect that the current review will cover the eight month period from November 2019 to 30 June 2020. This was to align with the end of the financial year and annual reporting period, the adoption of the budget and so that future reviews will be completed by the outgoing Council and not be undertaken by newly Elected Members after biennial October elections.

The Local Government Act requires that a review be conducted "at least once a year in relation to every year of employment" so the current review will need to be concluded by 11 February 2021 at the latest, however, there is a preference to conclude the current review by the end of December 2020.

The next review period will be for the period 1 July 2020 to 30 June 2021.

The Presiding Member of the Governance Committee requested that an item be prepared for presentation to the Committee on the "Planning the CEO Performance Appraisal", with this matter being considered by the Governance Committee at its meeting held 19 October 2020.

DETAIL

The Council has appointed Mr Todd Hutchison, Peopleistic Ply Ltd, to undertake work with the City on a process for the development of the Corporate Business Plan, now completed and cultural change initiatives.

Following the completion of the Corporate Business Plan Mr Hutchison has also been appointed to develop the CEO performance metrics for possible inclusion in the next CEO annual review and contract (February 2021 to February 2022). The proposed metrics focus on five requirements areas: llegislative / regulatory compliance; execution of approved plans; execution of Council meeting directives; operational effectiveness (internal); and customer relations effectiveness (external). It is intended that the metrics will be presented to a future Governance Committee meeting before being presented to the Council for adoption.

M20/5789 – PLANNING FOR CEO PERFORMANCE APPRAISAL (REC)

Mr Hutchison has also been requested to provide facilitated advice on the CEO performance review process (flowchart). Mr Hutchison is seeking formal comment from Elected members on the process and is looking at forming an Elected Members working group. This group would provide recommendations on the performance review process, that will be referred to the Administration for final review to ensure compliance against the CEO's contract, the Local Government Act and to ensure procedural fairness, natural justice. Once assessed, the process will be referred to the Governance Committee for support and referral to the Council for adoption.

For clarity Mr Hutchison and/or the working group have not been appointed to conduct the performance review as it still remains for the Council to appoint the Reviewer of the CEO performance in accordance with 4.3 - Selection of Reviewer – of the CEO's performance.

The latest update that the Administration can provide is that the development of future performance metrics and the review of the process flowchart are currently being undertaken and facilitated by Mr Hutchison. The Administration will provide whatever support the consultant requires to assist with undertaking and concluding the tasks that he has been appointed to undertake.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

No community consultation occurred during the period in question.

II. OTHER AGENCIES / CONSULTANTS

There has been no liaison with any other agencies or Consultants beyond Mr Hutchison.

STATUTORY AND LEGAL IMPLICATIONS

Section 5.16(1) of the *Local Government Act 1995*, states that *"Under and subject to section 5.17, a local government may delegate to a committee any of its powers and duties other that this power of delegation"*
Absolute Majority required.

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

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

Section 5.39 (7) of the *Local Government Act 1995* states that a CEO is to be paid or provided with such remuneration as is determined by the Salaries and Allowances Tribunal.

M20/5789 – PLANNING FOR CEO PERFORMANCE APPRAISAL (REC)

FINANCIAL IMPLICATIONS

Costs will be incurred for the consultant to under the additional work described in this report.

The fee for the Performance Review Consultant, when appointed has been included in the 2020-21 operational budget. Any change to the salary package of the CEO as a result of the review, when conducted, will be reflected in the operational budget for 2020-2021.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The risk management implications of non-compliance with processes and legislative requirements may leave the City open to challenge on decisions or processes. There are no Environmental Management Implications in this report.

Risk Statement & Consequence	Level of Risk	Risk Treatment
That milestone dates to complete the CEO Performance Review are critical dates not met.	**Low**	Develop and endorse a process for the conduct of the CEO Performance Review.
That the performance criteria for the next twelve months are not determined	**Low**	Defined process that includes this stage

POLICY IMPLICATIONS

Not applicable

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

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

CONCLUSION

This report provides an update to the Committee and the Council on the current status of the planning for the CEO performance review. The current review is intended to be completed by the end of December 2020. The Council meeting in December will be held Tuesday 8 December and a Special Council Meeting maybe required after that date to conclude the review. To comply with the legislative requirement that a review be undertaken within a 12 month period, the current review must be concluded by 11 February 2021.

M20/5789 – PLANNING FOR CEO PERFORMANCE APPRAISAL (REC)

COMMITTEE RECOMMENDATION (5789) **APPROVAL**

That the Council:

1. **notes the report on the Planning for the CEO Performance Appraisal.**

2. **directs the Chief Executive Officer to engage Mr Todd Hutchison of Peopleistic Pty Ltd to work through the existing process for the CEO Performance Review with the Governance Committee.**

3. **following the conclusion of point 2. directs the Chief Executive Officer to commence a procurement process for a suitably qualified consultant to assist with the CEO Performance Review to conclude in February 2021.**

M20/5790 – UPDATE ON STATUS OF THE AUTHORISED INQUIRY RECOMMENDATIONS (REC) (ATTACHMENT)

Ward	:	All
Category	:	Operational
Subject Index	:	Council Administration
Customer Index	:	Department of Local Government 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	:	M19/5697 – Report on the Outcome Report of the Authorised Inquiry into the City of Melville July 2019 Ordinary Meeting of Council M20/5778 – Update on the Status of the Authorised Inquiry Recommendations. Governance Committee 19 October 2020
Works Program	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Marten Tieleman Chief Executive Officer

AUTHORITY / DISCRETION

		DEFINITION
☐	Advocacy	*When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☐	Executive	*The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
☐	Legislative	*Includes adopting local laws, town planning schemes & policies.*
☐	Review	*When the Council operates as a review authority on decisions made by Officers for appeal purposes.*
☐	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 (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*
☒	Information	*For the Committee to note.*

M20/5790 – UPDATE ON STATUS OF THE AUTHORISED INQUIRY RECOMMENDATIONS (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- The City was the subject of an Authorised Inquiry between 30 November 2017 and 26 June 2019.
- The Report of the Inquiry into the City of Melville detailed seven Recommendations.
- The City was required to provide a report to the Director General of the Department of Local Government on progress on the Recommendations six months after the Report was released. This was completed on 23 December 2019.
- A report on this was considered by the Governance Committee at it's meeting held 19 October 2020.
- This report provides an updated on the status of all seven Recommendations for the information of the Council.

BACKGROUND

The Director General of the Department of Local Government, Sport and Cultural Industries authorised an Inquiry into the City of Melville on 30 November 2017. The Terms of Reference directed the Inquiry to investigate the following aspects of the City of Melville (City) and its operations and affairs from 1 January 2015:

1. Council's relationship with the City of Melville administration.
2. The adequacy of Council's Policies and Procedures, including, but not limited to:
   a. the manner in which the City and the Council deals with complaints from members of the public.
   b. management of public question time.
   c. public access to information, and
   d. adherence to Council policies and procedures by the Council and City of Melville administration.
3. Acquisition of land.
4. Any other issues that are determined to be of relevance to the above.

The Report of the Inquiry into the City of Melville (The Report) was released on 27 June 2019 when the Minister for Local Government, Hon David Templeman MLA, tabled the Report in State Parliament.

The Report noted 17 Findings and 7 Recommendations, which were detailed in the report to the Ordinary Meeting of Council held 16 July 2019, where the Council resolved:

"That the Council

1. receives the Report of the Inquiry into the City of Melville, produced by the Department of Local Government, Sport and Cultural Industries, and tabled in State Parliament on 27 June 2019.
2. notes and supports the Recommendations 1, 3, 4, 5, 6 and 7 of the Report of the Inquiry into the City of Melville.
3. supports Recommendation 2 and directs the Chief Executive Officer to expedite the engagement of an independent person to review and act on complaints about the City's process and decisions for a period of 3 months from the date of engagement.

M20/5790 – UPDATE ON STATUS OF THE AUTHORISED INQUIRY RECOMMENDATIONS (REC) (ATTACHMENT)

4. by Absolute Majority Decision approves a budget amendment to debit account 100.29105.7126.000 (Inquiry) and credit Rates Equalisation Reserve Account (Funds to be used) 277.28129.7888.000 for the amount of $150,000 to cover the costs of implementing the recommendations of The Report of the Inquiry into the City of Melville.

5. authorises the Chief Executive Officer to forward the minutes (this report and resolution of the Council) to the Minister for Local Government, Sport and Cultural Industries to meet the statutory obligation contained in Section 8.14(3) of the *Local Government Act 1995.*"

A Special Meeting of Electors was held on 12 August 2019, with the motions submitted at that meeting being considered at the Ordinary Meeting of Council held 17 September 2019 where the following related motion was endorsed unanimously:

"4 directs the Chief Executive Officer to prepare and submit to the Minister for Local Government an addendum to the City's response to the Director General, Department of Local Government, Sport and Cultural Industries dated 28 July 2019, advising that the Council reiterates that it acknowledges and accepts that Ministers Templeman's call for cultural change is appropriate and fully supported by the City."

Correspondence advising of the Council resolution was forwarded to the Minister for Local Government on 26 September 2019.

DETAIL

A report was forwarded to the Director General of the Department of Local Government on 23 December 2019, addressing Recommendation 7, which, in effect, is a response to all the recommendations. **5778 Response Report.**

A brief outline of the actions on each of The Report recommendations is below:

Recommendation 1

Council continue to review their public question time policy on a regular basis to ensure it is clear, concise and transparent.

Action

Policy CP-014 – Public Question Time at Council and Committee Meetings implemented from January 2019. In February 2020 the Council resolved to amend this policy, with these amendments being considered as part of the Meeting Procedures Local Law Review that is currently underway.

M20/5790 – UPDATE ON STATUS OF THE AUTHORISED INQUIRY RECOMMENDATIONS (REC) (ATTACHMENT)

Recommendation 2

That consideration be given by the Council to engage an independent person to review and act on complaints about the City processes and procedures and decisions for a period of 3 months from the date of this report.

Action

The City provided a draft project scope to the Department of Local Government via email on 8 August 2019 with confirmation on the scope received by return email on 8 August 2019.

The independent company Customer Science Pty. Ltd. was appointed on 28 October 2019 and their Report was received on Wednesday 18 December 2019. This Report contains the initial findings and recommendations with a final report, received on 30 January 2020 and is available to Elected Members via the Elected Members Extranet.

The outcome of this review process has been used in the development of the proposed new draft Council Policy CP-112 Customer Feedback Policy which was presented to the Ordinary Meeting of Council held 18 August 2020 and has been referred back to a Council Workshop for discussion.

Recommendation 3

All senior staff undertake training in complaint management and dealing with unreasonable complainants within 3 months of the date of this report.

Action

In November 2018 the City employed a skilled Customer Relations Improvement Officer who came to the City with extensive complaints handling experience. This role conducts customer service training across the organisation and is the gatekeeper for all complaints and conducts regular audits of complaints resolution and customer satisfaction.

This officer has also conducted the complaints handling training for City staff including the City's Executive Leadership Team and Management Leadership Team who undertook this training June and July 2019.

Recommendation 4

The City undergo an independent governance review as determined appropriate by the Director General within 3 months of the date of this report and provide the Director General with a copy of the full report upon its completion.

Action

Following a procurement process, in October 2019 the City engaged the Australian Institute of Company Directors (AICD) to undertake the Recommendation 4 Governance Review, the scope of which was approved by the Director General of the Department of Local Government.

M20/5790 – UPDATE ON STATUS OF THE AUTHORISED INQUIRY RECOMMENDATIONS (REC) (ATTACHMENT)

The survey associated with the first Governance Review was undertaken with the Pre 2019 Election Elected Member Group, with 11 Elected Members (85%) and 5 (100%) of management participating. The Confidential Report "The City of Melville – Governance Review" was received by the City on Thursday 12 December 2019 and made available to Elected Members on the Elected Members Extranet in December 2019.

The workshop planned for this review to be presented to Elected Members was cancelled due to the restrictions posed by the COVID-19 pandemic an is to be incorporated into the Workshop associated with the Recommendation 5 Governance Review and planned for the end of October 2020.

Recommendation 5

The City undergo a further independent governance review as determined appropriate by the Director General 6 months after the local government elections held in October 2019 and provide the Director General with a copy of the full report upon its completion.

Action

This review was scheduled to commence in March 2020, however the restrictions imposed by the COVID-19 pandemic delayed this process. The Director General of the Department of Local Government was advised of the issues and granted an extension to the end of October 2020.

The survey associated with the second Governance Review was undertaken by the AICD and took place over two weeks during August and September 2020, with 10 Elected Members (77%) and 5 (100%) of management participating. The Confidential Report "The City of Melville – Governance Review" was received by Mayor on 8 October 2020 for discussion with a representative from the AICD.

At the time of preparing this report the review had been completed, the Draft Final Report produced and discussed with the Mayor and the Confidential Final Report released to Elected Members via Elected Members Extranet for presentation and discussion at a workshop scheduled for 27 October 2020.

Recommendation 6

The City implement process and/or procedures to ensure that unauthorised acquisition of properties or any other assets does not re-occur.

Action

The City has reviewed the circumstances that related to the unauthorised acquisition of property the subject of the Authorised Inquiry. Review and modification to the City's existing processes and procedures has been undertaken and where necessary modified to ensure that a similar set of circumstances does not occur in the future.

M20/5790 – UPDATE ON STATUS OF THE AUTHORISED INQUIRY RECOMMENDATIONS (REC) (ATTACHMENT)

Recommendation 7

Within 6 months of the date of this report the Chief Executive Officer is to deliver a comprehensive report to the Director General of the Department outlining:

i. the steps take in response to the above recommendations;

As outlined above.

ii. identifying the number of senior staff that have undergone the training as set out in recommendation 3;

Both the City of Melville Executive Leadership Team (7 members) and the Management Leadership Team (15) have undergone training.

iii. updating the status of the Governance Review in relation to the number of elected members and staff who have participated;

The Survey associated with the Governance Review outlined in Recommendation 4 had a participation rate of 85% for Elected Members (11 of 13 members) and 100% participation of the staff (CEO and four Directors).

The Report from the second Survey conducted during August and September 2020 has only just been received and at the time of preparing this Report has not yet been reviewed in detail. A copy will be forwarded to the Department of Local Government and a workshop for presentation and discussion on the Report has been scheduled for late October 2020.

iv. the processes the City has put in place in response to recommendation 5; and

As outlined at Recommendation 5 above this process was delayed due to the impacts of the COVID-19 pandemic and has not been completed at the time of preparing this report.

v. the impact, if any, of the updated policies on Public Question Time, Managing Unreasonable Conduct by Customers, Legal Representation and the Complaint Management Policy.

The impact of the then revised policy associated with Public Question Time was analysed in for the 2019 calendar year which showed a decrease in the number of questions being submitted to the Council at that time, however there was an increase in the number of petitions being submitted. The analysis of the trends in 2020 have not yet been undertaken.

Council Policy CP-107 Managing Unreasonable Conduct by Customer was revoked at the OMC 18 August 2020.

The City established a page on the website dedicated to the Authorised Inquiry for the information of the community and this page is updated as new information is available.

M20/5790 – UPDATE ON STATUS OF THE AUTHORISED INQUIRY RECOMMENDATIONS (REC) (ATTACHMENT)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Nil.

II. OTHER AGENCIES / CONSULTANTS

Nil.

STATUTORY AND LEGAL IMPLICATIONS

The Authorised Inquiry was authorised under Part 8 Division 1 of the *Local Government Act 1995*.

FINANCIAL IMPLICATIONS

The majority of the expenditure to implement the seven Recommendations from has been met from existing approved operating budgets.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement & Consequence	Level of Risk	Risk Treatment
That the City does not fully comply with the Recommendations from the Department of Local Government Sport and Cultural Industries.	Minor consequences which are unlikely, resulting in **Low** level of risk	The City fully complies with the Recommendations and continues with an ongoing review and improvement process.

POLICY IMPLICATIONS

That Council Policies continue to be monitored and reviewed within the established policy review cycle or as required to ensure that they accurately reflect the position of the Council and provide transparency into any associated processes.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

This report is for noting.

M20/5790 – UPDATE ON STATUS OF THE AUTHORISED INQUIRY RECOMMENDATIONS (REC) (ATTACHMENT)

CONCLUSION

The City of Melville was subject to an Authorised Inquiry commencing 30 November 2017, with the Report of the Inquiry being dated 26 June 2019. The Report contained 7 Recommendations for implementation and action by the City of Melville. This report provides an update on the actions undertaken on these recommendations to date.

All Recommendations from the Report, have been concluded with the exception of Recommendation 5 and 7iv that relate to the second Governance Review, which is currently in the process of being finalised.

COMMITTEE RECOMMENDATION (5790) **NOTING**

That the Council notes the update on the status of the Recommendations from the Report of the City of Melville Authorised Inquiry.

M20/5792 – GOVERNANCE COMMITTEE GENERAL BUSINESS – REQUEST FOR REPORT ON DELEGATED AUTHORITY FOR GOVERNANCE COMMITTEE (REC)

Ward	:	All
Category	:	Operational
Subject Index	:	Council Administration
Customer Index	:	Department of Local Government 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	:	General Business - Governance Committee 19 October 2020
Works Program	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Marten Tieleman Chief Executive Officer

AUTHORITY / DISCRETION

		DEFINITION
☐	Advocacy	*When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☒	Executive	*The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
☐	Legislative	*Includes adopting local laws, town planning schemes & policies.*
☐	Review	*When the Council operates as a review authority on decisions made by Officers for appeal purposes.*
☐	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 (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.*
☐	Information	*For the Council to note.*

M20/5792 – GOVERNANCE COMMITTEE GENERAL BUSINESS – REQUEST FOR REPORT ON DELEGATED AUTHORITY FOR GOVERNANCE COMMITTEE (REC)

KEY ISSUES / SUMMARY

- This matter was raised in General Business at the Governance Committee meeting held 19 October 2020.
- This report requests the consideration of Council to request a report on the implications of providing the Governance Committee with Delegated Authority.

BACKGROUND

At the Governance Committee meeting held 19 October 2020, the matter of delegated authority was raised, with the Committee unanimously resolving:

> That the Governance Committee recommend that the Council direct the CEO present a report on the implications of providing limited delegated powers to the Governance Committee.

DETAIL

The *Local Government Act 1995* and Regulations provides for the delegation of some powers and duties to certain committees. The implications of legislation will be considered in the report being requested, if supported by the Council.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Nil.

II. OTHER AGENCIES / CONSULTANTS

Nil.

STATUTORY AND LEGAL IMPLICATIONS

Under the Local Government Act, the Council has the ability to delegate some powers and duties to certain committees.

FINANCIAL IMPLICATIONS

The financial implications would be considered and reported upon in the report being requested.

M20/5792 – GOVERNANCE COMMITTEE GENERAL BUSINESS – REQUEST FOR REPORT ON DELEGATED AUTHORITY FOR GOVERNANCE COMMITTEE (REC)

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement & Consequence	Level of Risk	Risk Treatment
That the Council delegates some powers and duties to the Governance Committee without fully understanding the implications.	Minor consequences which are unlikely, resulting in **Low** level of risk	A report to be provided that addresses the implications of delegating powers for the consideration and decision of the Council.

POLICY IMPLICATIONS

The implications of policy would be further considered in the report being requested.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council could chose not to request the report and the Governance Committee would continue to operate in its current format.

CONCLUSION

That the Council request the CEO to provide a Report outlining the types of powers that can be delegated to the Governance Committee and implications of those.

COMMITTEE RECOMMENDATION (5792) **NOTING**

That the Council directs the CEO present a report on the implications of providing limited delegated powers to the Governance Committee.

C20/5788 - INDEPENDENT REVIEW – CESSATION OF CONTRACT (REC) (CONFIDENTIAL ATTACHMENT)

Ward	:	All
Category	:	Executive
Subject Index	:	Independent Review
Customer Index	:	M McLerie and D Kenny
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item 13.3 Petition – Request for Independent Review Ordinary Meeting of Council 19 November 2019.Item 8.1 Motion Without Notice – Independent Review – Mr McLerie (Building Related and Consequential Complaints) Minutes of the Governance Committee held 5 February 2020. Item M20/5730 Report of the Governance Committee Meeting Held 5 February 2020 – Ordinary Meeting of Council 18 February 2020. Item M20/5730 M McLerie – Independent Review – Building Related and Consequential Complaints –Ordinary Meeting of Council 17 March 2020. Item C20/5752 McLerie Independent Review – Special Meeting of Council held 29 June 2020 Item C20/5777 Independent Review – Cessation of Contract – Governance Committee 19 October 2020.
Works Programme	:	Not Applicable
Funding	:	$60,000 allocated in 2020-2021 budget
Responsible Officer	:	Alan Ferris Director Corporate Services

AUTHORITY / DISCRETION

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

C20/5788 - INDEPENDENT REVIEW – CESSATION OF CONTRACT (REC) (CONFIDENTIAL ATTACHMENT)

KEY ISSUES / SUMMARY

- At the August 2020 Ordinary meeting the Council resolved to appoint Quantum Consulting Australia Pty Ltd (QCA) to undertake the independent Review.
- QCA were formally appointed on 25 August 2020.
- On 14 September 2020 after considering information received from the two residents QCA raised concerns with the Director Corporate Services around the expectations and outcomes expected from the review.
- On 17 September 2020 a meeting was held with the residents, Mayor and Deputy Mayor to discuss the review and the expectations of both the City and the residents.
- On 21 September 2020 QCA advised the Director Corporate Services that they could not continue to work on the review.
- On 22 September 2020 QCA met with the Mayor, Deputy Mayor and Director Corporate Services to discuss their decision not to continue and advised both residents following this meeting.
- On the 24 September 2020 the City received a letter from QCA confirming that they would not continue with the review, outlining some of the factors considered in reaching this decision and providing some considerations should the City wish to proceed with a review.
- A copy of the letter is included in the Confidential Attachment.
- A list of work undertaken by QCA is included in the Confidential Attachment.
- A table outlining the current status of the building issues of the lead resident is included in a Confidential Attachment.
- This matter was considered by the Governance Committee at its meeting held 19 October 2020, where the Committee resolved to recommend that the termination of the contract from Quantum Consulting Australia be accepted and that mediation be undertaken with the relevant ratepayers to establish a scope of works for an independent review to improve processes.

BACKGROUND

This review was considered in response to a petition from 77 residents regarding various building related and consequential complaints which was considered by the Council at the 19 November 2019 Council Meeting and referred to the Governance Committee.

The scope of works for the review was developed in consultation with the Chair of the Governance Committee (Deputy Mayor), Mayor and the Director Corporate Services. Building related concerns of a second member of the public was added to the review by the Council at the Special Council meeting held 29 June 2020. As required in the Special Council resolution the scope was signed off by both residents prior to the City proceeding with the procurement process.

At the August Ordinary Council meeting the Council endorsed the appointment of Quantum Consulting Australia Pty Ltd (QCA) to undertake the independent review into the customer interactions between the City and two residents.

C20/5788 - INDEPENDENT REVIEW – CESSATION OF CONTRACT (REC) (CONFIDENTIAL ATTACHMENT)

DETAIL

The following provides some key information in regard to the review and the process with QCA:

- QCA were formally appointed on 25 August 2020.
- The then Acting CEO, Mick McCarthy, and the Director Corporate Services met with QCA on 28 August 2020 to discuss the review.
- QCA were then provided access to a secure drive in which documents relevant to the review were stored.
- On 11 September 2020 an initial meeting was held with the Mayor and Deputy Mayor to introduce the consultants and to discuss the expectations of the City from the review.
- Following this meeting QCA contacted both residents to introduce themselves and set up a time to meet and discuss the review.
- Over that weekend QCA received correspondence from one of the residents in relation to the review.
- On 14 September 2020 after considering this information QCA raised concerns with the City around the expectations and outcomes expected from the review.
- On 17 September 2020 a meeting was held with the two residents, Mayor, Deputy Mayor and Director Corporate Services to discuss the review and the expectations of both the City and the residents.
- On 21 September 2020 QCA advised that they could not continue to work on the review.
- On the 22 of September 2020 QCA met with the Mayor and Deputy Mayor to discuss their decision not to continue and advised both residents following this meeting.
- On the 24 September 2020 the City received a letter from QCA confirming that they would not continue with the review, outlining some of the factors considered in reaching this decision and providing some considerations should the City wish to proceed with a review. A copy of the letter is included in the Confidential Attachment.
- The decision by QCA was discussed with the Mayor at the regular weekly meeting with the CEO on 29 September 2020.

QCA have provided a confidential overview report of their work and involvement in this review process from their database. The purpose of information was for internal tracking of QCA's involvement with the Review and did not form part of the actual review.

The confidential report, Chronology Service Review of Customer Interactions, is provided for the City's internal information and is not for release to the public or to the two residents. The confidential attachments were distributed to Elected Members on Thursday 15 October 2020 under confidential cover.

A summary of the current building issues has been included in a confidential attachment. It is noted that there are two outstanding issues one which is the dividing fence which requires agreement between the two neighbours to resolve.

C20/5788 - INDEPENDENT REVIEW – CESSATION OF CONTRACT (REC) (CONFIDENTIAL ATTACHMENT)

The focus should now be on resolving these outstanding issues as it acknowledged that the City has learnt a great deal from the interactions with the two residents, which has assisted the City in making changes to processes as a result. There is more that is required and the business improvement project being undertaken in the Planning and Building area is focussed on achieving more improvements.

A report on the update of the status of this review was considered by the Governance Committee at it's meeting held 19 October 2020 which was attended by Mr Martin and Mr Hood from Quantum Consulting Australia Pty Ltd.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

There has been no community consultation in relation to this report.

II. OTHER AGENCIES / CONSULTANTS

There has been no consultation with other agencies in relation to this report.

STATUTORY AND LEGAL IMPLICATIONS

The City received legal advice on 13 February 2020 regarding this matter. Any allegations regarding the misconduct of staff need to be reported by Mr McLerie to the relevant review agencies with supporting evidence noting that the investigation of such allegations is outside of the role and function of the Council.

Any investigative process undertaken would need to address the principles of natural justice so that all parties are protected from any inappropriate impacts.

As outlined in previous reports in regard to the review, the draft list of issues has been developed by the City's administration following limited responses by Mr McLerie to the written requests. This is inconsistent with the legal advice and presents a risk to the City.

The outcome sought by Mr McLerie is also unclear and presents a risk to the City in undertaking a Review, costing up to $60,000 that will potentially have an unsatisfactory outcome for Mr McLerie.

FINANCIAL IMPLICATIONS

The Review has an approved budget of $60,000. At this stage QCA has advised that they will not invoice the City for work undertaken on the review. The City has advised QCA that it would like to pay QCA for the work undertaken in reviewing documents and attending meetings for the review. This is still being negotiated with QCA.

C20/5788 - INDEPENDENT REVIEW – CESSATION OF CONTRACT (REC) (CONFIDENTIAL ATTACHMENT)

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no environmental management implications relating to this matter.

There is a risk that this review will not provide a satisfactory outcome to the residents or the City.

POLICY IMPLICATIONS

Not applicable.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

In terms of the review there are a number of options the City could consider, including:

1. Not continuing with the review (consider reallocating the budget for the review to planning and building to assist in the business improvement process review);

2. Review the original procurement process which appointed QCA to see if either of the other two respondents were suitable and could undertake the review; or

3. Review the further guidance provided by QCA should the City wish to proceed with a review of this type.

Option 1 provides an opportunity to not continue with the review and to reallocate the funding to improving the planning and building processes which have contributed to some of the issues experienced by the two residents who were the subject to the review. This is likely to assist with some positive change to this area and improve the customer experience.

Option 2 is not favoured as both remaining respondents are likely to encounter similar issues to those experienced by QCA. The City did appoint a suitably qualified consulting company to undertake the review. For the reasons outlined in the confidential letter from QCA they are not able to continue.

Option 3 could be considered, however there will still be a high level of risk that the review would not meet stakeholder expectations.

CONCLUSION

Officer's in their report to the Governance Committee cited Option 1 as the preferred option as the City is already undertaking a business improvement project and further process review would assist in embedding some of the learnings and improving the customer experience.

The Governance Committee sought to initiate a further Independent Review with the scope of such review to be established through mediation with the selected Ratepayers. The intent of the outcome of the Independent Review is to improve processes within the City of Melville.

C20/5788 - INDEPENDENT REVIEW – CESSATION OF CONTRACT (REC) (CONFIDENTIAL ATTACHMENT)

COMMITTEE RECOMMENDATION (5788) **APPROVAL**

That the Council:

1. **Notes this report and the confidential attachments.**

2. **Agrees to accept the termination of the contract by Quantum Consulting Australian Pty Ltd for the Independent Review of Customer Interactions with the City of Melville.**

3. **Directs that the Director Corporate Services, Mayor and the Chair of the Governance Committee engage in mediation with the selected Ratepayers (Mr M McLerie and Mr D Kenny) to establish a scope of works that would achieve an Independent Review of three sample Building issues associated with concerns the Ratepayers have raised with the objective of improving processes in the City.**

C20/6000 - INVESTMENT STATEMENTS FOR SEPTEMBER 2020 (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

☐	Advocacy	*When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
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☒	**Information**	***For the Council/Committee to note.***

KEY ISSUES / SUMMARY

This report presents the investment statements for the period ending 30 September 2020 for the Council's information and noting.

C20/6000 - INVESTMENT STATEMENTS FOR 30 SEPTEMBER 2020 (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 30 September 2020.

CITY OF MELVILLE
STATEMENT OF INVESTMENTS
FOR THE PERIOD ENDING 30 SEPTEMBER 2020

SUMMARY BY FUND		
Municipal		$55,845,938
Reserve		$156,682,842
Trust		$-
Citizen Relief		$217,779
TOTAL		**$212,746,559**
SUMMARY BY INVESTMENT TYPE		
11AM		$8,750,915
31Days at Call		$6,000,000
60Days at Call		$2,000,000
90Days at Call		$16,600,000
Term Deposit		$179,220,473
Units (Local Govt Hse)		$175,171
TOTAL		**$212,746,559**
SUMMARY BY CREDIT RATING		
AAA Category	AAA	
AA Category (AA+ to AA-)	AA-	$153,071,387
A Category (A+ to A-)	A+	$24,500,000
	A	
	A-	
BBB+ Category	BBB+	$35,000,000
Units (Local Government House)		$175,171
TOTAL		**$212,746,559**

C20/6000 - INVESTMENT STATEMENTS FOR 30 SEPTEMBER 2020 (REC)

Exposure to an individual institution is limited according to Council policy and in September 2020 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	$ 10,500,000	4.94%	30.00%	✓
AMP	BBB+	BBB+ Category	$ -	0.00%	15.00%	✓
Bankwest	AA-	AA Category	$ -	0.00%	30.00%	✓
Bank of Queensland	BBB+	BBB+ Category	$ 30,500,000	14.34%	15.00%	✓
ING Bank	A-	A Category	$ -	0.00%	25.00%	✓
Bendigo & Adelaide	BBB+	BBB+ Category	$ 4,500,000	2.12%	15.00%	✓
CBA	AA-	AA Category	$ 34,500,000	16.22%	30.00%	✓
Macquarie	A+	A Category	$ 15,000,000	7.05%	25.00%	✓
NAB	AA-	AA Category	$ 49,729,828	23.38%	30.00%	✓
St George	AA-	AA Category	$ -	0.00%	30.00%	✓
Suncorp	A+	A Category	$ 9,500,000	4.47%	25.00%	✓
Westpac	AA-	AA Category	$ 58,341,560	27.42%	30.00%	✓
Units in Local Govt House	NA	NA	$ 175,171	0.08%	100.00%	✓
		TOTAL	**$ 212,746,559**	**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 September 2020.

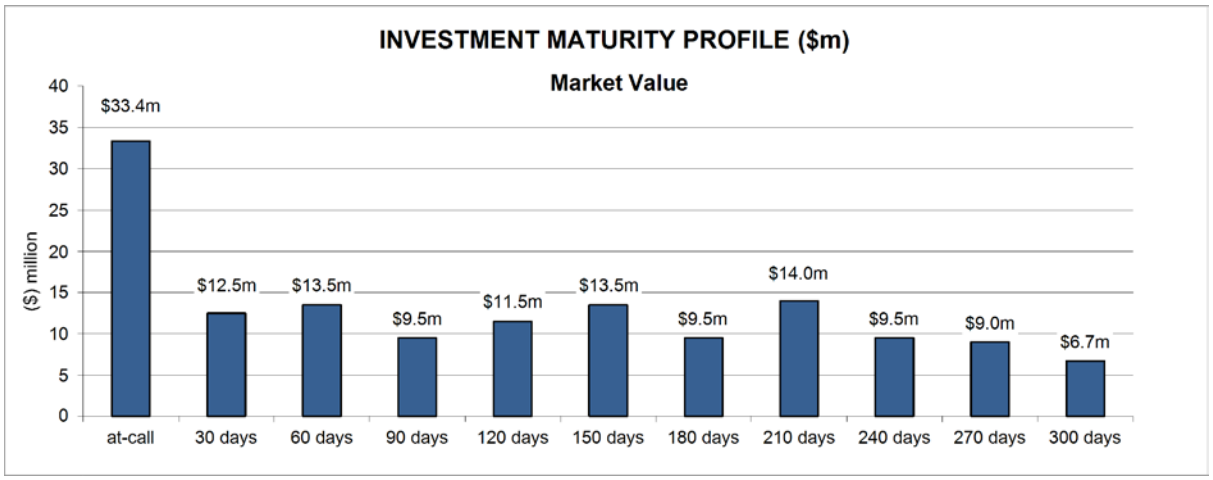
Maximum Percentage of Average Investment Portfolio Balance

Long Term Rating	Funds held at period end $	Actual %	Limit Per Policy	
AAA Category	$ -	0%	100%	✓
AA Category (AA+ to AA-)	$ 153,071,387	72%	80%	✓
A Category (A+ to A-)	$ 24,500,000	12%	50%	✓
BBB+ Category	$ 35,000,000	16%	25%	✓
Units in Local Govt House	$ 175,171	0%	100%	✓
TOTAL	**$ 212,746,559**	**100%**		

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

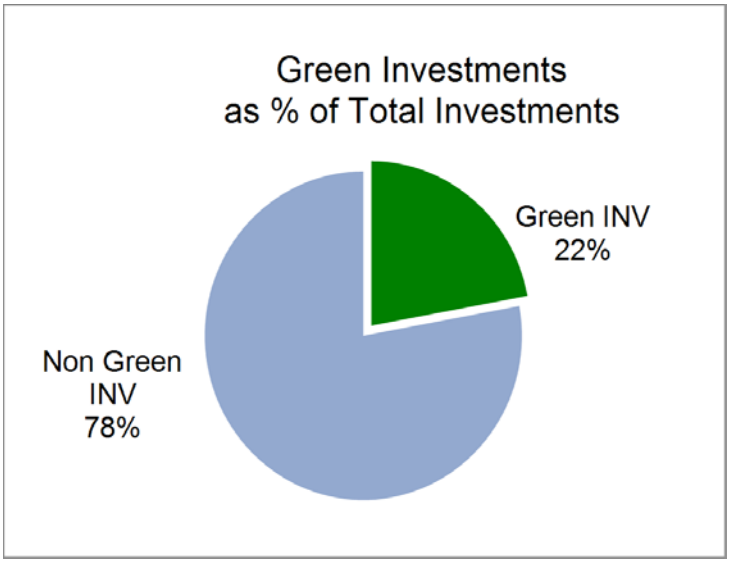
C20/6000 - INVESTMENT STATEMENTS FOR 30 SEPTEMBER 2020 (REC)

The below graph summarises the maturity profile of the City's investments at market value as at 30 September 2020. The immediacy of the demand for funds depends on the particular Fund or Reserve Account(s) of the City. The maturity profile provided in the table above meets the liquidity requirements of the Council policy.



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

The total investment in authorised institutions that do not lend to industries engaged in the exploration for, or production of, fossil fuels, as at 30 September 2020 was $47,000,000 or 22% of total investment holdings being in non-fossil fuels institutions, compared to $48,000,000 (26%) in August 2020. The total investments holding for September and August were $212,746,559 and $186,845,278 respectively.



C20/6000 - INVESTMENT STATEMENTS FOR 30 SEPTEMBER 2020 (REC)

Green Investment with financial institutions			
Institution	Credit Rating	Credit Rating Category	Funds held at period end
Bendigo & Adelaide	BBB+	BBB+ Category	$ 4,500,000
CBA	AA-	AA Category	$ 33,000,000
Suncorp	A+	A Category	$ 9,500,000
		TOTAL	**$ 47,000,000**

Green investments are invested in three banks listed above in the table based following the council credit rating policy. Green Term Deposits with CBA are currently limited or no longer available as the pool of funds with them has reached full capacity. Other banks offer a lower interest rate on Green Investments.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

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

II. OTHER AGENCIES / CONSULTANTS

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

STATUTORY AND LEGAL IMPLICATIONS

The following legislation is relevant to this report:

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

Authorised Deposit-taking Institutions are authorised under the *Banking Act 1959* and are subject to Prudential Standards oversighted 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.

C20/6000 - INVESTMENT STATEMENTS FOR 30 SEPTEMBER 2020 (REC)

FINANCIAL IMPLICATIONS

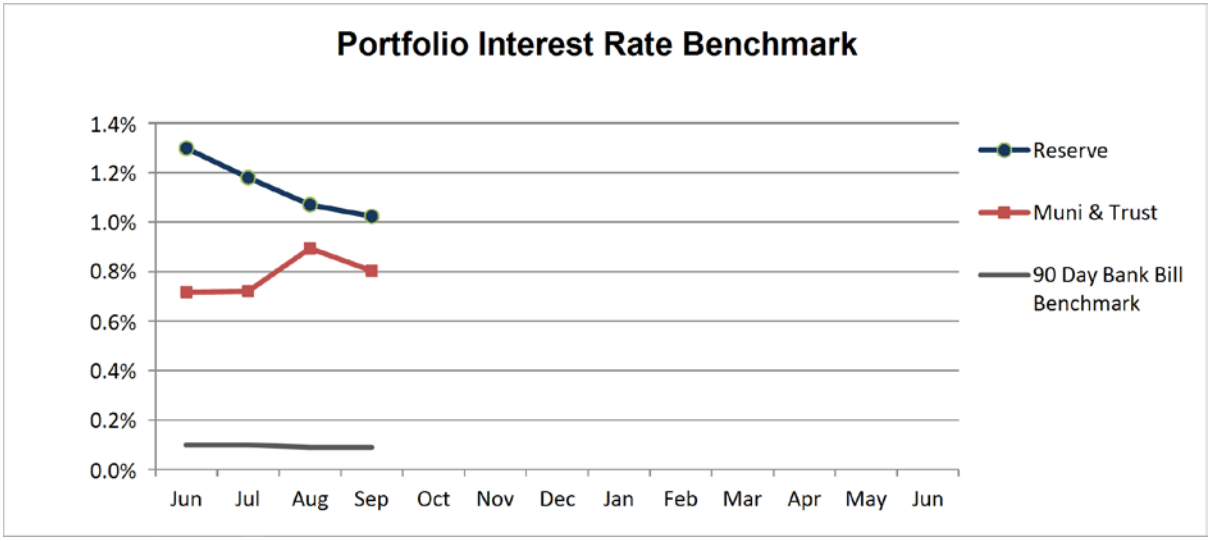
For the period ending 30 September 2020:

- Investment earnings on Municipal and Trust Funds were $73,735 against a year to date budget of $18,750 representing a positive variance of $54,985 as a result of new investments during the month of September 2020.The annual budget for Investment earnings on Municipal and Trust was $75,000 and will be reviewed during the mid-year budget review.

  The weighted average interest rate for Municipal and Trust Fund investments as at 30 September 2020 was 0.80% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.09%.

- Investment earnings on Reserve accounts were $376,258 against a year to date budget of $356,250 representing a positive variance of $20,008. The weighted average interest rate for Reserve account investments as at 30 September 2020 was1.02% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.09%.

- The total investment as at 30 September has increased by $25,901,281 to $212,746,559, or 13.8 per cent compared to last month mainly due to the City's rates revenue collection.



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”.

C20/6000 - INVESTMENT STATEMENTS FOR 30 SEPTEMBER 2020 (REC)

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

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

POLICY IMPLICATIONS

Council Policy CP-009 – Investment of Funds provides guidelines with respect to the investment of 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 0.80% to 1.02% which exceeds the benchmark three month bank bill swap (BBSW) reference rate of 0.09%.

22% 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 August 2020 on a lower investment balance.

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 30 September 2020.

C20/6001 – SCHEDULE OF ACCOUNTS PAID FOR SEPTEMBER 2020 (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
☐	Advocacy	*When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☐	Executive	*The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.*
☐	Legislative	*Includes adopting local laws, town planning schemes & policies.*
☐	Review	*When the Council operates as a review authority on decisions made by Officers for appeal purposes.*
☐	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 September be appealable to the State Administrative Tribunal.*
☒	**Information**	***For the Council/Committee to note.***

KEY ISSUES / SUMMARY

This report presents the details of payments made under delegated authority to suppliers for the period of September 2020 and recommends that the Schedule of Accounts Paid be noted.

C20/6001 – SCHEDULE OF ACCOUNTS PAID FOR SEPTEMBER 2020 (REC) (ATTACHMENT)

BACKGROUND

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

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

DETAIL

The Schedule of Accounts Paid for September including Payment Register numbers, Cheques: 768-769, Electronic Funds Transfers batches: 666-671, Trust Payments, Card Payments and Payroll was distributed to the Elected Members of the Council on 2 October 2020.

In line with the COVID-19 Response, Relief and Recovery Plan, the City has introduced the weekly creditor payment run for five months ending 30 September to minimise the financial hardship on City local businesses and suppliers. Total of $5,818,335 direct creditor payments made over the month, of which, 34% of payments were paid to suppliers located within the City of Melville and 43% to suppliers within the South West Group, compared to 43% and 49% of the total of $5,937,713 direct creditor payments made over August, respectively.

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

SCHEDULE OF PAYMENTS MADE
SEPTEMBER 2020

Payments made under Delegated Authority DA-035

MUNICIPAL FUNDS - DIRECT CREDITOR PAYMENTS		
Cheques	Chq Payment Register No. 768,769	$38,774.03
	Chq Payment on Restricted Funds Register No.	$0.00
	Less Cancelled Chqs	$0.00
Electronic Funds Transfers	EFT Payment Register No. 667,668,669 and 671	$5,708,121.37
	EFT Payment on Restricted Funds Register No. 99,670	$73,245.61
	Less Cancelled EFTs	($1,805.29)
		$5,818,335.72
Direct Debits	Bank Fees	$70,446.84
	Caltex Fuel	$67,688.43
Direct Payments		$1,092.13
	Total Direct Creditor Payments	***$5,957,563.12***
Payroll	Total Pay 5, 6 and 7	$5,165,305.62
	Total Payroll	***$5,165,305.62***
Cards	Corporate Cards	($2,186.72)
	Purchase Cards	$36,610.69
	American Express	$7,700.49
	Total Card Payments	**$42,124.46**
	Total Direct Creditor Payments from Municipal Account	***$11,164,993.20***

C20/6001 – SCHEDULE OF ACCOUNTS PAID FOR SEPTEMBER 2020 (REC) (ATTACHMENT)

Schedule of Payments Made continued.

INTERFUND & INVESTMENT TRANSACTIONS			
Interfund Transfers			
Loan			$0.00
Citizen Relief Trust			$0.00
Citizen Relief Operating			$0.00
Municipal			($3,998,718.91)
Reserve			$3,998,718.91
Trust			$0.00
		Total Interfund Transfers	**$0.00**
New Municipal Investments			
Bank of Queensland	3/09/2020		$1,000,000.00
National Australia Bank	4/09/2020		$1,700,000.00
National Australia Bank	7/09/2020		$1,800,000.00
Commonwealth Bank Green	8/09/2020		$1,000,000.00
National Australia Bank	8/09/2020		$2,000,000.00
Bank of Queensland	8/09/2020		$1,000,000.00
Commonwealth Bank Green	9/09/2020		$1,000,000.00
National Australia Bank	9/09/2020		$2,000,000.00
Westpac Bank	9/09/2020		$2,000,000.00
ANZ Bank	10/09/2020		$1,500,000.00
Westpac Bank	10/09/2020		$2,000,000.00
Bank of Queensland	10/09/2020		$1,000,000.00
Commonwealth Bank Green	11/09/2020		$1,000,000.00
Westpac Bank	11/09/2020		$3,000,000.00
Bank of Queensland	11/09/2020		$1,000,000.00
ANZ Bank	11/09/2020		$3,000,000.00
Westpac Bank	14/09/2020		$4,000,000.00
Bank of Queensland	17/09/2020		$1,000,000.00
Westpac Bank	18/09/2020		$1,000,000.00
Westpac Bank	22/09/2020		$2,000,000.00
Westpac Bank	24/09/2020		$1,500,000.00
		Total New Investments	**$35,500,000.00**
		Grand Total	**$46,664,993.20**

C20/6001 – SCHEDULE OF ACCOUNTS PAID FOR SEPTEMBER 2020 (REC) (ATTACHMENT)

Details of the payments are shown in attachment 6001 Payment Details September 2020.

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.

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 $46,664,993.20.

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

C20/6001 – SCHEDULE OF ACCOUNTS PAID FOR SEPTEMBER 2020 (REC) (ATTACHMENT)

OFFICER RECOMMENDATION (6001) **NOTING**

That the Council notes the Schedule of Accounts paid for the period September 2020 as approved by the Director Corporate Services in accordance with delegated authority DA-035, and detailed in attachment 6001 Payment Details September 2020.

C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR SEPTEMBER 2020 (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
☐	Advocacy	*When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☒	**Executive**	***The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.***
☐	Legislative	*Includes adopting local laws, town planning schemes & policies.*
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☐	Information	*For the Council/Committee to note.*

KEY ISSUES / SUMMARY

This report presents:

- The Statements of Financial Activity by Program, Sub-Program and Nature and Type, for the period ending 30 September 2020 and recommends that they be noted by the Council.
- Year end processes are still underway and therefore, the final figures for September 2020 may be different from what is presented in this report.
- The variances for the month of 30 September 2020 and recommends that they be noted by the Council.
- The Budget amendments required for the month of 30 September 2020 and recommends that they be adopted by Absolute Majority decision of the Council.

C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR SEPTEMBER 2020 (AMREC) (ATTACHMENTS)

BACKGROUND

The Statements of Financial Activity for the period ending 30 September 2020 have been prepared and tabled in accordance with the *Local Government (Financial Management) Regulations 1996*.

OVERALL SUMMARY OF THE CITY's FINANCIAL POSITION

- The unaudited surplus for the year 2019-2020 is $1.99M. This is still subject to change pending the finalisation of the audit.

- The City has already recognised a provision of $ 4.21M for the rehabilitation of John Connell Reserve in accordance with Australian Accounting Standards (AASB). This provision has been recorded in financial statements as a prior year adjustment.

- Budget adjustments are being made each month to reflect changes in the budget assumptions particularly related to the impact of COVID-19. A formal review will be undertaken during the mid year budget review in January 2021.

- Municipal cash balance at the end of the month is $55.84M.

- In September 2020, the total investments have increased by $25,901,281 to $212,746,559, or 13.8 per cent compared to last month, due mainly to the first instalment due date for rates revenue. 73.6% of the City's investment portfolio is held in reserve accounts which are restricted to the defined purpose for which the reserve account was established.

- Rates raised year to date were $80,189,042 with a negative variance of $819 compared to the year to date annual budget of $80,189,861.

  Rates collection progress for September is 54.5% which is below the month end target of 58.8%.

- Total debtor collections for September equalled $36,632,985. The year to date total outstanding debtors (including all rates and sundry debtors) is $51,306,181 which is sightly lower (0.7%) than the total debtors of $51,663,545 at the same time in the previous year.

- A total of $4,738 in revenue was waived in September 2020 of which, $4,321 relates to the Community Stimulus Package adopted by Council on 9 April. Total waivers since 9 April under the Community Stimulus Package total $193,007.

C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR SEPTEMBER 2020 (AMREC) (ATTACHMENTS)

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 and 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 Sub-Program
   Provides further breakdown on the Program classifications.

Variances

A detailed summary of variances and comments based on the Rate Setting Statement by Sub-Program is provided in attachments:

6002C_Statement_Sub_Program_September_2020: Rate Setting Statement by Sub-Program
6002H_Statement_of_Variances_September_2020: Statement of Variances in Excess of $50,000

Revenue

Rates raised as at September were $80,189,042, compared to a year to date budget of $80,189,861. The negative variance of $819 is immaterial.

Rates Collection

SUMMARY OF RATE DEBTOR MOVEMEMENT					
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	9,142,487	9,142,487	*0%*	6,607,681	*38%*
Debtors Raised	100,346,228	99,884,977	*0%*	115,057,189	*-13%*
Payments Received	(59,856,384)	(23,438,647)	*155%*	(71,214,461)	*-16%*
Closing Balance	49,632,332	85,588,818	*-42%*	50,450,409	*-2%*

Total rate debtor collections for the month equalled $36,417,737.

C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR SEPTEMBER 2020 (AMREC) (ATTACHMENTS)

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	1,238,865	1,238,865	*0%*	432,873	*186%*
Invoices Raised	1,341,888	1,083,102	*24%*	2,350,564	*-43%*
Receipts	(924,390)	(709,142)	*30%*	(1,602,977)	*-42%*
Prepayments	17,486	19,011	*-8%*	32,675	*-46%*
Closing Balance	1,673,849	1,631,837	*3%*	1,213,136	*38%*

Sundry debtor balances increased by $42,012 over the course of September from $1,631,837 to $1,673,849. 90-day sundry debtors over $1,000 for the month are 29% per cent of total sundry debtors or $476,362. Debtors amounting to $398,575 have applied for COVID-19 hardship waivers currently being reviewed.

Money Expended in an Emergency and Unbudgeted Expenditure

Not applicable for September 2020.

Budget Amendments

Details of Budget Amendments requested for the month of September 2020 are shown in attachment **6002J September 2020**. Variances greater than $50,000 processed in September 2020 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.

The following debts totalling $16,317.12 were waived for the month of September 2020.

Under the Delegation DA-032,

- The interest of $416.78 on the overdue rates notice was written off under delegated authority due to notices being sent to the incorrect address which has now been amended. Customer agreed to pay the remaining outstanding rates balance.
- $4,321 was waived for non for profits and sporting associations in September 2020 under the Melville Community Stimulus Package approved by the Council on 9 April.

C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR SEPTEMBER 2020 (AMREC) (ATTACHMENTS)

The following attachments form part of the Attachments to the Agenda for the month of September 2020.

DESCRIPTION	LINK
Statement of Financial Activity By Nature and Type	6002A_Statement_Nature_Type_September 2020
Rate Setting Statement by Program	6002B_Rate_Setting_Program September 2020
Rate Setting Statement by Sub-Program	6002C_Rate_Setting_Sub_Program_September 2020
Representation of Net Working Capital	6002E_Net_Working_Capital_September 2020
Reconciliation of Net Working Capital	6002F_Reconciliation_Net_Working_Capital_September 2020
Notes on Rate Setting Statement reporting on variances of 10% or $50,000 whichever is greater	6002H_Notes_Rate_Setting_Statement_September 2020
Details of Budget Amendments requested	6002J_Budget_Amendments_September 2020
Summary of Rates Debtors	6002L_Summary_Rate_Debtors_September 2020
Graph Showing Rates Collections	6002M_Rates_Collections_Graph_September 2020
Summary of General Debtors aged 90 Days Old or Greater	6002N_General_Debtors_Aged_90days_September 2020

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not applicable.

II. OTHER AGENCIES / CONSULTANTS

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

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

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

C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR SEPTEMBER 2020 (AMREC) (ATTACHMENTS)

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 $50,000 whichever is greater.

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

FINANCIAL IMPLICATIONS

Variances

Variances are detailed and explained in attachment
6002H_Notes_Rate_Setting_Statement_September 2020: Notes on Statement of Variances in excess of $50,000 by Sub-Program.

C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR SEPTEMBER 2020 (AMREC) (ATTACHMENTS)

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 30 September 2020. As noted in this report the financial statements for 2019-2020 have not been finalised and audited and as such the results as presented for September 2020 could be subject to change.

C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR SEPTEMBER 2020 (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 30 September 2020 as detailed in the following attachments:**

DESCRIPTION	LINK
Statement of Financial Activity By Nature and Type	6002A_Statement_Nature_Type_September 2020
Rate Setting Statement by Program	6002B_Rate_Setting_Program September 2020
Rate Setting Statement by Sub-Program	6002C_Rate_Setting_Sub_Program_September 2020
Representation of Net Working Capital	6002E_Net_Working_Capital_September 2020
Reconciliation of Net Working Capital	6002F_Reconciliation_Net_Working_Capital_September 2020
Notes on Rate Setting Statement reporting on variances of 10% or $50,000 whichever is greater	6002H_Notes_Rate_Setting_Statement_September 2020
Details of Budget Amendments requested	6002J_Budget_Amendments_September 2020
Summary of Rates Debtors	6002L_Summary_Rate_Debtors_September 2020
Graph Showing Rates Collections	6002M_Rates_Collections_Graph_September 2020
Summary of General Debtors aged 90 Days Old or Greater	6002N_General_Debtors_Aged_90days_September 2020

2. **By Absolute Majority Decision adopts the budget amendments, as detailed in the attached Budget Amendment Reports for September 2020 6002J_BUDGET_AMENDMENTS_SEPTEMBER 2020**

15. EN BLOC ITEMS

16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

17. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL

18. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

19. CLOSURE