

**MINUTES**

**OF THE**

**ORDINARY MEETING OF THE COUNCIL**

**HELD 6.30PM TUESDAY, 16 MARCH 2021**

Due to the State of Emergency declared in Western Australia, effective 16 March 2020 and the subsequent government directives with regard to public gatherings and physical distancing only a limited number of the public were able to physically attend this meeting.

This meeting was publically broadcast to the community and the minutes and the audio recording of the meeting available on the City's website as soon as practicable after the meeting to meet the requirements of Regulation 14E(3)(b)(i) and (ii) of the *Local Government (Administration) Regulations 1996*.

**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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## 1. OFFICIAL OPENING

The Presiding Member welcomed those in attendance to the meeting and officially declared the meeting open at 6:32pm and advised those present of the Disclaimer that is on the front page of these Minutes, the Affirmation of Civic Duty and Responsibility and advised that this meeting is being recorded and invited Cr Margaret Sandford to read the Acknowledgement of Country.

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

## COUNCIL RESOLUTION

At 6:34pm Cr Barber moved, seconded Cr Barton –

**That the application for a new leave of absence submitted by Cr M Woodall on 16 March 2021 be granted.**

At 6:34pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

## 2. PRESENT

Mayor Honourable G Gear

### COUNCILLORS

Cr J Barton (Deputy Mayor)  
Cr G Barber  
Cr D Macphail, Cr N Robins  
Cr C Robartson,  
Cr N Pazolli  
Cr K Mair, Cr M Sandford  
Cr T Fitzgerald, Cr K Wheatland

### WARD

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

## 3. IN ATTENDANCE

Mr A Ferris  
Mr M McCarthy  
Mr M Duncan  
Ms C Young  
Mr G Ponton  
Mr L Hitchcock  
Mr P Prendergast  
Ms Y Doherty (*until 6:43pm*)  
Mr B Taylor  
Ms C Newman  
Ms T Wright

A/Chief Executive Officer  
Director Technical Services  
A/Director Corporate Services  
Director Community Development  
A/Director Urban Planning  
Executive Manager Governance and Legal Services  
Manager Statutory Planning  
Cultural Development Officer (Arts)  
Manager Governance and Property  
Governance Coordinator  
Governance Officer

The Mayor acknowledged the attendance for Mr Kevin Bailey, Mayor of the City of Swan and Artist, Mr Daevid Anderson.

At the commencement of the meeting, there were 45 members of the public in the Council Chambers, 15 members of the public in the Foyer, 15 members of the public in attendance electronically and one representative from the Press.

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

Cr S Kepert	Applecross – Mount Pleasant
Mr M Tieleman	Chief Executive Officer
Mr S Cope	Director Urban Planning

**4.2 APPROVED LEAVE OF ABSENCE**

Cr M Woodall Bull Creek - Leeming

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

Nil.

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

Nil.

**6. QUESTION TIME****6.1 Questions Received with Notice**

Nil.

**6.2 Questions Received without Notice****6.2.1 Mr Wittber, Murdoch**

*I refer to Item 9.1.3.1 of the Annual Electors Meeting. One issue that was addressed (last paragraph of response) refers to the current car park on the south side west of the Freeway and the fact that the land currently being used as a carpark by the Public Transport Authority will in the future be used as a "mixed use development". Could the City advise:*

Question 1

*1.1 how many car park bays exist in the current south west carpark?*

Response

The car park contains approximately 764 bays.

Question 2

*1.2 the likely timeframe for the future development?*

Response

The land is owned by the State Government and leased to the Public Transport Authority. The State Government has not provided information on likely timing of any mixed use development on the land. It is noted the current lease expires in January 2022 and includes an option for a further 5 years.

**6.2.1 Ms Edinger, Melville**

Recently the mystifying decision was made to trial speed humps on the shared path at Apex Reserve at Canning Bridge, can the Council please advise:

Question 1

*(a) if there was any formal community consultation in relation to the safety improvement proposal?*

Question 2

*(b) why the advice provided by WestCycle, that the the (sic) speed humps were "strongly advised against", was ignored?*

6. *Question Time continued*

Question 3

(c) *whether the option of installing an adjacent pedestrian path considered?*

Question 4

(d) *why the installation of dual pathway not chosen, as it appears to be the easiest and safest to implement?*

Question 5

(e) *will the city put the project on hold to enable formal community consultation to occur?*

Question 6

(f) *how much has it cost residents and ratepayers to purchase, install and remove the speed humps?*

**Response:**

These questions were taken on notice.

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

Nil.

## **7. AWARDS AND PRESENTATIONS**

### **7.1 City of Melville Donation to the Lord Mayor's Disaster Relief Fund for the Wooraloo and Hills Bush Fire Appeal**

The Mayor introduced Mr Kevin Bailey, Mayor of the City of Swan and invited Mayor Bailey to address the Council.

Mayor Bailey extended the appreciation of the City of Swan and the communities affected by the Wooraloo and Hills Bush Fire, to the City of Melville and its community for its generous donation to the Lord Mayor's Distress Relief Fund.

### **7.2 Presentation of the Mayoral Portrait**

The Acting Chief Executive Officer introduced Artist Mr Daevid Anderson

*"Daevid Anderson is one of Western Australia's most experienced portrait artists.*

*He has been a finalist in major painting competitions across Australia and internationally, including a five-time finalist in the Black Swan Prize for Portraiture, most recently in 2020.*

*His work is held in private collections across Australia and the United States, and now we are lucky enough to have one of Daevid's artworks in the City of Melville Chambers."*

Mr Anderson spoke to the features of the artwork and expressed his appreciation to the City for the opportunity to undertake the commission.

### **7.3 Recognition of Elected Members who stood in the State Election held 13 March 2021**

On behalf of the Council, the Mayor acknowledged and expressed appreciation for the four Elected Members who stood as candidates in the State Election held on Saturday 13 March 2021:

- Cr Kepert - Seat of Bateman
- Cr Mair - South Metropolitan Region
- Cr Robins - Seat of Bicton
- Cr Woodall - Seat of Bateman

**8. CONFIRMATION OF MINUTES****8.1 ORDINARY MEETING OF THE COUNCIL – 16 FEBRUARY 2021**  
**Minutes 16 February 2021****COUNCIL RESOLUTION**

At 6:45pm Cr Barton moved, seconded Cr Wheatland –

**That the Minutes of the Ordinary Meeting of the Council held on Tuesday, 16 February 2021 be confirmed as a true and accurate record.**

At 6:45pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

**8.2 NOTES OF AGENDA BRIEFING FORUM – 9 MARCH 2021****COUNCIL RESOLUTION**

At 6:45pm Cr Robartson moved, seconded Cr Sandford –

**That the Notes of Agenda Briefing Forum held on Tuesday, 9 March 2021, be received.**

At 6:45pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

**8.3 ANNUAL GENERAL MEETING OF ELECTORS – 17 FEBRUARY 2021**  
**Minutes AGM 17 February 2021****COUNCIL RESOLUTION**

At 6:45pm Cr Fitzgerald moved, seconded Cr Macphail –

**That the Minutes of the Annual General Meeting of Electors held on Wednesday, 17 February 2021 be confirmed as a true and accurate record.**

At 6:46pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

**8.4 FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE  
COMMITTEE MEETING (FMARC) – 8 MARCH 2021****COUNCIL RESOLUTION**

At 6:46pm Cr Mair moved, seconded Cr Barber –

**That the Minutes of the Financial Management, Audit, Risk and Compliance Committee Meeting (FMARC) held on Monday, 8 March 2021 be noted.**

At 6:46pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

**NB:**

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

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

Nil.

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

- Cr Macphail – Item M21/5819 Motions from the Annual General Meeting of Electors 17 February 2021 – Motions Carried. Interests Under the Code of Conduct.
- Mayor Gear – Item P21/3902 Request for Scheme Amendment – Rezoning No 45 – 47 Canning Beach Road, Applecross from Residential R12.5 to Residential R30. Interest Under the Code of Conduct.
- Cr Barber– Item 17.1 Request Policy Provision of Sports Club Parking and Troy Park. Interest Under the Code of Conduct.

**10. DEPUTATIONS****10.1 Mr A Trevisan of Applecross and Mr C Waddell**

Item P21/3908 – 6 Grouped Dwellings – Lot 12 (4) Tweeddale Road, Applecross

At 6:48pm the Mayor brought forward Item P21/3908 – 6 Grouped Dwellings – Lot 12 (4) Tweeddale Road, Applecross WA 6153, for the convenience of the public gallery.

At 6:48pm Mr A Trevisan and Mr C Waddell entered the Chambers for the purpose of making a deputation in relation to Item P21/3908 – 6 Grouped Dwellings – Lot 12 (4) Tweeddale Road, Applecross WA 6153. The presentation concluded at 6:53pm.

Mr Trevisan and Mr Waddell tabled the attached documents as part of their presentation.

[Documents Tabled By Mr Trevisan – P21/3908](#)

At 7:00pm Mr Trevisan and Mr Waddell departed the Council Chambers.

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)**

Ward	:	Applecross - Mount Pleasant Ward
Category	:	Operational
Application Number	:	DA-2020-1300
Property	:	Lot 12 (4) Tweeddale Road, Applecross
Proposal	:	6 Grouped Dwellings
Applicant	:	Pinnacle Planning
Owner	:	R J Tunnercliffe and L J Tunnercliffe
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	:	Not Applicable

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Development approval is sought for six grouped dwellings at Lot 12 (4) Tweeddale Road, Applecross.
- The proposed development has been assessed against Local Planning Scheme No. 6 (LPS6), the provisions of the Canning Bridge Activity Centre Structure Plan (CBACP) and relevant local planning and council policies.
- The proposed development requires a performance assessment in relation to Element 5 *Side and Rear Setbacks* of the CBACP and as such was advertised to the adjoining owners in accordance with Local Planning Policy 1.1 'Planning Process and Decision Making'. Three submissions were received which object to the proposed development.
- Notwithstanding the objection received, it is considered that the development is acceptable when assessed against the relevant Desired Outcome of the CBACP.
- 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.
- Notwithstanding the objection received, it is recommended that the Council approve the application subject to conditions



**Figure 1: Aerial Photography**

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)****BACKGROUND****Scheme Provisions**

MRS Zoning	:	Urban
LPS Zoning	:	Residential
R-Code	:	R -AC0
Use Type	:	Residential
Use Class	:	Preferred

**Site Details**

Lot Area	:	866m <sup>2</sup>
Retention of Existing Vegetation	:	Yes
Street Tree(s)	:	Yes
Street Furniture (drainage pits etc.)	:	No
Site Details	:	Refer to Figure 1 above

**[3908 Attachment 1 Amended Plans 4 Tweeddale Road Applecross](#)****DETAIL**

In October 2020 a development application was lodged for 6 grouped dwellings at 4 Tweeddale Road, Applecross. Prior to lodgement, the applicant engaged with the City to discuss the relevant development standards. In addition, the application was presented to the *Canning Bridge Design Review Panel* (CBDRP) for initial feedback on the design.

In response to concerns raised by the City, revised plans were submitted in February 2021 which reduce the height of the rear grouped dwellings and increase the setback to the rear boundary. These amended plans are the subject of this report.

The key document in the assessment of the proposal is the Canning Bridge Activity Centre Plan (CBACP) which was gazetted in April 2016 with the most recent amendment adopted by the WAPC on 22 September 2020.

The subject site is located at the edge of the H4 precinct of the CBACP which in principle permits residential development of up to four storeys in height. The adjoining properties to the north are located outside of the CBACP and are zoned R30 under the City's LPS6.

The proposed development has been assessed against all the relevant provisions of Local Planning Scheme No. 6 (LPS6), the CBACP and all relevant local planning policies. The proposal satisfies all such requirements with the exception of those matters listed in the table below. These matters require a performance assessment having regard to the desired outcomes of the CBACP.

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)**



**Figure 2-** Subject site identified in green within the CBACP. The lots shaded in beige to the north are located outside of the CBACP area.

**Canning Bridge Activity Centre Plan**

<b>Development Requirement</b>	<b>Requirements</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>
Rear setback	4 metres for ground and first floor.  8 metres for Second and third floor.	Unit 5 and 6 garage has nil setback  The second floor balconies of Units 5 and 6 have a rear setback of 6.1m.	Requires assessment against the Desired Outcomes of the CBACP	Development Advisory Unit (DAU)
Side setback (west)	4 metres for each floor	Ground floor 1.0 – 3 metres  First and second floor 3.0 – 4.0 metres	Requires assessment against the Desired Outcomes of the CBACP	Development Advisory Unit (DAU)

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)**

<b>Development Requirement</b>	<b>Requirements</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>
Side setback (east)	4 metres	Ground floor 1.0 – 4.0 metres  First and second floor 3.0 – 4.0 metres	Requires assessment against the Desired Outcomes of the CBACP	Development Advisory Unit (DAU)
Street Setback	3 metres	Minimum 2 metres	Requires assessment against the Desired Outcomes of the CBACP	Manager Statutory Planning (MSP)
Balcony area	Minimum 10 square metres	Some balconies in Units 1-4 are smaller than the required 10m <sup>2</sup> however each dwelling is provided with an outdoor space greater than 10m <sup>2</sup> .	Requires assessment against the Desired Outcomes of the CBACP	Manager Statutory Planning (MSP)
Parking	Two – Three bed dwellings Minimum 1 bay Maximum 1.5 bays	Units 1,2,5 & 6 are three bedroom dwellings with two parking bays provided for each	Requires assessment against the Desired Outcomes of the CBACP	Manager Statutory Planning (MSP)

Commentary in this report focuses on the matters raised in the submissions received. All other matters listed above have been assessed against and are considered to meet the desired outcomes of the CBACP.

## **STAKEHOLDER ENGAGEMENT**

### **I. COMMUNITY**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Required pursuant to LPP 1.1 Planning Process and Decision Making Clause 3.4(a)  
 Support/Object: Three objections received.

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)**

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

Summary of Issues Raised	Comments	Action (Condition/ Uphold/ Not Uphold)
The proposal should follow the guidelines set out in the <i>Canning Bridge Activity Centre Plan</i> (CBACP)	The CBACP is a performance based document The setback variations are supported against the Desired Outcomes of the CBACP. Refer to the comments section below.	Not Uphold
The impact of the building bulk onto each property's air space	The setback variations are supported against the Desired Outcomes of the CBACP.	Not Uphold
Loss of visual privacy from the proposed dwelling	The provision of visual privacy does not apply within the CBACP. Refer to the comments section below.	Not Uphold
Overshadowing	The provision of solar access and overshadowing do not apply within the CBACP. Refer to the comments section below.	Not Uphold
Height of proposed dwellings	The proposed dwellings are compliant in regard to height, this being an H4 location where under the provisions of the CBACP, 4 storey development is supported in principle.	Not Uphold
Noise disturbance caused by new dwellings;	<p>Noise is not a material planning consideration that issue being dealt with under non planning legislation. The proposed residential use is an appropriate use in this residential location, and the noise associated with the operation of the residential uses will be readily accommodated as such, without rise to adverse amenity impacts.</p> <p>The subject site is located within an area designated to accommodate a growing population through infill development projects such as this. During the construction phase, contractors will be required to comply with the relevant noise legislation.</p>	Not Uphold

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)****II. OTHER AGENCIES / CONSULTANTS**Canning Bridge Design Review Panel

The application was presented to the *Canning Bridge Design Review Panel* (CBDRP) in September 2020. See for the Minutes of this meeting.

[3908 Attachment 2 Design Review Panel Notes September 2020](#)

At its meeting, the CBDRP supported the proposed housing typology and identified the following strengths of the proposal:

- The proposed housing typology;
- By virtue of its typology, the proposal benefits from high levels of cross ventilation and dual aspect;
- The built form incorporates a number of curved elements which mediate scale whilst drawing from the local Art Deco historical context.
- The upper levels provide active spaces that overlook and engage with Tweeddale Road and the internal driveway and provide good activation and passive surveillance.

The panel members made a number of recommendations to the applicant, from the retention of the street trees, to the engagement of a landscape architect, the defining of the rear unit's ground floor entrance and the location of utilities.

The applicant has responded in a satisfactory manner and amendments have been made to the final proposed design. The development is therefore considered to be of an acceptable design quality which satisfies the requirements of the CBACP.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There is not considered to be strategic risk or environmental management implications associated with this application.

**POLICY IMPLICATIONS**

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

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)**

**COMMENT**

Setbacks

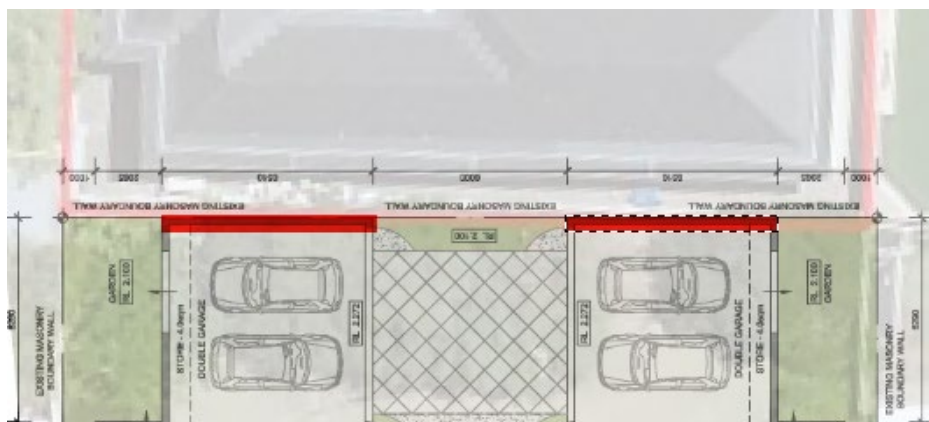
Under the provisions of Clause 5.6 of Element 5 *Side and Rear Setbacks* of the CBACP, the side and rear setback requirement is 4 metres. Further, the rear boundary of the subject site abuts a property which is outside of the CBACP. As such in accordance Clause 5.9 of Element 5, the rear setback for the third storey is required to be a minimum 8 metres from the common boundary. These matters are discussed in greater detail below.

*Ground floor Rear Setback*

The proposed garages for Units 5 and 6 have a nil setback to the rear boundary therefore a performance assessment is required against the Desired Outcome DO 5.

The proposed setback is supported for the following reasons:

- The location of the garage wall to each proposed property is on the southern boundary of 49 Canning Beach Road where, by virtue of their height and absence of major openings, there are no impacts on the adjoining property in relation to solar access or visual privacy; and
- As demonstrated in figure 3 below, the proposed garage boundary walls, abut an enclosed garage, gym and amenities building on the northern property. This structure does not contain any major openings towards the application site, nor does it provide any habitable spaces. The existence of this structure serves to mask the proposed garage walls from view, thereby ensuring there are no associated adverse amenity impacts towards the northern property, particularly in respect to visual bulk. The section drawing provided in support of the DA further demonstrates the relationship between the ground floor of the two properties and clearly shows that the amenity building on 49 Canning Beach Road will screen the ground floor of the proposed development.



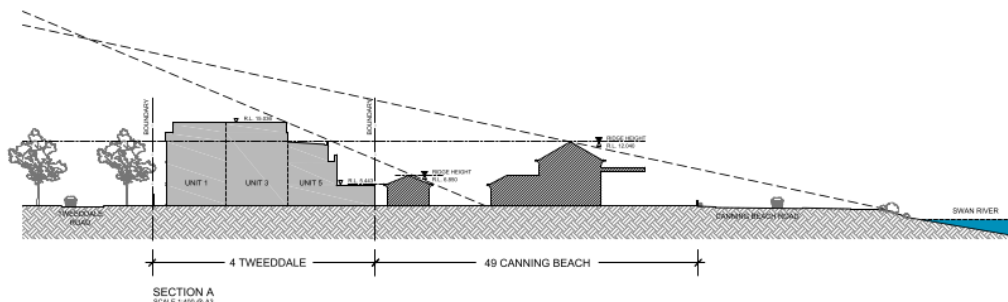
**Figure 3:** Ground floor plan of the subject site and its relationship with 49 Canning Beach Road. The lengths of wall subject to the setback variations are highlighted in red

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)**

*Third Storey Rear Setback*

Clause 5.9 of Element 5 requires that the rear setbacks for the third and fourth storey shall be setback a minimum 8 metres from the common boundary. Given that the third storey of Units 5 and 6 present a setback of 6m, a performance assessment against the Desired Outcome DO 5 is required. The proposed setback is supported for the following reasons:

- The 8m side setback requirement for the upper two floors is recognised as the key measure designed to safeguard amenity where developments are proposed at the interface of the H4 area with land outside the CBACP boundary. The increased setbacks for those upper floors make it clear that there is a building transition from the more dense development that is encouraged by the CBACP and the lower intensity residential development styles that characterise the areas outside of the CBACP area. The applicant has managed this transition effectively through the stepping up of the development from a single storey to three storeys and finally to four storeys (see figure 4).

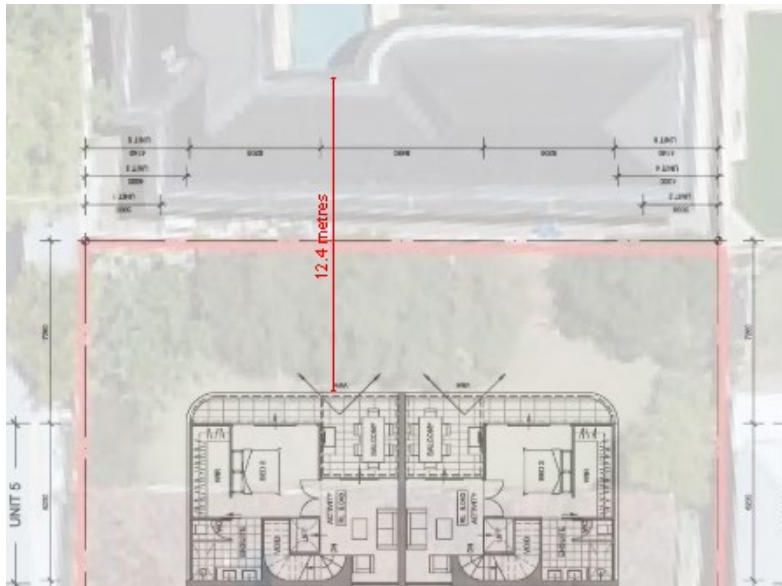


**Figure 4:** Cross sectional diagram showing the eastern elevation of the proposed dwelling with 49 Canning Beach Road

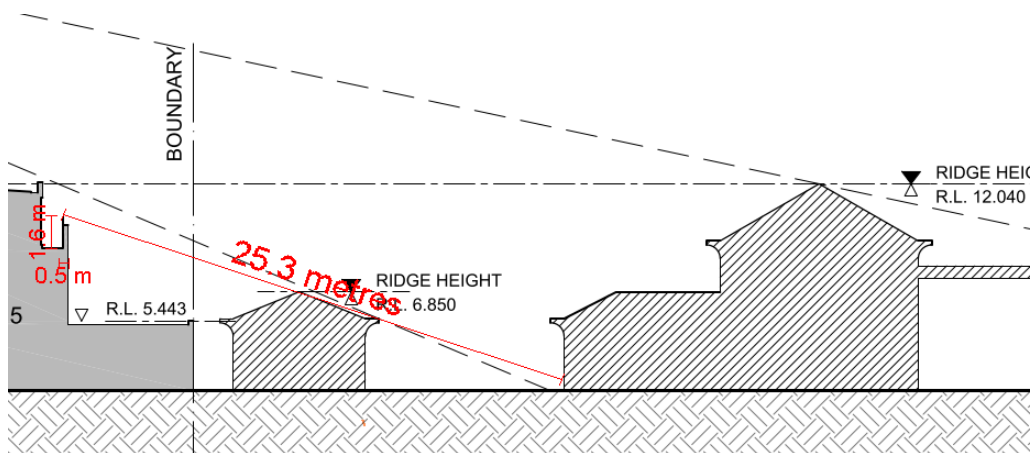
- Under the provisions of Element 5.7 of the CBACP there are no development controls relating to visual privacy and overshadowing. Setbacks are therefore the key development control for dealing with visual privacy, overshadowing and building bulk. Due to the orientation of the subject site, the shadow from the proposal falls towards Tweeddale Road and therefore the setbacks do not cause any amenity issues in the context of overshadowing;
- The proposed setbacks will not affect the view corridors of 49 Canning Beach Road as the home is orientated northward towards the Swan River and Perth City skyline; and

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)**

The rear of 49 Canning Beach Road comprises of a garage, gym and covered alfresco area. This home has an uncovered pool and driveway in the centre of the property with the main structure being oriented north towards the river. Figures 5 and 6 demonstrate the relationship between the existing and proposed properties. The line of sight diagram demonstrates that views from the second floor balconies of Units' 5 and 6 largely fall onto the roof of the neighbouring rear structure. Figure 6 shows that a person stood on the balcony with a view towards the rear property at 49 Canning Beach Road has that view interrupted by the rear building of the adjoining property. The ridge line of this structure forces the line of sight away from the swimming pool and towards the rear elevation of the property, a distance of some 25.3m away. This distance alone serves to safeguard the occupiers of that property from any adverse overlooking impacts from the balconies in question.



**Figure 5:** The floor plan for the second floor of Units 5 and 6 and its relationship with 49 Canning Beach Road.



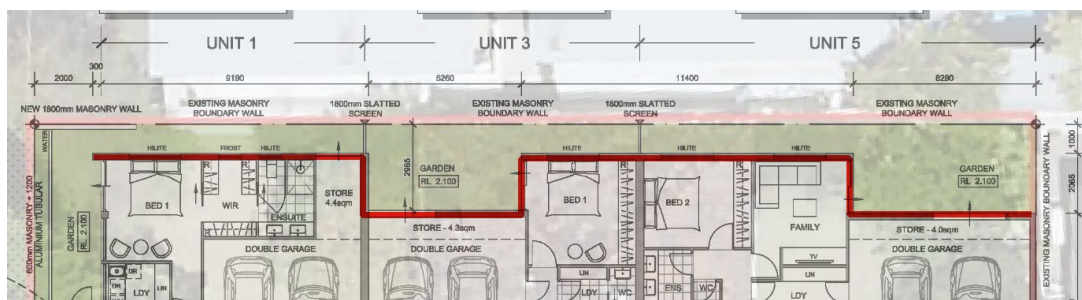
**Figure 6:** Line of sight illustration

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)**

*Ground floor Side Setbacks to the Western and Southern Boundaries*

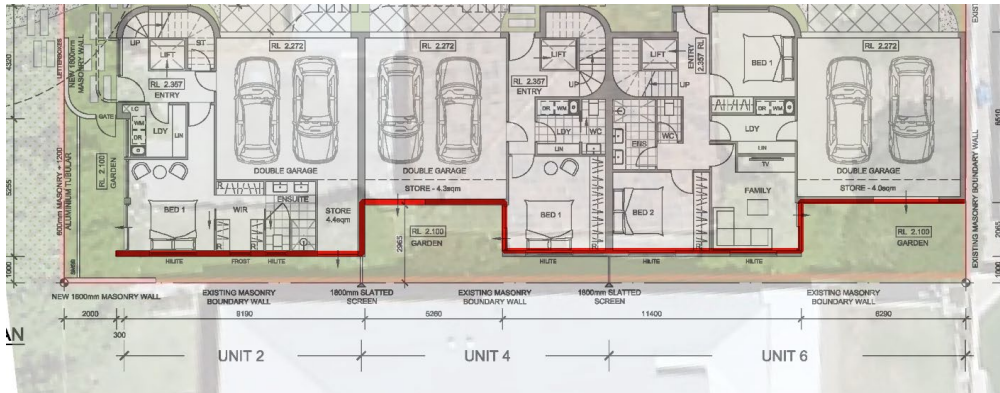
As the development proposes a minimum side setback of between 1m and 3m to the western and southern side boundaries in lieu of 4m, a performance assessment is required against the Desired Outcome DO 5 of Element 5. The proposed setbacks are supported for the following reasons:

- The proposed side setbacks will not affect the view corridors of the neighbouring properties on the east and west as the Swan River and Perth City skyline is located northward and these dwellings are oriented to capture these views;
- As seen in Figures 7 and 8 below, the development is well articulated along the ground floor, with the building being set back 1m at some points, and 3m at others. This design outcome coupled with the lack of major openings on the adjoining residences will ensure that adverse impacts towards the adjoining properties at 2b Tweeddale Road and 6 Tweeddale Road is minimised, and adverse amenity impacts are avoided;
- Due to the north south orientation of the lots and the design of the adjoining properties, the shadow cast from the building does not impact on major openings or habitable spaces; and
- As seen in figures 9 and 10, the subject walls do not abut any major openings or habitable spaces. Combined with its single storey nature this will ensure that there are no impacts to visual privacy of the adjoining properties.



**Figure 7:** Ground floor overlay of the proposal and its relationship with 6 Tweeddale Road. Setback variations are highlighted in red. Note there are no major openings on the eastern side elevation of No 6 Tweeddale Road

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)**



**Figure 8:** Ground floor overlay of the proposal and its relationship with 2B Tweeddale Road. Setback variations are highlighted in red. Note there are no major openings on the western side elevation of No 2b Tweeddale Road.

*Upper Floor Side Setbacks to the Western and Southern Boundaries*

Proposed Units 1 and 2 have a side setback of 3 metres to the western and southern boundaries for the first and second floors. The third floor of units 1 and 2 incorporates a planter box to the proposed balcony. This is considered to be an architectural feature, the balcony itself being setback the requisite 4m in accordance with the CBACP provisions.

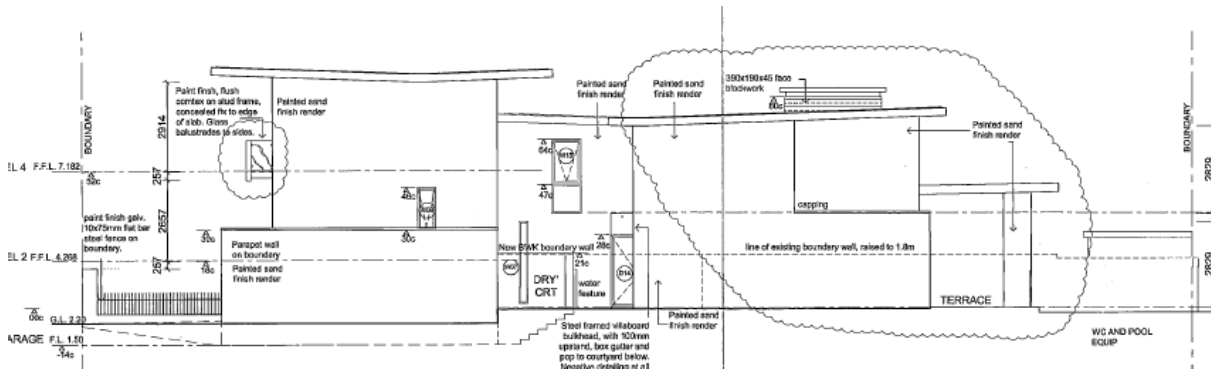
A performance assessment against the Desired Outcome DO 5 of Element 5 of the CBACP has therefore been undertaken in respect of the proposed first and second floor side setback of 3m.

The proposed setbacks are supported for the following reasons:

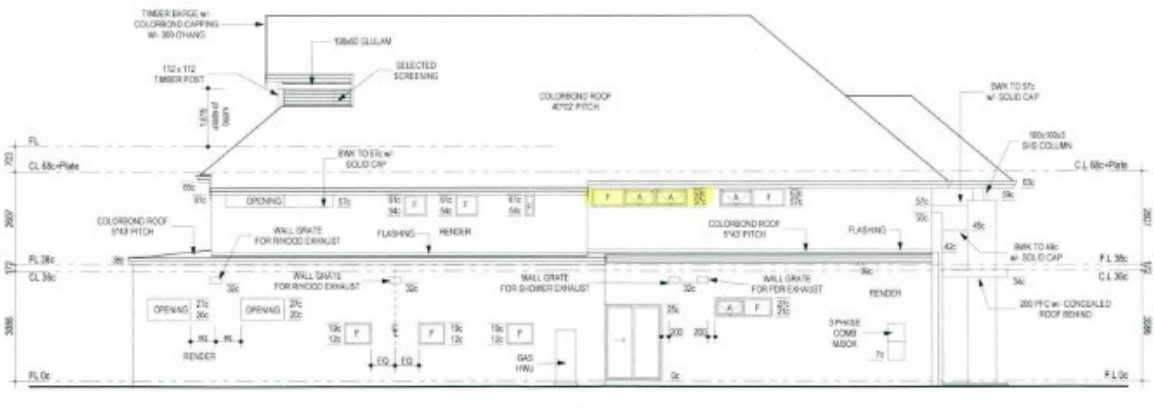
- The proposed setbacks will not affect the viewing corridors of the neighbouring properties to the east and west as the Swan River and Perth City skyline is located northward;
- As seen in the elevations below (refer Figures 9 and 10), Unit 1 and 2 do not abut any major openings or outdoor living areas. Given this, the bulk impact to the adjoining properties at 2b Tweeddale Road and 6 Tweeddale Road is minimised.
- Further to the above, the orientation of subject site ensures that solar access will not be impacted.
- The dwellings on either side of the development site have themselves been developed with minimal upper floor setbacks. The proposed setbacks will therefore be consistent with the existing streetscape character in this portion of Tweeddale Road.

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS WA 6153 (REC) (ATTACHMENT)**

- The proposed development constitutes town houses. It is considered that the setback provisions of the CBACP were primarily designed to manage the development of multiple dwellings, and the resultant relationship of such multiple dwelling developments with one another, or where they interface with existing single and grouped dwelling development as in this case.

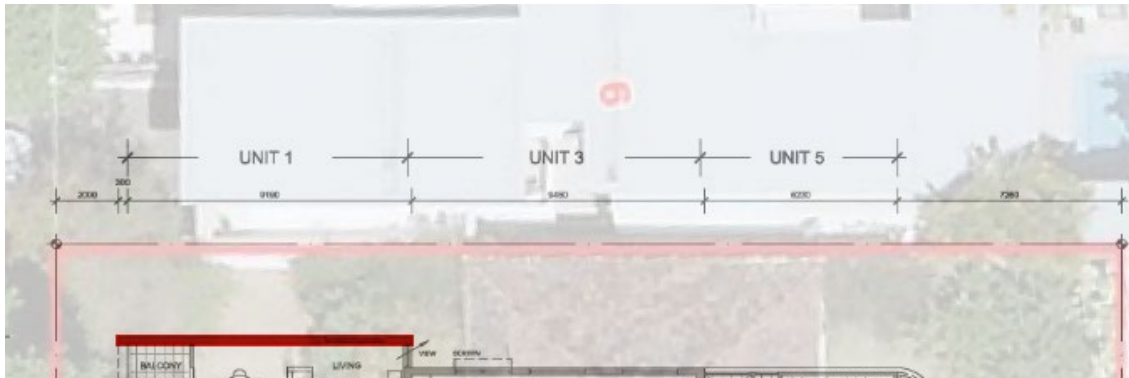


**Figure 9:** Eastern Elevation of 6 Tweeddale Road. Note there are no major openings or outdoor habitable spaces at this point.

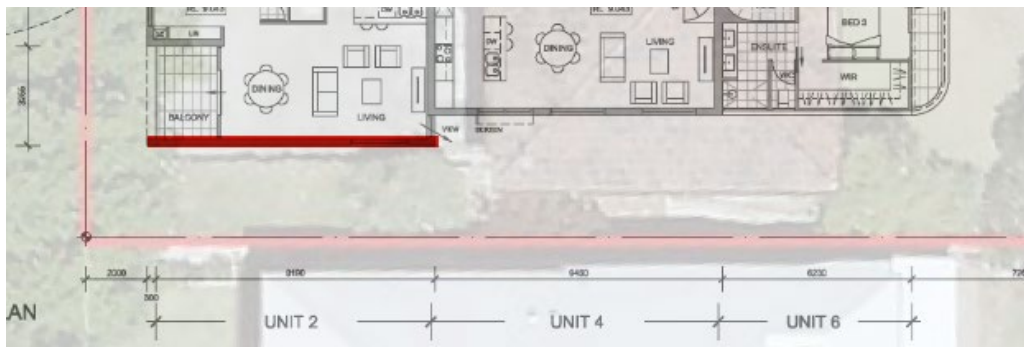


**Figure 10:** Western Elevation of 2B Tweeddale Road. Note there are no major openings in 2b Tweeddale Road at this point.

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)**



**Figure 11:** Second floor plan of the proposed development and its relationship with 6 Tweeddale Road. The setback variation is highlighted in red



**Figure 12:** Second floor plan of the proposed development and its relationship with 2B Tweeddale Road. The setback variation is highlighted in red

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)**



**Figure 13:** View north of the existing dwelling from Tweeddale Road. The tree seen in the foreground is to be retained



**Figure 14:** View east to the existing home at 2B Tweeddale Rd, noting absence of major openings.

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)**



**Figure 15 and 16:** View west to 6 Tweeddale Road noting existing boundary wall and general absence of major openings within this side elevation



**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (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**

The proposed development is considered to be consistent with the intent and provisions of the CBACP and the Local Planning Scheme No.6. The application is recommended for conditional planning approval on that basis.

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)****OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3908)****APPROVAL**

At 7:00pm Cr Pazolli moved, seconded Cr Macphail –

**That the Council approves DA-2020-1300 for 6 Grouped Dwellings at Lot 12 (4) Tweeddale Road, Applecross WA 6153 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 external surface of the retaining wall/s which are visible from the adjoining properties shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the City.**
- 4. Prior to the initial occupation of the development, the boundary walls shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the City.**
- 5. Prior to the initial occupation of the development, all unused crossover(s) shall be removed and the kerbing and road verge reinstated at the owners cost to the satisfaction of the City.**
- 6. The development shall be serviced by a concrete or brick paved vehicle crossover with:
  - a. a maximum width of 6m;**
  - b. located a minimum of 2m away from the outside of the trunk of any street tree; and**
  - c. a minimum of 1m from any existing street infrastructure.****

**The crossover is to be constructed prior to the initial occupation of the development in accordance with the City's specifications to the satisfaction of the City.**

- 7. Prior to occupation of the dwellings the access leg depicted in red on the approved plans is to be marked as common property on the Strata Plan**
- 8. Temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, sales, administration and construction activities are permitted to be installed within the property boundaries of the subject site(s) for the duration of the construction period. These structures are to be located so not to obstruct vehicle sight lines of the subject site, the adjacent road network or of adjoining properties to the satisfaction of the City and are to be removed prior to initial occupation of the development**

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)**

9. Unless otherwise approved in writing by the City, all street tree/s shall be protected throughout construction via the installation of a Tree Protection Zone (TPZ). Each TPZ shall be installed prior to commencement of development, in accordance with the following criteria to the satisfaction of the City:
  - a. A free-standing mesh fence erected around each street tree with a minimum height of 1.8m and a 2m minimum radius measured from the outside of the trunk of each tree.
  - b. If an approved crossover, front fence, footpath, road or similar is located within the 2m radius, the TPZ fencing shall be amended to be the minimum distance necessary to allow the works to be completed.
  - c. Fixed signs are to be provided on all visible sides of the TPZ fencing clearly stating 'Tree Protection Zone – No Entry'.
  - d. The following actions shall not be undertaken within any TPZ:  
Storage of materials, equipment fuel, oil dumps or chemicals
    - i. Servicing and refuelling of equipment and vehicles
    - ii. Attachment of any device to any tree (including signage, temporary service wires, nails, screws, winches or any other fixing device)
    - iii. Open-cut trenching or excavation works (whether or not for laying of services)
    - iv. Changes to the natural ground level of the verge
    - v. Location of any temporary buildings including portable toilets
    - vi. The unauthorised entry by any person, vehicle or machinery
  - e. No unauthorised pruning of the canopy or roots of any Street Tree is permissible under the City of Melville's Street Tree Policy CP-029. Pruning may only be undertaken by the City's approved contractors following a written submission to and approval by the City.
10. 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.
11. Fencing and all structures within the front setback area are to comply with Clause 10.7 of Element 10 of the Canning Bridge Activity Structure Plan with a maximum height of 1.2m to the satisfaction of the City.
12. In accordance with Local Planning Policy LPP1.4 Provision of Art in Development Proposals, prior to the commencement of development, a public art proposal shall be submitted to and approved in writing by the City in consultation with the City's Public Art Panel. Once approved, the public art shall be installed prior to the initial occupation of the development and thereafter be maintained for the life of the development to the satisfaction of the City.

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)**

- 13. A Construction Management Plan is to be prepared by the Applicant and submitted to the City for approval at least 30 days prior to the commencement of works. The Construction Management Plan shall detail how the construction of the development will be managed including the following:**
- a. public safety and site security;**
  - b. hours of operation,**
  - c. noise and vibration controls;**
  - d. air and dust management;**
  - e. stormwater, groundwater and sediment control;**
  - f. waste and material disposal;**
  - g. Traffic Management Plans prepared by an accredited personnel for the various phases of the construction, including any proposed road closures;**
  - h. the parking arrangements for contractors and sub-contractors;**
  - i. on-site delivery times and access arrangements;**
  - j. the storage of materials and equipment on site (no storage of materials on the verge will be permitted) ; and**
  - k. any other matters likely to impact upon the surrounding properties or road reserve.**

**Once approved, the development is to be constructed in accordance with the Construction Management Plan to the satisfaction of the City.**

- 14. Prior to the commencement of development , a detailed landscaping and reticulation plan for the subject site and the road verge adjacent to the site shall be submitted to and approved in writing by the City. The landscaping plan is to include details of (but not limited to):**
- a. The location, number and type of proposed trees and shrubs including planter size and planting density;**
  - b. Any lawns to be established;**
  - c. Any existing vegetation and/or landscaped areas to be retained;**
  - d. Any verge treatments; and**
  - e. The landscaping treatment to be applied to the drive way access leg boundary.**

**The approved landscaping and reticulation plan shall be fully implemented within the first available planting season after the initial occupation of the development and maintained thereafter to the satisfaction of the City. Any species which fail to establish within the first two planting seasons following implementation shall be replaced in accordance with the City's requirements.**

At 7:12pm the Mayor declared the motion

**CARRIED (6/5)**

<b>Yes</b>	<b>6</b>	Cr Robartson, Cr Macphail, Cr Wheatland, Cr Pazolli, Cr Robins, Mayor Gear
<b>No</b>	<b>5</b>	Cr Barton, Cr Mair, Cr Sandford, Cr Fitzgerald, Cr Barber

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

At 7:13pm Cr Barber moved, seconded Cr Mair –

**That the application for a new leave of absence submitted by Mayor Honourable George Gear on 16 March 2021 be granted.**

At 7:13pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

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

That the meeting may close to members of the public, if required, to allow for items deemed confidential in accordance with Sections 5.23 of the *Local Government Act 1995* to be discussed behind closed doors.

- M21/5824 – Late Item - Chief Executive Officer Performance Criteria and Key Performance Indicators, confidential attachments.

**13. PETITIONS****13.1 Petition – Rezone Baden Powell Reserve to Public Open Space**

A petition signed by 366 residents of the City of Melville and 14 non-residents was received on 9 March 2021 and reads as follows:

*“We the undersigned, all being electors of the City of Melville respectfully request that the Council Rezone Baden Powell Reserve in Ardross from Residential to Public Open Space.*

*Baden Powell Reserve has been the home of the Scouts in Ardross for nearly 70 years, but Council officers are recommending to the Council that the land remain zoned Residential as this would allow new roads to be built on it to service apartment developments on Canning Highway.*

*The reserve is the home of the heritage significant scout hall that was built in the 1950s, and a significant number of large remnant gum trees which attract rare birds such as black cockatoos. The Scouts make significant use of their facilities, as do many community groups that use the Scout’s building. And there is a rapidly growing use of the reserve by residents as it is the only genuine park in the area. The nearest alternative genuine public open spaces are 500 metres (sic) away, and getting there requires crossing major roads – Canning Highway to get to the Swan River Foreshore, or Riseley St to get to Shirley Strickland Oval. The Canning Highway road verge section of Wireless Hill Park is also about 500m away.*

*Baden Powell Reserve is a near ideal candidate for classification as Public Open Space when assessed using Council’s own criterion. It is:*

- *A small park that services the recreational needs of the immediate residential population.*
- *Used for recreation and includes small areas of nature space.*
- *Not used for any formal or informal sport.*
- *Between 0.4 and 1.0 Ha (actually 0.5Ha) in area and more than 400m from the nearest park.*

*Should Baden Powell Reserve be rezoned Public Open Space we would like it improved by way of the addition of an outdoor exercise area, some seating, a community garden and upgraded reticulation and grounds maintenance. This would of course be through consultation with the scouts and the community.”*

At the meeting Cr Sandford tabled additional pages to the petition signed by 245 residents and 61 non-residents.

**COUNCIL RESOLUTION**

At 7:14pm Cr Barton moved, seconded Cr Mair –

**That the petition bearing 611 signatures of residents and 75 signatures of non-residents be acknowledged and be dealt with by the Council in conjunction with the item on this agenda.**

At 7:14pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

At 7:15pm the Mayor brought forward item number – P21/3899 - Assessment of Parks and Reserves Zoned Residential in Local Planning Scheme No.6, for the convenience of the public gallery.

An Officer Amendment was provided for this item. [Officer Amendment Item P21/3899](#)

**P21/3899 - ASSESSMENT OF PARKS AND RESERVES ZONED RESIDENTIAL IN LOCAL PLANNING SCHEME NO.6 (REC) (ATTACHMENT)**

Ward : All  
 Category : Strategic  
 Application Number : Not Applicable  
 Property : Various  
 Proposal : Response to Council resolution (P20/3880).  
 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 P20/3880 – Parks and Reserves Zoned Residential in Local Planning Scheme No.6 – 17 November 2020 Ordinary Meeting of Council.  
 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**

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

**P21/3899 - ASSESSMENT OF PARKS AND RESERVES ZONED RESIDENTIAL IN  
LOCAL PLANNING SCHEME NO.6 (REC) (ATTACHMENT)****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 to 'Public Open Space'.
- At the Ordinary Meeting of Council held on 17 November 2020 the Council considered a preliminary report identifying twenty-one parks/reserves that include 'Residential' zoning, however, the report did not include details regarding each parks context and appropriateness for pursuing rezoning to 'Public Open Space'.
- This report provides detailed assessment and recommendations for whether each of the twenty-one identified parks/reserves should be rezoned to 'Public Open Space'.
- Twenty of the identified parks/reserves are recommended to be rezoned 'Public Open Space' with the exception of Baden Powell Reserve.
- Baden Powell Reserve is recommended to retain its 'Residential' zoning subject to future planning due to its unique context and strategic value.
- It is noted that Phil Ward Reserve is subject to a current scheme amendment application, Local Planning Scheme 6 – Amendment No.8 to rezone the land 'Public Open Space', therefore, this site is excluded from the recommendation.
- Council is requested to initiate Local Planning Scheme 6 – Amendment No.10 to rezone the nineteen listed parks/reserves from 'Residential' to 'Public Open Space' and to authorise public advertising of the proposed Scheme Amendment.

**BACKGROUND**

At the Ordinary Meeting of Council held on 22 September 2020 the Council passed a resolution (Item P20/3871) 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'.

At the Ordinary Meeting of Council held on 17 November 2020 the Council considered a preliminary report (Item P20/3880) identifying twenty-one parks/reserves that include 'Residential' zoning, however, this report did not include details regarding each parks context and appropriateness for pursuing rezoning to 'Public Open Space'. In response to the report the Council directed 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', to be provided to the March 2021 Ordinary Meeting of Council.

**P21/3899 - ASSESSMENT OF PARKS AND RESERVES ZONED RESIDENTIAL IN  
LOCAL PLANNING SCHEME NO.6 (REC) (ATTACHMENT)****DETAIL**

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

- Baden Powell Reserve, Ardross;
- Bicton Substation, Bicton;
- Ces Deceau Reserve, Brentwood;
- Charles Eckert Reserve, Applecross;
- Davis Lawlor Park, Attadale;
- Geo Thompson Park (part), Palmyra;
- Harry Clemens Reserve, Myaree;
- Hugh Corbett Park, Booragoon;
- Jack Jeffery Park, Kardinya;
- Jack Martin Reserve, Kardinya
- Laurie Withers Reserve (part), Kardinya
- Marguerite Smith Reserve, Attadale;
- Norm Godfrey Reserve, Kardinya;
- Ogilvie Road Reserve, Mount Pleasant;
- Phil Ward Reserve, Myaree;
- Pitman Park, Myaree;
- Prosser Park, Myaree.
- Reg Seal Reserve (part), Mount Pleasant;
- Robert Henwood Park (part), Kardinya.
- Unnamed Park, 12 Lockwood Court, Bicton
- Unnamed Park, McBeth Way, Kardinya

Detailed assessment and recommendations for whether each of the twenty-one identified parks/reserves should be rezoned to 'Public Open Space' is contained in

**[3899 Attachment 1 Assessment of Parks and Reserves](#)**

The assessment and recommendations are summarised as follows:

**Crown Reserves**

Fourteen of the parks/reserves are Crown Reserves, owned by the State of Western Australia, that are subject to a variety of management orders vesting these sites to the City of Melville for purposes such as public recreation, park and recreation, children's playgrounds and drainage. Rezoning these sites 'Public Open Space' is supported as it will not materially affect the value or use of the land by the City.

It is noted that Phil Ward Reserve is subject to a current scheme amendment application, Local Planning Scheme 6 – Amendment No.8 to rezone the land 'Public Open Space', therefore, this site is excluded from the recommendation.

**P21/3899 - ASSESSMENT OF PARKS AND RESERVES ZONED RESIDENTIAL IN  
LOCAL PLANNING SCHEME NO.6 (REC) (ATTACHMENT)****Sites in Private Ownership**

Part of Robert Henwood Park is owned by the Water Corporation. The Water Corporation owned portion of the site is fully accessible and integrated with the Crown Reserve portion of the site that is zoned 'Public Open Space'. Rezoning this site 'Public Open Space' is supported as it will not materially affect the use of the site. As the site is not owned by the City of Melville consultation should be undertaken with the Water Corporation prior to Council's final endorsement of the scheme amendment.

**Sites owned by the City of Melville**

Six of the parks/reserves are owned in freehold by the City of Melville. Five of these sites; Bicton Substation, Charles Eckert Reserve, Davis Lawlor Park, Geo Thompson Park and Ogilvie Road Reserve each represent important areas of public open space in their respective localities. These five parks/reserves do not have significant strategic value for purposes other than public open space, therefore, rezoning these sites 'Public Open Space' is supported.

The sixth site, Baden Powell Reserve, is unique in that it provides important strategic opportunities for access and linkages (vehicle and pedestrian) for the Riseley Activity Centre. Medium density residential and mixed-use zonings apply to properties adjoining the site that are likely to undergo redevelopment and infill in the near future. In response to past requests from nearby landowners for creation of access rights from private property across Baden Powell Reserve, the Council has advised that the issues would be considered as part of future consideration of planning for the land. The site does not currently function as typical public open space due to restricted visibility and access and the presence of several buildings as a result of the City leasing the property to Scout Groups. The site is not well positioned in terms of CPTED principles (Crime Prevention Through Environmental Design) in that it is encompassed by older properties that offer limited surveillance of the site. It is recommended that Baden Powell reserve be earmarked for re-assessment and further planning in the next official Local Planning Scheme 6 review, which would include comprehensive stakeholder engagement. This is due to commence from mid-2021, to determine the desired future use and design of the site. Until future planning work is undertaken it would be advisable to not rezone the site to 'Public Open Space'.

**Recommendation**

Twenty of the parks/reserves are recommended to be rezoned 'Public Open Space' with the exception of Baden Powell Reserve for the reasons described above. It is noted that Phil Ward Reserve, a Crown Reserve, is subject to a current scheme amendment application, Local Planning Scheme 6 – Amendment No.8 to rezone the land 'Public Open Space', therefore, this site is excluded from the recommendation in this report.

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

Not applicable. Stakeholder engagement will occur following initiation of any scheme amendments which will be advertised in accordance with the requirements of the *Planning and Development (Local Planning Schemes) Regulations 2015*.

**P21/3899 - ASSESSMENT OF PARKS AND RESERVES ZONED RESIDENTIAL IN  
LOCAL PLANNING SCHEME NO.6 (REC) (ATTACHMENT)****II. OTHER AGENCIES / CONSULTANTS**

Not applicable. Engagement with State government agencies and infrastructure servicing authorities will occur following initiation of any scheme amendments.

**STATUTORY AND LEGAL IMPLICATIONS**

The *Planning and Development (Local Planning Schemes) Regulations 2015* outline the approval process for an amendment to the Local Planning Scheme. In summary, each amendment will need to be initiated by Council, advertised for public comment, submissions considered and then a recommendation forwarded to the Western Australian Planning Commission for determination.

**FINANCIAL IMPLICATIONS**

The City's parks and reserves represent significant assets to the community and City. As with any parcel of land its financial value is influenced by the zoning and reservation of the land.

Rezoning the sites not owned by the City 'Public Open Space' will not materially affect the financial value of these sites to the City. Rezoning the five sites that are owned in freehold by the City will impact the value of the land, however, as these sites have no significant strategic value for purposes other than public open space and there is no intention to change the future use of these sites the financial implications are negligible.

The preparation of the amendments to LPS6 will involve costs associated with staff resources and stakeholder engagement.

**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:

**P21/3899 - ASSESSMENT OF PARKS AND RESERVES ZONED RESIDENTIAL IN LOCAL PLANNING SCHEME NO.6 (REC) (ATTACHMENT)**

<b>Risk Statement and Consequence</b>	<b>Level of Risk</b>	<b>Risk Treatment</b>
Rezoning part of Robert Henwood Park may result in the Water Corporation seeking compensation and/or inviting the City to purchase the land.	Moderate consequences which are unlikely resulting in a <b>Medium</b> level of risk.	Further engagement to be undertaken with the Water Corporation prior to making a decision on final endorsement of the scheme amendment.
The State Government do not support rezoning the Crown Reserve sites.	Minor consequences which are possible resulting in a <b>Medium</b> level of risk.	Further engagement to be undertaken with the Department of Planning, Lands and Heritage prior to making a decision on final endorsement of the scheme amendment.
Community opposition to decision to not rezone Baden Powell Reserve to 'Public Open Space'	Minor consequences which are possible resulting in a <b>Medium</b> level of risk.	Acknowledge and understand that there will be different opinions on the future use of the site.  Investigate future planning for the site while implementing a communications plan with key stakeholders and community groups. Future site planning is likely to recommend that portion of the site be reserved for public open space, although at this stage the extent of open space is not known.

**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

**P21/3899 - ASSESSMENT OF PARKS AND RESERVES ZONED RESIDENTIAL IN  
LOCAL PLANNING SCHEME NO.6 (REC) (ATTACHMENT)****ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The Council could decide not to initiate the recommended scheme amendments if its preference was to maintain the existing 'Residential' zonings for the identified parks/reserves. This option is not recommended as the proposed scheme amendments are consistent with the objectives of Local Planning Scheme No.6 and the City's Local Planning Strategy to maintain, increase and improve local open spaces.

Council could resolve to also initiate a scheme amendment to rezone Baden Powell Reserve to 'Public Open Space'. This is not recommended at present as Baden Powell Reserve is unique from the other twenty sites in that it provides important strategic opportunities for access and linkages to the Riseley Activity Centre. It is recommended that a scheme amendment to rezone the site is not initiated until further planning work to determine the desired future use and design of the site is undertaken. Commencing a scheme amendment without undertaking further planning work may undermine the likelihood of an amendment being supported by the West Australian Planning Commission and/or the Minister for Planning.

**CONCLUSION**

Twenty of the twenty-one parks/reserves identified as having 'Residential' zoning are supported to be rezoned via scheme amendment to 'Public Open Space' with the exception of Baden Powell Reserve. It is noted that Phil Ward Reserve is subject to a current scheme amendment application, Local Planning Scheme 6 – Amendment No.8 to rezone the land 'Public Open Space', therefore this site has been excluded from the recommendation.

Council is requested to initiate Local Planning Scheme 6 – Amendment No.10 to rezone the nineteen listed parks/reserves from 'Residential' to 'Public Open Space' and to authorise public advertising of the proposed Scheme Amendment.

At 7:15pm prior to discussion and debate on the matter, mover and the seconder of the motion requested that the officer amendment be included in the officer recommendation.

The following words were incorporated into the officer recommendation.

“(t) Lot 323, No. 41A McCallum Crescent, Ardross (Baden Powell Reserve)”

**P21/3899 - ASSESSMENT OF PARKS AND RESERVES ZONED RESIDENTIAL IN  
LOCAL PLANNING SCHEME NO.6 (REC) (ATTACHMENT)****OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3899)****APPROVAL**

At 7:15pm Cr Mair moved, seconded Cr Wheatland –

**That the Council:**

1. In accordance with Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* resolves to initiate Scheme Amendment No.10 to the Local Planning Scheme No.6 by rezoning the following lots from 'Residential' to reserve for 'Public Open Space':
  - a) Lot 1924, No.8 Cambey Way, Brentwood (Ces Deceau Reserve)
  - b) Lot 7080, No.18 Mullings Way, Myaree (Harry Clemens Reserve)
  - c) Lots 2698 & 2567, No.18-20 Earlston Way, Booragoon (Hugh Corbet Park)
  - d) Lot 2593, No.160 Winterfold Road, Kardinya (Jack Jeffery Park)
  - e) Lot 6371, No.31 Lawlor Road, Attadale (Marguerite Smith Reserve)
  - f) Lot 4212, No.60 Farrington Road, Kardinya (Norm Godfrey Reserve)
  - g) Lot 6392, No.10 Patterson Place, Myaree (Pitman Park)
  - h) Lot 6725, No.21A Prosser Way, Myaree (Prosser Park)
  - i) Lot 87, No.58-60 Murray Road, Bicton (Bicton Substation)
  - j) Lot 18, No.15 Tuart Street, Applecross (Charles Eckert Reserve)
  - k) Lot 1, No.2 Lawlor Road, Attadale (Davis Lawlor Park)
  - l) Lot 535, No.43 Zenobia Street, Palmyra (Geo Thompson Park)
  - m) Lots 9, 10 & 18, No.70-72 Ogilvie Road, Mount Pleasant (Ogilvie Road Reserve)
  - n) Lot 1771 & 1772, No.20 Damell Avenue, Mount Pleasant (Reg Seal Reserve)
  - o) Lot 319, No.12 Stamo Court, Kardinya (Robert Henwood Park)
  - p) Pt Lot 2346, No.20 Dalston Crescent, Kardinya (Laurie Withers Reserve)
  - q) Lots 2344 & 2347, No.32 Dalston Crescent, Kardinya (Jack Martin Reserve)
  - r) Lots 2694 & 2789, McBeth Way, Kardinya (Unnamed Park)
  - s) Lot 14539, No.12 Lockwood Court, Bicton (Unnamed Park)
  - t) Lot 323, No. 41A McCallum Crescent, Ardross (Baden Powell Reserve)
2. Authorise the preparation, processing and public advertising of documentation for Scheme Amendment No.10 to Local Planning Scheme No. 6 in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.
3. Advise the Western Australian Planning Commission that the proposal is considered to be a standard amendment to Local Planning Scheme 6 in accordance with regulation 35 (2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as:
  - a) It is an amendment relating to a zone or reserve that is consistent with the objectives identified in the scheme for that zone or reserve;
  - b) It is an amendment that is consistent with a local planning strategy for the scheme that has been endorsed by the Commission;
  - c) It is an amendment that would have minimal impact on land in the scheme area that is not the subject of the amendment; and
  - d) It is an amendment that does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
4. Note that a further report will be presented to the Council following the completion of the public advertising process.

At 7:20pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

At 7:21pm the Mayor brought forward the En Bloc items.

## **15. EN BLOC ITEMS**

The Mayor brought to the attention of Elected Members an Officer Amendment associated with the officer resolution associated item P21/3894 – Request to Minister for Lands to Acquire Various Alienated Land Parcels as part of the En Bloc items.

### **Officer Amendment Item P21/3894**

## **COUNCIL RESOLUTION**

At 7:21pm Cr Mair moved, seconded Cr Sandford –

**That the recommendations for the following items be carried En Bloc:**

- M21/5823 Late Item from FMARC Committee – Compliance Audit Return 2020**
- P21/3894 Request to Minister for Lands to Acquire Various Alienated Land Parcels**
- M21/5810 New and Amended Regulations – Local Government (Model Code of Conduct) Regulations 2021, Local Government (Administration) Amendment Regulations 2021**
- M21/5000 Common Seal Register**
- M21/5813 City of Melville Health (Eating-Houses) Repeal Local Law 2021**
- M21/5814 City of Melville Bush Fires (Firebreaks) Repeal Local Law 2021**
- M21/5815 City of Melville Street Numbering Amendment Local Law 2021**
- C21/5808 2020-2021 Mid Year Budget Review**
- C21/6000 Investment Statements January 2021**
- C21/6001 Schedule of Accounts Paid January 2021**
- C21/6002 Statements of Financial Activity for January 2021**

At 7:23pm the Mayor declared the motion

**CARRIED BY ABSOLUTE MAJORITY (11/0)**

*At 7:22pm Mr Taylor left the meeting.*

**14.1. ITEMS FROM THE FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE MEETING 9 MARCH 2020**

**LATE ITEM M21/5823 – COMPLIANCE AUDIT RETURN 2020 (REC) (ATTACHMENT)**

Ward	: All
Category	: Operational
Subject Index	: Audits - Compliance
Customer Index	: Department of Local Government, Sport and Cultural Industries
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Item M20/5738 – Compliance Audit Return 2019 Ordinary Meeting of Council 17 March 2020
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Julie Head Governance Officer

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**LATE ITEM M21/5823 – COMPLIANCE AUDIT RETURN 2020 (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- All Western Australian Local Authorities are required to undertake a Compliance Audit Return (the Return) and submit their findings to the Department of Local Government, Sport and Cultural Industries (the Department) by 31 March each year.
- 97 of 102 questions received a positive response by Officers confirming the actions were completed and that 95% compliance was achieved.
- Three non-conformances were identified. Non Compliance 2 has two parts.
- The 2020 Compliance Audit Return was considered by the Financial Management, Audit, Risk and Compliance Committee at its meeting on Monday 8 March 2021.
- The Committee endorsed the 2020 Compliance Audit Return and recommends the Return to the Council for consideration and adoption.

**BACKGROUND**

A Compliance Audit Return was conducted covering the period 1 January 2020 to 31 December 2020. The completed Compliance Audit Return forms part of the Attachments to the Agenda [5823 Compliance Audit Return 2020](#)

It is a requirement that the Compliance Audit Return is presented to the Council for adoption. A copy of the Council report and a certified copy of the return are required to be endorsed by the Mayor and Chief Executive Officer and submitted to the Department of Local Government, Sport and Cultural Industries by 31 March 2021.

**DETAIL**

There are 102 questions on the 2020 Return. The Compliance Audit Return only assesses compliance against the *Local Government Act 1995* and associated Regulations. The responses of Officers to the 102 audit questions have been audited by the Process Improvement Auditor who has included his comment in this report. This year's audit has, in the opinion of Officers, provided 95% compliance. The City has taken this additional audit examination approach by the Process Improvement Auditor for some years. During the audit examination three Improvement Actions to the City's current practices were identified and will be actioned in 2021.

The format of the return varies each year with the Department only testing those areas considered to be high risk. The questions relate to:

*Local Government Act 1995;*  
*Local Government (Administration) Regulations 1996;*  
*Local Government (Function and General) Regulations 1996;*  
*Local Government (Audit) Regulations 1996,*  
*Local Government (Rules of Conduct Regulations) 2007 (repealed 3 Feb 2021),*  
*Local Government (Elections) Regulations 1997, and*  
*Local Government (Financial Management) Regulations 1996*

**M21/5823 - COMPLIANCE AUDIT RETURN 2020 (REC) (ATTACHMENT)**

Regulation 14 of the *Local Government (Audit) Regulations 1996* requires each local government's Audit Committee to review the Return and report the results of that review to the Council.

The areas that the Return relates to and the changes to the number of questions is below:

Section Number	Area of legislation	2020 Number of Questions	Changes from 2019
1	Commercial Enterprises by Local Government	5	
2	Delegation of Power/Duty	13	
3	Disclosure of Interest	21	+2
4	Disposal of Property	2	
5	Elections	3	+1
6	Finance	11	-3
7	Integrated Planning and Reporting	3	-4
8	Local Government Employees	6	+1
9	Official Conduct	4	-2
10	Optional Questions	10	+6
11	Tenders for Providing Goods and Services	24	-3

The *Local Government (Audit) Amendment Regulations 2013* extends the current role of local government Audit Committees to encompass a review of areas such as risk management, internal control and legislative compliance.

The transfer of responsibilities to a local government Audit Committees enables local governments to manage legislative compliance within their own timeframes, with increased transparency and involvement from Elected Members

The Return has been compiled with continued substantial rigour beyond that experienced in most local governments. Officers have been required to demonstrate compliance and provide detail of their work to ensure the work procedures of the City meet obligations of the Act and Regulations.

There is an ongoing increase in Officer knowledge of compliance matters and where possible, systems have been amended to assist with compliance requirements.

The Return containing the questions and responses is provided as an attachment. This document is provided by the Department of Local Government, Sport and Cultural Industries in an on-line environment to allow local governments to update the Return with their responses and when completed, print for certification by the Mayor and Chief Executive Officer.

The City's Compliance Calendar was introduced in 2008 and this is a major improvement to assist management of all legislative compliance matters. The Calendar is updated monthly which enables a management response should a matter require attention.

**M21/5823 - COMPLIANCE AUDIT RETURN 2020 (REC) (ATTACHMENT****The Process Improvement Auditor's comments**

The Compliance Audit Return for 2020 has 102 questions, and answers to all questions were checked and confirmed for correctness by the Process Improvement Auditor.

**Findings and Improvement Actions****Non Compliance 1****Disclosure of Interest Section**

Question 5 – “Was an annual return in the prescribed form lodged by all relevant persons by 31 August 2020?”

Section 5.76 (1) of the Local Government Act 1995 requires a relevant person to lodge with the CEO an annual return by 31 August of that year.

**Findings**

An annual return was filed by an Elected Member on 4 September 2020, four days after the prescribed deadline of 31 August, due to personal circumstances breaching Section 5.76(1) and as required by legislation this case was reported to the Corruption and Crime Commission (CCC). This was the second occasion of non compliance for the Elected Member concerned. The matter was referred by the CCC to the Department of Local Government, Sport and Cultural Industries.

**Improvement Actions**

The Governance Team will continue to monitor and remind Elected Members of the legislative requirements in relation to the filing of returns.

**M21/5823 - COMPLIANCE AUDIT RETURN 2020 (REC) (ATTACHMENT**Non Compliance 2

## Optional Questions Section

Question 5 – “Did the local government prepare and adopt by absolute majority a policy dealing with the attendance of council members and the CEO at events?”

Question 6 – “Did the CEO publish an up-to-date version of the attendance at events policy on the local government’s official website?”

5.90A(2) of the Local Government Act 1995 requires that local governments have an attendance at events policy. The purpose of the policy is for the council to actively consider the purpose of and benefits to the community from council members and CEOs attending events.

*5.90A. Policy for attendance at events*

*(1) In this section — event includes the following — (a) a concert; (b) a conference; (c) a function; (d) a sporting event; (e) an occasion of a kind prescribed for the purposes of this definition.*

*(2) A local government must prepare and adopt a policy that deals with matters relating to the attendance of council members and the CEO at events, including — (a) the provision of tickets to events; and (b) payments in respect of attendance; and (c) approval of attendance by the local government and criteria for approval; and (d) any prescribed matter.*

*(3) A local government may amend the policy.*

*(4) When preparing the policy or an amendment to the policy, the local government must comply with any prescribed requirements relating to the form or content of a policy under this section.*

*(5) The CEO must publish an up-to-date version of the policy on the local government’s official website.*

**Findings**

A draft policy was presented to Council on 16 June 2020 for consideration but it was deferred to subsequent meetings. As at the writing of this report on 11 February 2021, no such policy has been adopted by Council breaching Section 5.90A(2) and 5.90A(5).

These new requirements were gazetted on 18 October 2019 and became effective on that day.

**Improvement Actions**

It is recommended that priority consideration and adoption of such policy be given by Council to remedy the breaches of Section 5.90A.

**M21/5823 - COMPLIANCE AUDIT RETURN 2020 (REC) (ATTACHMENT**Non Compliance 3

## Optional Questions Section

Question 7 – “Did the CEO publish information on the local government’s website in accordance with section 5.96A(1),(2),(3), and (4)?”

Section 5.96A(1) requires many information to be published on the local government’s website and one of them is documents relating to council and committee meetings.

Section 5.96A(1)(h) requires the following to be published on the website:

*(h) notice papers and agenda relating to council or committee meetings and reports and other documents that have been — (i) tabled at a council or committee meeting; or (ii) produced by the local government or a committee for presentation at a council or committee meeting and that have been presented at the meeting.*

**Findings:**

The City’s agenda appears on the website for the latest council or committee meeting but removed and replaced with the minutes after the meeting has taken place so there is always only one agenda for the upcoming meeting and no agendas maintained for previous meetings.

A random check of the websites of other local governments revealed that both agendas and minutes are published on their websites as follows:

The City’s website maintains council minutes back to 2006 but both the City of Perth and the City of Stirling maintain council minutes back only to 2015 but both have minutes and agendas as shown above.

**Improvement Actions**

It is recommended that agendas be retained on the City’s website as prescribed.

**Governance Comment**

The minutes duplicate the Council agenda in its entirety and the agenda is superseded once minutes are published. The minutes include the notice papers, officers’ reports and recommendations and other documents that have been tabled or produced at the meeting. Section 5.96A took effect from the 5 July 2019 however; the legislation was silent on how long the agenda needed to remain on the website. The Local Government Regulation Amendment Regulations (No.2) 2020 inserted regulation 29D into the Local Government Administration Regulations 1996 that stated that an agenda must be kept on the website for five years after publication. That regulation came into effect on 7 November 2020 i.e. the City was not compliant for November and December of 2020.

**M21/5823 - COMPLIANCE AUDIT RETURN 2020 (REC) (ATTACHMENT**

Non Compliance 4

Delegation of Power/Duty Section

Question 13 – “Did all persons exercising a delegation of power / duty under the Act keep, on all occasions, a written record in accordance with Admin Regulation 19?”

Regulation 19 of the Local Government (Administration) Regulations 1996 requires a written record of the following:

- (a) how the person exercised the power or discharged the duty; and*
- (b) when the person exercised the power or discharged the duty; and*
- (c) the persons or classes of persons, other than council or committee members or employees of the local government, directly affected by the exercise of the power or the discharge of the duty.*

**Findings**

Whilst records of exercising delegation were maintained for some categories of delegation, there were occasions where records of exercising delegation were not kept.

Examples of records not always maintained for the following Delegations:

1	DA-004C	Rates or Service Charge Payment Agreements
2	DA-20	Planning and Related Matters
3	DA-126	Building and Demolition Permits
4	DA-127	Occupancy Permits and Building Approval Certificates
5	DA-128	Building Orders
6	DA-008	Disposition of Land and Other Assets
7	DA-033	Power to invest
7	DA-053	Declare Abandoned Vehicle Wreck
8	DA-054	Sale and Disposal of Impounded Goods
9	DA-122	Delegation of Duties and Powers under the Dog Act 1976

The reasons for not maintaining records of exercising delegation were mainly due to staff changes, sign off template without the record of exercising delegation, change of software, system glitch (from manual signature to electronic signature), and staff working from home due to COVID-19 lockdown. There were some records of the exercising of delegations that were dated January/February 2021 when the audit was conducted that related to the period of the audit.

**Improvement Actions**

All relevant service areas have been reminded of the requirements and they are in the process of rectifying the situation. However breaches had occurred and are hereby reported.

**M21/5823- COMPLIANCE AUDIT RETURN 2020 (REC) (ATTACHMENT**

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

No external consultation has been carried out.

**II. OTHER AGENCIES / CONSULTANTS**

No external consultation with any other agencies has been carried out.

**STATUTORY AND LEGAL IMPLICATIONS**

As per the requirements of the *Local Government Act 1995*, Section 7.13(1) (i) and *Local Government (Audit) Regulations 1996* (Regulations 13–15).

**FINANCIAL IMPLICATIONS**

There are no financial implications for the Council associated with this compliance audit.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

The compliance audit will not impact on the strategies of the Council. There is no risk or environmental management implications in this report.

<b>Risk Statement &amp; Consequence</b>	<b>Level of Risk</b>	<b>Risk Treatment</b>
The Compliance Audit Return is a statutory requirement and if the Return was not submitted, the Department of Local Government might take adverse action on the City.	Minor consequences which are possible, resulting in a <b>Medium</b> level of risk	Complete and submit the Return by the due date.

**POLICY IMPLICATIONS**

There are no specific policy implications, except where it can be determined that a matter may be subject to policy change where it does not currently comply with legislative requirements, please see Non Compliance 2 regarding Policy for attendance at events.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The completion and submission of the Return by the due date is a statutory requirement.

**M21/5823 - COMPLIANCE AUDIT RETURN 2020 (REC) (ATTACHMENT****CONCLUSION**

The City is compliant in 95% of the 102 questions that have been examined for their accurate statutory completion, and the Process Improvement Auditor has undertaken a check for correctness on the answers to all the questions, with Improvement Actions identified for deployment on four Non Compliances.

**COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION (5823) APPROVAL**

**That the Council endorses the compliance Audit Return for the period 1 January 2020 to 31 December 2020 [5823 Compliance Audit Return 2020](#) and following certification by His Worship the Mayor and the Chief Executive Officer, the Return be forwarded to the Department of Local Government, Sport and Cultural Industries.**

At 7:23pm the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)**

## 14.2 REPORTS OF THE CHIEF EXECUTIVE OFFICER

An Officer Amendment was provided for this item [Officer Amendment Item P21/3894](#)

### **P21/3894 – REQUEST TO MINISTER FOR LANDS TO ACQUIRE VARIOUS ALIENATED LAND PARCELS (REC) (ATTACHMENT)**

Ward	:	All
Category	:	Strategic
Subject Index	:	Land Title Discrepancies and Alienated Land Parcels
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	:	Not Applicable
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Jeremy Rae Strategic Property Executive

#### **AUTHORITY / DISCRETION**

##### **DEFINITION**

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

**P21/3894 - REQUEST TO MINISTER FOR LANDS TO ACQUIRE VARIOUS ALIENATED LAND PARCELS (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- The City has identified 8 alienated freehold land parcels which are best suited in the ownership of the State of Western Australia and control under the local authority
- Four of the 8 land parcels are currently being used and maintained by the City for drainage purposes however, the City is not the legal owner of the land parcels
- The drainage parcels are still required as part of the City's drainage network
- The other alienated land parcels include 2 public access ways and 2 private roads.
- The City proposes to make a request to the Minister for Lands for the acquisition of the alienated parcels in accordance with Section 52 and 56 of the *Land Administration Act 1997*

**BACKGROUND**

The City's audit process identified 8 parcels of land held in freehold title by private entities which would be better suited to be owned by a public body.

Four of these land title discrepancies comprise drainage sumps, where the City has been maintaining land not owned by the City or the State of Western Australia. The land parcels are currently being used and maintained by the City for drainage purposes and are still required as part of the City's drainage network.

Two public access ways (PAW's) maintained by the City have also been identified as being in private ownership.

Two sections of privately owned road/right of ways are also identified as being of wider community benefit and best suited to public ownership.

The parcels are defined as alienated land in the *Land Administration Act 1997* which provides the following definition:

***“Alienated land*** means land held in freehold”

In the context of this report, the alienated freehold land parcels are for public and wider community benefit; and are best suited in the ownership of the State of Western Australia and control of the local authority.

**DETAIL****Drainage Parcels**

Drainage is the City's third largest infrastructure class by value and is made up of a network of pipes, pits and sumps. The majority of these assets are buried and the service it provides significantly contributes to the health of the community.

The stormwater drainage network ensures that water run-off is captured quickly and diverted into storage and recharge areas such as sumps. With an effective drainage system, there should be no pooling of water on the roads or flooding under normal weather conditions.

**P21/3894 - REQUEST TO MINISTER FOR LANDS TO ACQUIRE VARIOUS ALIENATED LAND PARCELS (REC) (ATTACHMENT)**

The drainage parcels that the City has been maintaining in alternate ownership are listed below. Refer to Attachment 1 for Aerial photos of the sites.

<b>Address</b>	<b>Suburb</b>	<b>Land Identifier</b>	<b>Current Owner</b>
21 Bolas Court	Myaree	Lot 1 Plan 7439 CT 1166/565	Perth Subdivisions Pty Ltd
601 Leach Highway	Bull Creek	Lot 42 Plan 8418 CT 1301/861	Monmouth Pty Ltd
27 Ripple Way	Bateman	Lot 88 Plan 8418 CT 1301/861	Monmouth Pty Ltd
25 Harrison Street	Willagee	Lot 57 Plan 7375 CT 1233/47	Beltana Pty Ltd

An Australian Securities and Investment Commission (ASIC) search has confirmed that all the current owners listed above have been deregistered.

All of the identified drainage parcels are currently active sumps and are performing their respective functions with no reported inundation thus far. All sumps receive stormwater from contributing drainage systems which service surrounding road networks.

**Private Roads/Right of Ways/Public Access Ways**

**Riseley Centre Right of Way**

A search of the Certificate of Title has confirmed the right of way adjoining Post Lane, Kearns Crescent, Petrossian Lane and Willcock Street is in the ownership of Perth Subdivisions Ltd, which has been deregistered. The Certificate of Title notes the land parcels as rights of way, with the Perth-Fremantle Road (now Canning Highway) being dedicated as road. Refer to Attachment 1 for Aerial photo of the site.

<b>Address</b>	<b>Suburb</b>	<b>Land Identifier</b>	<b>Current Owner</b>
Right of Way off Kearns Crescent	Ardross	Lot 66 Diagram 8782 CT 1020/227	Perth Subdivisions Pty Ltd

The right of way is two non-contiguous parcels of land with strategic importance to the City as they provide critical access and circulation to Petrossian Lane and Post Lane, in the southern part of the Riseley Centre. The City is currently exposed to potentially losing this essential access way, if any of the adjoining land owners make a claim for adverse possession over any part of the parcels.

The right of way parcels are currently not being maintained by the City and there are no technical issues that appear to override the strategic importance of the parcels.

Transfer of the rights of way also aligns with one of the key objectives of the Riseley Activity Centre Plan to: *“appropriately manage traffic, parking and accessibility issues”*, as well as the Movement objective to: *“formalise laneways and progressively widen to improve permeability of the precinct and potentially create new business opportunities”*.

**P21/3894 - REQUEST TO MINISTER FOR LANDS TO ACQUIRE VARIOUS ALIENATED LAND PARCELS (REC) (ATTACHMENT)**

The City is considered the most appropriate owner of the land parcels, whether in freehold or vested with the City by the State of WA via a management order. Transfer of the rights of way to the City's responsibility will involve initial and ongoing maintenance costs. These costs are outweighed by the significant strategic benefit in securing the rights of way for the benefit of the wider community; and the access network in the Riseley precinct.

**Welby Place, Myaree - Part Private Road**

An alienated land parcel has been identified over a section of road reserve in Welby Place, Myaree. The City is maintaining this parcel of land and dedication of this parcel as road will have no financial or risk implications to the City. Refer to Attachment 1 for Aerial photo of the site.

<b>Address</b>	<b>Suburb</b>	<b>Land Identifier</b>	<b>Current Owner</b>
Welby Place	Myaree	Lot 67 P 7439 CT 1166/565	Perth Subdivisions Pty Ltd

An Australian Securities and Investment Commission (ASIC) search has confirmed that Perth Subdivisions Pty Ltd has been deregistered.

**Bateman and Willagee Public Access Ways**

These land parcels were brought to the City's attention by the Department of Planning, Lands and Heritage; being remnant alienated parcels on the same Certificates of title as 2 of the drainage sumps.

<b>Address</b>	<b>Suburb</b>	<b>Land Identifier</b>	<b>Current Owner</b>
Ripple Way Public Access Way	Bateman	Lot 155 Plan 8418 CT 1301/861	Monmouth Pty Ltd
Harrison Street Public Access Way	Willagee	Lot 255 Plan 7375 CT 1233/47	Beltana Pty Ltd

An Australian Securities and Investment Commission (ASIC) search has confirmed that Monmouth Pty Ltd and Beltana Pty Ltd have been deregistered.

Public access ways provide essential pedestrian access through suburban areas, giving residents unimpeded pedestrian and cyclist access in and around residential neighbourhoods. They also provide access to essential services; and provide pedestrian and cycle access to local district facilities including public transport, schools, shops, parks and community facilities. Public access ways are best owned by the State of WA and controlled by the City; to avoid sale of the land and/or claims of adverse possession which could potentially restrict public access to the parcels of land and adversely impact the surrounding community. Refer to Attachment 1 for Aerial photo of the sites.

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

Consultation is proposed with the adjoining and surrounding landowners for the proposed land ownership changes, in accordance with the statutory requirements of the *Land Administration Act 1997*.

**P21/3894 - REQUEST TO MINISTER FOR LANDS TO ACQUIRE VARIOUS ALIENATED LAND PARCELS (REC) (ATTACHMENT)****II. OTHER AGENCIES / CONSULTANTS**

Not applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

The City proposes to make an application to the Minister for Lands to acquire the 8 identified alienated land parcels under Section 52 and 56 of the *Land Administration Act 1997*.

Prior to making a request under Section 52 of the *Land Administration Act 1997* the City needs to fulfil certain procedures including (but not limited to):

- Details of the land in question;
- A written description of the proposed future disposition or outcome for the land after it has been acquired;
- Written confirmation that the City has resolved to make the request (Council resolution); and
- Evidence that the City has made attempts to locate the landowners – public notice of not less than 30 days during which persons may lodge objections.

Section 56.1(c) of the *Land Administration Act 1997* applies for the Riseley Centre right of way and portion of Welby Place, which states:

*“land comprises a private road of which the public has had uninterrupted use for a period of not less than 10 years”*

Prior to making a request under this section, the City needs to prepare a request to the Minister including (but not limited to) the following:

- Written confirmation that the City has resolved to make the request (Council resolution);
- Written confirmation that the public has had uninterrupted use of the private road for a period of not less than 10 years;
- Provide the Minister with sufficient information in plan or survey, sketch plan or document to describe the dimensions of the proposed road and its construction;
- Copies of any submissions relating to the request and the local governments comments on those submissions; and
- The local government is liable to indemnify the Minister against claim for compensation.

Note that in the case of the right of way parcel being referred, a person with interest in that land (including a person who has the benefit of an easement created under Section 167A of the *Transfer of Land Act 1893*) is not entitled to compensation because of that dedication.

**FINANCIAL IMPLICATIONS**

There are no acquisition costs for the City associated with the request to the Minister to acquire the parcels of land under the *Land Administration Act 1997*. Additional costs associated with the land transfer include (but not limited to) the staff time liaising with DPLH, preparation of relevant documentation and the cost of public advertising.

**P21/3894 - REQUEST TO MINISTER FOR LANDS TO ACQUIRE VARIOUS ALIENATED LAND PARCELS (REC) (ATTACHMENT)**

The drainage sumps, PAW's and part of Welby Place are already being maintained by the City so additional upfront costs will not be required. Annual ongoing maintenance costs will continue to be allocated.

The right of way in the Riseley precinct is not currently being maintained by the City. Once the City takes ownership or management of the right of way; costs associated with annual ongoing maintenance and compliance will need to be budgeted for. This is currently estimated at \$15,000 per annum.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

<b>Risk Statement &amp; Consequence</b>	<b>Level of Risk</b>	<b>Risk Treatment</b>
Risk of adjoining landowners claiming adverse possession over any of the identified land parcels resulting in loss of drainage assets and strategically importance access ways	Significant consequences which are almost certain, resulting in a <b>High</b> level of risk	Register preliminary intent of City's request to DPLH upon Council resolution and prior to community consultation
Risk of land parcels being privately purchased resulting in a potential loss to the City's important drainage and access network	Significant consequences which are almost certain, resulting in a <b>High</b> level of risk	Register preliminary intent of City's request to DPLH upon Council resolution and prior to community consultation

**POLICY IMPLICATIONS**

Asset Management Policy CP-031 commits the City to the responsible management of its assets and to deliver services that meet the community expectations of time, quality, and value for money. The City's assets include the physical features within the City and include items such as roads, drainage, buildings, parks, pathways, natural areas and play grounds.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Do Nothing – If the Council chooses not to fix the land title anomalies, the City will remain at risk of these properties being privately acquired or acquired through adverse possession. If this eventuates, the City will lose important drainage infrastructure; public access routes and strategically important access rights of way.

**P21/3894 - REQUEST TO MINISTER FOR LANDS TO ACQUIRE VARIOUS ALIENATED  
LAND PARCELS (REC) (ATTACHMENT)****CONCLUSION**

The alienated drainage parcels, public access ways and private have been identified through the City's audit process. In order for the parcels of land to remain with their intended purpose and in the interest of the City's residents; it is recommended the City fix the land title anomalies and request the Minister for Lands acquire the drainage parcels and public access ways as Crown land; and dedicate the private roads/rights of ways under the relevant provisions of the *Land Administration Act 1997*. It is recommended that the proposed acquisition of the identified sites be endorsed and that the Chief Executive Officer be authorised to proceed with the acquisition process including completion of the public notice requirements. Should objections be received as a result of public advertising of any of the proposals, then those matters would be returned to Council for direction.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3894) APPROVAL****That the Council:**

- 1. Authorises the Chief Executive Officer to proceed with the process (including public notice requirements) to make a request to the Minister for Lands to acquire the following land parcels in accordance with the *Land Administration Act 1997*:**
  - **Section 52 LAA 1997 application for the 4 drainage parcels with management order to the City for drainage purposes, being;**
    - **21 Bolas Court, Myaree (Lot 1 Plan 7439, CT 1166/565)**
    - **601 Leach Highway, Bull Creek (Lot 42 Plan 8418, CT 1301/861)**
    - **27 Ripple Way, Bateman (Lot 88 Plan 8418, CT 1301/861)**
    - **25 Harrison Street, Willagee (Lot 57 Plan 7375, CT 1233/47)**
  - **Section 52 LAA 1997 application for the 2 public access way parcels with management order to the City for public access way purposes;**
    - **Ripple Way Public Access Way, Bateman (Lot 155 Plan 8418, CT 1301/861)**
    - **Harrison Street Public Access Way, Willagee (Lot 255 Plan 7375, CT 1233/47)**
  - **Section 56 LAA 1997 application for the private roads/rights of way to be dedicated as road;**
    - **Right of Way off Kearns Crescent, Ardross (Lot 66 D8782, CT 1020/227)**
    - **Welby Place, Myaree (Lot 67 P 7439, CT 1166/565)**
- 2. Resolves that if objections are received in relation to the public notice procedures for the subject land parcels, then the objections will be forwarded to the Minister for Lands for determination.**

At 7:23pm the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)**

**ATTACHMENT**

**[3894 Attachment 1 Aerial Photos Of Sites](#)**

**P21/3899 - ASSESSMENT OF PARKS AND RESERVES ZONED RESIDENTIAL IN  
LOCAL PLANNING SCHEME NO.6 (REC) (ATTACHMENT)**

Item brought forward.  
See page 32.

Disclosures of Interest

Member	Mayor Gear
Type of Interest	Interest under the Code of Conduct
Nature of Interest	I know a ratepayer that may buy a unit in this development in the future.
Request	Stay, discuss and vote
Decision	Stay, discuss and vote

*At 7:25pm having declared an interest in this item, the Mayor vacated the Chair.*

*At 7:25pm the Deputy Mayor, Cr Barton, assumed the Chair.*

**P21/3902 - REQUEST FOR SCHEME AMENDMENT – REZONING NO. 45-47 CANNING BEACH ROAD, APPECROSS FROM RESIDENTIAL R12.5 TO RESIDENTIAL R30 (REC) (ATTACHMENT)**

Ward	: Applecross – Mount Pleasant
Category	: Strategic
Application Number	: DA- 2020-1587
Property	: 45-47 Canning Beach Road, Applecross
Proposal	: Request for Scheme Amendment – rezoning No.45-47 Canning Beach Road, Applecross from R12.5 to R30
Applicant	: LK Advisory
Owner	: Mrs KJ Behets - Lot 52 (No.45) Canning Beach Road, Applecross Mr G Ferguson - Lot 166 (No.47) Canning Beach Road, Applecross
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Not applicable
Responsible Officer	: Gavin Ponton Manager Strategic Urban Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P21/3902 - REQUEST FOR SCHEME AMENDMENT –REZONING NO. 45-47 CANNING BEACH ROAD, APPLCROSS FROM RESIDENTIAL R12.5 TO RESIDENTIAL R30  
(REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- An application for a scheme amendment has been received to rezone Lot 52 (No.45) and Lot 166 (No.47) Canning Beach Road, Applecross (site) from Residential R12.5 to Residential R30.
- Council is requested to consider whether the amendment should be initiated for the purposes of public advertising. If initiated the amendment would be returned to council for further consideration at the conclusion of the advertising period.
- The site's proximity to the Canning Bridge Activity Centre, the adjacent Residential R30 zoning and the existence of the aged care facility provide support to the notion of an up-coding. The proposal however is incremental in nature and also effectively results in a mid-block R12.5 to R30 transition.
- Review of the residential density codings on the subject lots is considered to be best undertaken as part of a more comprehensive review of the locality.
- It is recommended that the amendment not be supported at this point in time but be considered as part of the upcoming review of Local Planning Scheme 6.



**LPS6 Zoning Map - Subject properties outlined in Red.**

**P21/3902 - REQUEST FOR SCHEME AMENDMENT –REZONING NO. 45-47 CANNING BEACH ROAD, APPECROSS FROM RESIDENTIAL R12.5 TO RESIDENTIAL R30  
(REC) (ATTACHMENT)****BACKGROUND/DETAILS**

An application was received in December 2020 requesting that Lot 52 (No.45) and Lot 166 (No.47) Canning Beach Road, Applecross be rezoned from Residential R12.5 to Residential R30.

The supporting report from the applicant provides the following justification for the requested recoding from R12.5 to R30.

- *The subject land is within close walking distance to a range of local amenities and benefits from some of the best public transport accessibility outside of the Perth City Centre, as demonstrated by the 2016 SNAMUTS analysis (Spatial Network Analysis for Multimodal Urban Transport Systems is a planning and decision-making support tool developed by Curtin University and RMIT that provides an analysis of the performance of the public transport network with the land-use intensity within a walkable catchment area.)*
- *The amendment will facilitate an innovative new housing typology to contribute to a greater diversity of housing stock, enabling opportunities for residents to age in place, while maintaining continuity of lifestyle.*
- *The proposed ‘apartment houses’ on No. 47 Canning Beach Road will resemble a single dwelling in a style that is sympathetic to the lower density housing in the nearby area.*
- *The owners of No. 45 Canning Bridge Road and the HCACF facility are supportive of the proposed amendment.*
- *The existing home on No. 47 Canning Beach Road is in declining condition and nearing the end of its life. Demolition of the home and construction of a new home at the R12.5 coding would likely yield another large two or three-storey single dwelling, contributing to an already abundant and over-represented housing stock in the area, which is entirely inconsistent with the objectives of the LHS.*
- *The new HCACF facility significantly increases the built form and land use intensity in the immediate context of the subject land. The proposed ‘apartment houses’ provide an appropriate interface by matching the built form and scale of the HCACF facility in an ideal location, while simultaneously achieving the objectives of the LHS.*
- *The subject land is ideally suited to an R30 coding, due to its close proximity to the CBACP and the Swan River foreshore, nearby public open space, high-frequency bus services, and the passenger rail line.*

**P21/3902 - REQUEST FOR SCHEME AMENDMENT –REZONING NO. 45-47 CANNING BEACH ROAD, APPLCROSS FROM RESIDENTIAL R12.5 TO RESIDENTIAL R30  
(REC) (ATTACHMENT)**

- *The location and design of the proposed ‘apartment houses’ will not have any adverse effect on streetscape character, the amenity of adjoining properties, or the broader area as the proposed development is specifically designed to integrate with the built form character of the streetscape.*
- *There is ample capacity in existing infrastructure and services to accommodate the proposed density increase.*
- *The proposed dwelling yield of three ‘apartment houses’ on No. 47 Canning Beach Road is equivalent to the minimum and average lot sizes under the R20 density code.*
- *The Amendment provides a low-risk opportunity for the City to approve a new and innovative type of housing in an ideal location, thereby contributing to a greater variety of housing typologies to satisfy the needs of residents in all stages of life.*
- *The Amendment aligns with each of the applicable initiatives in the Local Housing Strategy and satisfies the relevant criteria for minor increases to density, as shown in Table 2.*
- *The State strategic planning intent to provide appropriate infill housing in locations of high amenity (refer below); and*
- *The extent of the CBACP area, which also captures the river foreshore adjacent to the site, leaving the site effectively bound on two sides by the CBACP planning framework and a higher residential density, and a three storey, intensive aged care facility on the other two sides.*



**Subject properties outlined in Red.**

**P21/3902 - REQUEST FOR SCHEME AMENDMENT –REZONING NO. 45-47 CANNING BEACH ROAD, APPLCROSS FROM RESIDENTIAL R12.5 TO RESIDENTIAL R30  
(REC) (ATTACHMENT)**

**Scheme Provisions**

MRS Zoning	:	Urban
LPS Zoning	:	Residential
R-Code	:	R12.5
Use Type	:	Not Applicable
Use Class	:	Not Applicable

LPS6 was gazetted on 27 May 2016 and is the statutory tool to implement the City's Local Planning Strategy. The Scheme is due for a five year review later this year.

**[P21-3902 Attachment 1 Scheme Amendment Report](#)**

**Site Details**

The subject lots front Canning Beach Road to the north of Riverway.

The site is located 50m north of Canning Bridge Activity Centre (CBAC) and has good access to public transport with bus routes 148 and 158 running along Kintail Road 200m south, various bus routes running along Canning Highway 400m south and Canning Bridge Train Station less than 1km to the east.

The properties to the north along Canning Beach Road are zoned Residential R12.5 and consist of large single dwellings.

The properties to the south, located between Riverway and Canning Beach Activity Centre, are zoned Residential R30.

To the west, also in the Residential R12.5 zone, a 3-4 storey aged care facility is currently under construction. This lot has an area of 6735sqm and has access from Carron Road (west) through to Canning Beach Road (east) and south along Riverway.



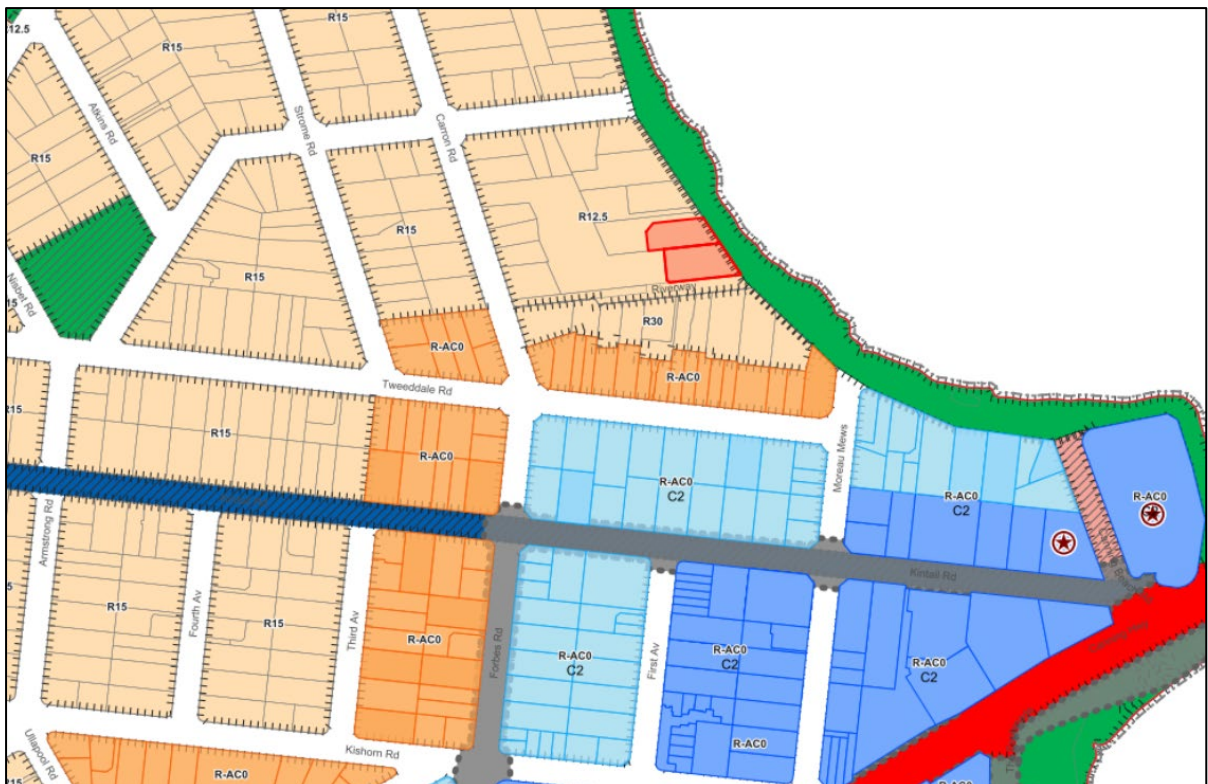
***Subject properties with No. 47 to the left and No. 45 to the right***

**P21/3902 - REQUEST FOR SCHEME AMENDMENT –REZONING NO. 45-47 CANNING BEACH ROAD, APPLCROSS FROM RESIDENTIAL R12.5 TO RESIDENTIAL R30 (REC) (ATTACHMENT)**

**Site Context**

The area around the subject lots are described as follows:

- The lots to the north along Canning Beach Road are zoned Residential R12.5 and generally consist of large single dwellings.
- The lots to the west are zoned Residential R12.5.
- To the immediate west, a 3-4 storey aged care facility is currently under construction. This lot has an area of 6735sqm and has access from Carron Road (west) through to Canning Beach Road (via an access way abutting the subject site to the immediate north), and south along Riverway.
- The lots to the south, located between Riverway and Canning Beach Activity Centre, are zoned R30 and act as a transition between the Residential R12.5 area and the Canning Bridge Activity Centre (CBAC).
- Further south, is Canning Bridge Activity Centre, with the H4 zone along the north of Tweeddale Road and M10 and H4 south of Tweeddale Road.



**LPS6 Zoning Map showing Canning Bridge Activity Centre Zoning  
Subject properties outlined in Red.**

**P21/3902 - REQUEST FOR SCHEME AMENDMENT –REZONING NO. 45-47 CANNING BEACH ROAD, APPLECROSS FROM RESIDENTIAL R12.5 TO RESIDENTIAL R30 (REC) (ATTACHMENT)**

**PROPOSAL**

The subject properties are currently zoned Residential R12.5 and are requested to be zoned Residential R30. The applicant has included concept development plans as part of the application. These plans are submitted for information purposes to demonstrate the development intentions at the R30 code. The example development includes three multiple dwellings in a three storey apartment building. . A separate development application would need to be submitted if the scheme amendment were approved.

**Development Yield:**

Site	Lot 52	Lot 166
Land Area	1025sqm	1296
Grouped Dwelling Potential at R12.5 (existing)	1 dwelling	1 dwelling
Multiple Dwelling Potential at R12.5 (existing)	1 dwelling	1 dwelling
Grouped Dwelling Potential at R30 (proposed)	3 dwellings	4 dwellings
Multiple Dwelling Potential at R30 (proposed)	3 dwellings	4 dwellings

Medium-density housing in the context of the R-Codes includes all single and grouped dwellings coded R30 and above, and all multiple dwellings coded between R30 and R60. The diversity of residential building types that can be delivered under the code are extensive and include, but are not limited to, those types shown below. The applicant in the scheme amendment application has proposed a type referred to as ‘apartment house’ which is defined as follows:

*A multi-storey building that contains two to six multiple dwellings in various arrangements where at least one is above another. The building presents to the street as a single house on a parent lot and can have a common entry and circulation areas. Can include built forms known as manor house, duplex apartments (1 up 1 down) and maisonette apartments.*

A1 Single detached	A2 Semi-detached	A3 'Plex	A4 Villas	A5 Terrace housing	A6 Row housing	A7 Apartment house	A8 Low-rise apartments
<p>Indicative context: Suburban</p> <p>A single detached dwelling is a house on its own lot that is not attached to any other dwelling.</p>	<p>A semi-detached dwelling is a house that shares one common wall with its neighbour both facing the street or both or a pair that face in the same direction. Semi-detached dwellings could be built on a single lot or shared occupability arrangements) or on separate lots.</p>	<p>Duplex (1 up/1 down) or triplex villas. Two, three or four dwellings on one lot that are separated side by side or behind one another or connected to different street frontages on a common lot.</p>	<p>Five or more dwellings on one larger lot, typically detached (one built on each). The driveway / common area is usually controlled and privatised.</p>	<p>R4C: Suburban / Urban</p> <p>A terrace is a narrow attached dwelling built to both side boundaries with a primary street frontage.</p> <p>This code for grouped dwellings where there is common provision for parking or group (but where each dwelling has individual parking is contained on its own lot.</p>	<p>Row houses form a built form similar to the terrace, but without a direct street frontage. These are attached group dwellings with a frontage to a common street.</p>	<p>R60</p> <p>A multi-story building that contains two to six multiple dwellings in various arrangements where at least one is above another. The building presents to the street as a single house on a parent lot and can have a common entry and circulation areas. Can include built forms known as manor house, duplex apartments (1 up 1 down) and maisonette apartments.</p>	<p>Indicative code: Urban / urban core R60+</p> <p>A residential apartment building (multiple dwellings) that is not an apartment house where a dwelling is above another dwelling.</p>

**P21/3902 - REQUEST FOR SCHEME AMENDMENT –REZONING NO. 45-47 CANNING BEACH ROAD, APPECROSS FROM RESIDENTIAL R12.5 TO RESIDENTIAL R30  
(REC) (ATTACHMENT)**

The applicant maintains that the street layout acts to support the proposed development and has the effect of isolating the subject land from nearby residential properties thereby minimising off site amenity impacts to adjoining properties. Furthermore, that the proposed development is specifically designed to accommodate a minor increase in density while maintaining consistency with the built form character of the area.

**STAKEHOLDER ENGAGEMENT**

Advertising Required: If the Council resolved to initiate a scheme amendment to LPS 6 it would require the completion of a public advertising period. As a standard amendment, a 42 day advertising period would apply. The scheme amendment would be presented to Council again at the conclusion of the advertising period, to consider any submissions and determine next steps.

**I. COMMUNITY**

Formal advertising will involve notification in a local newspaper, information on the City's website and correspondence to affected landowner/occupiers.

**II. OTHER AGENCIES / CONSULTANTS**

Relevant servicing/government agencies would be consulted as part of the advertising process associated with an amendment to LPS6.

**STATUTORY AND LEGAL IMPLICATIONS**

An amendment to LPS6 requires a resolution of the Council to initiate the process, including the commencement of advertising. Procedures are specified by the *Planning and Development (Local Planning Schemes) Regulations 2015*. As noted above the proposed amendment is considered to represent a "standard amendment" as defined by the Regulations. 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**

Should the Council resolve to proceed with initiation of a scheme amendment costs will be incurred in terms of items including preparation of supporting planning reports and advertising. These costs will be recovered from the applicants by way of the scheme amendment application fee.

**P21/3902 - REQUEST FOR SCHEME AMENDMENT –REZONING NO. 45-47 CANNING BEACH ROAD, APPECROSS FROM RESIDENTIAL R12.5 TO RESIDENTIAL R30  
(REC) (ATTACHMENT)**

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Initiation of an amendment to achieve higher residential density for the subject properties at this time is not considered to be in keeping with the Local Planning Strategy. An amendment would relate to Priority 3 of the Corporate Plan, “Urban development creates changes in amenity (positive and negative) which are not well understood”. Changes to the residential density of these properties outside of the normal Local Planning Scheme review process, is likely to heighten lack of understanding of rationale for density changes.

<b>Risk Statement &amp; Consequence</b>	<b>Level of Risk</b>	<b>Risk Treatment</b>
Approval of the amendment will set a precedent for consideration of one off ‘spot’ rezoning as opposed to the determination of suitable zonings via a comprehensive review process.	Moderate consequences which are possible, resulting in a <b>Medium</b> level of risk.	Deferring consideration of the proposed amendment to the comprehensive scheme review process will address this risk. Whilst it is recognised that the subject properties present a range of unique characteristics which support the case for an independent assessment of the current zoning, it is recommended that the option of one off rezonings be avoided.
Approval of the amendment will result in mid-block transition from R12.5 to R30.	Moderate consequences which are possible, resulting in a <b>Medium</b> level of risk.	Whilst mitigating circumstances are noted, the proposed amendment will result in a mid-block transition between low and medium coded land. Deferring consideration of the proposed amendment to the comprehensive scheme review process will ensure that this risk is addressed. .

**P21/3902 - REQUEST FOR SCHEME AMENDMENT –REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS FROM RESIDENTIAL R12.5 TO RESIDENTIAL R30  
(REC) (ATTACHMENT)**

<p>The proposed R30 built from outcomes, the “Apartment House” concept, is not able to regulated by the City should the amendment proceed.</p>	<p>Moderate consequences which are likely, resulting in a <b>High</b> level of risk.</p>	<p>The housing typologies presented by the applicant demonstrate potential R30 multiple dwelling outcomes which achieve a degree of compatibility with the existing streetscape. The City’s planning framework however is not able to ensure development is limited to these outcomes. Deferring consideration of the proposed amendment to the comprehensive scheme review process will provide opportunity to address this risk.</p>
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**POLICY IMPLICATIONS**

Not applicable.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The Council could resolve to initiative the scheme amendment and allow the public consultation period to be undertaken. The public consultation period may provide additional understanding on the level of community concern and/or support for the proposed change in R-Codes. This information may assist the Council in arriving at a final position on the proposed amendment. It is noted that once the Council has initiated the amendment process it will be required to forward a recommendation on the amendment to the Western Australian Planning Commission. The WAPC would then consider the merits of the amendment and ultimately forward a recommendation to the Minister for Planning to determine the application.

**COMMENT**

The Local Planning Strategy in conjunction with LPS6 aims to concentrate growth and development in and around activity centres and along public transport corridors. The approach ensures that the bulk of the City’s suburbs can remain a low density environment. The approach aims at allowing growth to occur in strategic locations in a measured way, focussing initially on the higher priority areas. Expansion of medium density development into these low density areas reduces the effectiveness of the current approach and can detract from the amenity of the suburban areas.

**P21/3902 - REQUEST FOR SCHEME AMENDMENT –REZONING NO. 45-47 CANNING BEACH ROAD, APPLECROSS FROM RESIDENTIAL R12.5 TO RESIDENTIAL R30  
(REC) (ATTACHMENT)**

It is recognised that the subject lots have characteristics which warrant investigation of their suitability at the Residential R12.5 zoning:

- The lots are in close proximity to the strategic CBACP and river foreshore;
- The lots are adjacent to existing Residential R30 land;
- The lots are well served by public transport;
- Much of the development on nearby R12.5 land is of a scale in keeping with that envisaged in a R30 zone and
- The Residential R12.5 amenity of the lots is impacted by the existence of the adjoining aged care facility.

It is recommended that the Council does not support the request at this time for the following reasons:

- The Local Planning Strategy is intended to be implemented in a strategic and measured way, focusing initially on development opportunities in the currently identified higher priority areas.
- LPS6 is a relatively new Scheme and it is considered that it would be premature to facilitate increase in dwellings or development potential without examining the wider locality.
- There is substantial medium to high density coded land in the vicinity to the south, and there is not considered to be a demonstrated short term need in the area for the requested rezoning.
- The proposal is in effect an incremental change in the R-coding of this street block. Whilst the characteristics of the street block are noted, the proposed amendment effectively creates a mid-block transition between the proposed R30 coding and remaining R12.5 coded land. Support for a spot re-coding may also encourage similar requests.
- The condition of the applicants' houses and desire to explore different housing forms are noted but not considered grounds to support a change to the R-Code of the land.

**CONCLUSION**

It is recognised that the zoning of land around the edges of major centres such as the CBAC will warrant review and consideration over time. It is further recognised that the subject land has a number of unique characteristics that support its consideration for allocation of a higher R-Code. It is also acknowledged that this entire street block, and many of the nearby street blocks, may warrant consideration for a higher R-coding at some time in the future. It is recommended that these types of changes to the coding of residential land be considered comprehensively and holistically. The upcoming review of LPS6 will provide this opportunity to comprehensively examine housing outcomes and R-coding's across the City. The current proposal is considered an incremental expansion of the R30 coded area, which in turns creates an undesirable R12.5/R30 transition. It is recommended that the scheme amendment not be initiated and that the proposals be flagged for consideration in the upcoming review of LPS6.

**P21/3902 - REQUEST FOR SCHEME AMENDMENT –REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS FROM RESIDENTIAL R12.5 TO RESIDENTIAL R30 (REC) (ATTACHMENT)****OFFICER RECOMMENDATION (3902)****REFUSAL**

At 7:26pm Cr Pazolli moved, seconded Cr Wheatland –

**That the Council:**

- 1 Having regard to Section 75 of the Planning and Development Act 2005 refuse to initiate / adopt the amendment requesting a higher density coding of residential R30 for 45-47 Canning Beach Road, Applecross, to City of Melville Local Planning Scheme No. 6.**
- 2 Not support the requested change to the residential density coding from R12.5 to R30 at this time for the following reasons:**
  - a. The local planning strategy will be implemented in a gradual and measured way, focussing initially on the higher priority areas.**
  - b. The City’s strategic priorities for population growth and development are in key activity centres and along selected sections of public transport corridors.**
  - c. Local Planning Scheme 6 has only recently been implemented and it is considered that it would be premature to facilitate an increase in dwellings or development potential in this section of Applecross at this time.**
  - d. There is not considered to be a demonstrated short term need in the area for the requested rezoning.**
  - e. It is considered that it would be appropriate to consider this area holistically in future strategic planning in the medium to long term rather than the short term via proposed planning studies of residential coding’s along key transport corridors in the city.**
- 3 That the Chief Executive Officer advises the applicant in writing of the Council’s resolution and that the request be considered in the upcoming review of LPS6.**

**COUNCIL RESOLUTION**

At 7:32pm Cr Wheatland moved, seconded Cr Fitzgerald–

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

At 7:32pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

**P21/3902 - REQUEST FOR SCHEME AMENDMENT –REZONING NO.45-47 CANNING BEACH ROAD, APPECROSS FROM RESIDENTIAL R12.5 TO RESIDENTIAL R30 (REC) (ATTACHMENT)**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3902) REFUSAL**

At 7:26pm Cr Pazolli moved, seconded Cr Wheatland-

**That the Council:**

- 1 Having regard to Section 75 of the Planning and Development Act 2005 refuse to initiate / adopt the amendment requesting a higher density coding of residential R30 for 45-47 Canning Beach Road, Applecross, to City of Melville Local Planning Scheme No. 6.**
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  - a. The local planning strategy will be implemented in a gradual and measured way, focussing initially on the higher priority areas.**
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  - d. There is not considered to be a demonstrated short term need in the area for the requested rezoning.**
  - e. It is considered that it would be appropriate to consider this area holistically in future strategic planning in the medium to long term rather than the short term via proposed planning studies of residential coding’s along key transport corridors in the city.**
- 3 That the Chief Executive Officer advises the applicant in writing of the Council’s resolution and that the request be considered in the upcoming review of LPS6.**

At 7:49pm the Presiding Member declared the motion

**CARRIED (7/4)**

<b>Yes</b>	<b>7</b>	Cr Macphail, Cr Mair, Cr Sandford, Cr Robins, Cr Fitzgerald, Cr Pazolli, Mayor Gear
<b>No</b>	<b>4</b>	Cr Robartson, Cr Barber, Cr Wheatland, Cr Barton

*At 7:49pm Mr Taylor returned to the meeting.*

*At 7:49pm Cr Barton, vacated the Chair.*

*At 7:49pm the Mayor assumed the Chair.*

An Officer Amendment was provided for this item [Officer Amendment Item P21/3903](#)

**P21/3903 – KARDINYA ACTIVITY CENTRE PLAN – RECOMMENDATION TO WESTERN AUSTRALIAN PLANNING COMMISSION (REC) (ATTACHMENTS)**

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	:	P20/3882 Kardinya District Centre – Proposed Activity Centre Plan Ordinary Council Meeting 17 November 2020
Responsible Officer	:	Gavin Ponton Manager Strategic Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P21/3903 – KARDINYA ACTIVITY CENTRE PLAN – RECOMMENDATION TO WESTERN AUSTRALIAN PLANNING COMMISSION (REC) (ATTACHMENTS)****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 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 of the submitted ACP resulted in a substantial response with the majority of submissions received 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.
- Balanced modifications that meet 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. Recommending refusal carries the risk that the WAPC could still approve the ACP with little influence from the City and as a result, the best outcome for the City and local community may not be secured.
- Council considered the proposed ACP as submitted at its meeting of 17<sup>th</sup> November 2020 and resolved to advertise the proposed modifications for further community comment.
- Under the Regulations the City must provide a response to the WAPC by the 8<sup>th</sup> April 2021 at the latest. It is recommended Council resolve to recommend to the WAPC that the proposed ACP only be approved subject to the modifications as identified.

**P21/3903 – KARDINYA ACTIVITY CENTRE PLAN – RECOMMENDATION TO WESTERN AUSTRALIAN PLANNING COMMISSION (REC) (ATTACHMENTS)**



**BACKGROUND**

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

Development approval for the redevelopment of the Kardinya Park Shopping Centre was issued by the Development Assessment Panel (DAP) on the 8<sup>th</sup> 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.

**P21/3903 – KARDINYA ACTIVITY CENTRE PLAN – RECOMMENDATION TO WESTERN AUSTRALIAN PLANNING COMMISSION (REC) (ATTACHMENTS)**

The proposed ACP has been prepared by a private landowner and has been submitted to the City for assessment. While this is unusual, in that 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, arrange referral to relevant agencies, assess the proposed ACP against the planning framework and provide a report to the Western Australian Planning Commission with a recommendation on the determination of the ACP. The City has a statutory obligation to forward its recommendation to the WAPC by the 8<sup>th</sup> April 2021 at the latest.

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.

The proposed ACP as submitted was considered by Council at its meeting on 17<sup>th</sup> November 2020 at which it was resolved to advertise proposed modifications to the ACP for further community comment. Advertising commenced from the 26<sup>th</sup> November 2020 and concluded on the 8<sup>th</sup> January 2021.

**Scheme Provisions**

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

**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.

**P21/3903 – KARDINYA ACTIVITY CENTRE PLAN – RECOMMENDATION TO WESTERN AUSTRALIAN PLANNING COMMISSION (REC) (ATTACHMENTS)****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 (MCF) 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. SPP 4.2 has recently been reviewed by the WAPC and a draft revised version is currently being advertised for comment. The ACP has been prepared and is being assessed under the current operational version of SPP 4.2.

The MCF 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.

**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 proportion as comprising an approximate 400m walkable catchment around the commercial centre (i.e. a 5 minute walk), however, the residential catchment area as proposed in the submitted ACP does not reflect a consistent 400m catchment.
- 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.

**P21/3903 – KARDINYA ACTIVITY CENTRE PLAN – RECOMMENDATION TO WESTERN AUSTRALIAN PLANNING COMMISSION (REC) (ATTACHMENTS)****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.

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 there has been sufficient detail and rigour in considering these items and whether the necessary analysis to ensure proposals within the ACP are sufficiently founded on appropriately detailed analysis has been undertaken.

As a consequence there are a number of items identified which raise concerns with the ACP as submitted.

**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.

**P21/3903 – KARDINYA ACTIVITY CENTRE PLAN – RECOMMENDATION TO WESTERN AUSTRALIAN PLANNING COMMISSION (REC) (ATTACHMENTS)**

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 (MSACP), it remains peripheral to the MSACP and hence there is little specific content in relation to Kardinya. The MSACP acknowledges the Kardinya District Centre along with the Bull Creek District Centre at the eastern end of the MSACP, as activity nodes which bookend the MSACP.

The MSACP 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 were identified with the proposed ACP as submitted.

**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 places 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 walkable 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.”*

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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.

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, unlike the areas immediately to the north and east of the district centre that have been included within the proposed ACP boundary.

The ACP boundary is also aligned along both property boundaries and along streets. This results in potentially inconsistent interfaces between future development and existing development as well as between potentially different forms of future development as well as potentially inconsistent streetscape responses. It is noted that assessment against the 400m walkable catchment edge lends itself to basing the ACP boundary consistently along public streets rather than along property boundaries.

**P21/3903 – KARDINYA ACTIVITY CENTRE PLAN – RECOMMENDATION TO WESTERN AUSTRALIAN PLANNING COMMISSION (REC) (ATTACHMENTS)**

In summary the boundary proposed in the submitted ACP 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 is not considered to sufficiently justify the definition of the ACP boundary as proposed in the submitted ACP. A more consistent alignment more accurately reflecting the 400m walkable is preferable.

**3903 Attachment 1 Walkable Catchment****Proposed precincts**

The ACP as submitted proposes three precincts being a “Core” comprising the Kardinya Park Shopping Centre (KPSC) property, a “Frame” precinct primarily 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 as submitted 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. The opportunities provided by the street frontages to Lot 31 are also considered more suited to designation as part of the Core precinct. 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.

The evolution of this side of Gilbertson 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, considered a clumsy mechanism to do this. A precinct based approach whereby this portion of the ACP is

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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 to justify additional height such as demonstrating additional community benefit.

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. This approval history suggests heights above 9 stories are not necessary to enable dwelling targets to be reached (given that only two further buildings at this height would likely see the target met). It is also noted that while the Murdoch SACP (MSACP) 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. Current height limits applicable to the "centre" zone under Planning Scheme No. 6 equate to 5 storeys.

While a maximum height for the centre has now been established by the DAP at 9 storeys this still exceeds the local planning framework and the necessity for buildings within the centre zoning to be any higher, particularly as acceptable dwelling yield can be achieved, is questioned.

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 5 storeys along the remainder of the Gilbertson frontage. The 5 storey limit is explained as

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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 height as proposed is not considered justified.

The maximum default height as proposed in the ACP is excessive in this location. The additional height at “landmark sites” is not justified. As noted, the recent DAP decision has established a maximum building height of 9 storeys within the “Centre” zoned part of the ACP area. This decision was made in the full knowledge of the current height guidance as per the MSACP and Local Planning Scheme 6.

**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 graduating 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 graduating 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 identified 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 (3750 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 are 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).

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.

**P21/3903 – KARDINYA ACTIVITY CENTRE PLAN – RECOMMENDATION TO WESTERN AUSTRALIAN PLANNING COMMISSION (REC) (ATTACHMENTS)****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 is considered insufficient to meet the requirements and expectations under SPP 4.2 in this regard and further guidance, in particular within Part 1 of the proposed ACP, is considered necessary in order to respond appropriately to this aspect.

**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 the 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.

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The approach of simply adding more additional uses to the residential zone is, however, not supported, and an alternative approach better suited to the circumstances is appropriate.

**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 lesser quality treatments are required for others.

This is justified on the basis that the lesser 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 1500 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

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submitted to the City, provided details of links to view the ACP documentation and how to make a submission.

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.

**First Advertising Period****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 indications 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 storeys 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 3 storeys and above.

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A schedule of submissions of all submissions received during the first advertising period is included as:

[3903 Attachment 2 First Advertising Table of Submissions - v1](#)

**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 from the first advertising period is included as:

[3903 Attachment 3 First Advertising Late Submissions](#)

**Petition**

A petition was also received during the initial 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 there is no 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. Of itself the ACP would 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.

**Second Advertising Period – Proposed Modifications**

Council resolved at its meeting on 17<sup>th</sup> November 2020 to advertise proposed modifications to the ACP as submitted. The second engagement period again lasted for 42 days from 26<sup>th</sup> November 2020 to 8<sup>th</sup> January 2021. Correspondence was again sent to all properties originally written to; two adverts were placed in the Melville Gazette; a sign was erected in a prominent position in the proposed ACP area, submitters from the first engagement period were contacted directly via email and the engagement page on Melville Talks was expanded.

In addition two community information sessions were undertaken on the 9<sup>th</sup> December 2020 with some 26 members of the community attending each session.

**Submissions**

89 submissions were received during advertising of the proposed modifications to the ACP, less than the 253 submissions received during the first advertising period. 54 (61%) contained an objection and 34 (39%) indicated support for the modified ACP. 38 submissions (42%) were received from within the modified ACP area, with a further 11 submissions (13%) from within the original ACP boundary but now outside the proposed modified ACP area. 39 submissions (44%) were received from outside both the original and modified ACP boundaries while two were received from the area not within the original ACP boundary but now included under the proposed modifications.

Of the 38 submissions from within the modified ACP boundary area, 20 (53%) indicated support, while 11 (100%) of those in the original ACP area but excluded under the modified ACP objected. One (50%) of the submissions received from the area added into the ACP indicated support for the modified ACP and one (50%) objected.

The largest number of objections (44%) concerned the proposed maximum 9 storey height in the “Core” precinct requesting that the maximum height be lower with the majority seeking three to four storeys. 30% of submissions objected to any form of redevelopment or ACP at Kardinya including both the original ACP as submitted and the modified proposals. The next highest number of objections (15%) related to the identification in the modified ACP of the southern side of Hamersley Way at an R60 coding and maximum building height of three storeys.

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Four - 7% of objections did not support the modified ACP because they preferred the original, their property was in the ACP under the original ACP but removed in the proposed modifications, or their property was not in the original ACP and still not in the modified version.

A submission was received from the consultants who submitted the original ACP on behalf of the owners of the Kardinya Park Shopping Centre site. This submission suggests that the City in recommending the modifications it has, in particular to the proposed residential densities, has failed to comply with the requirements under SPP 4.2 and to reflect the City's own Local Planning Strategy. This submission is Number 39 in the submissions schedule for the modifications engagement.

The submission is extensive and a detailed response is provided in the submission schedule, however, it is important to clearly refute the claims made in the submission to ensure that no misunderstanding arises from the observations provided by the submitter. The comments provided within this submission in the main include inaccuracies and incorrect assertions and on this basis they are not supported.

It is also noted that comment received directly from the owners of the Kardinya Park Shopping Centre site, while stating a preference for the original ACP as submitted also states that they *"support the version as advertised and seek its adoption as quickly as possible and look forward to being of assistance to the City wherever required through the rest of this process"*. This would appear to represent a different position taken by the consultants in submission 39.

A Schedule of submissions received during the second advertising period is included as:

**[3903 Attachment 4 Second Advertising Schedule of Submissions](#)**

**Late Submissions**

One late submission was received.

**II. OTHER AGENCIES / CONSULTANTS****Service and Infrastructure Agencies- Original ACP**

During the first engagement period letters were sent to relevant service and infrastructure agencies requesting comments re the proposed ACP. Responses were received from Main Roads Western Australia (MRWA), the Water Corporation (WC), the Public Transport Authority (PTA) and Department of Water and Environmental Regulation (DWER).

DWER advised it had no objection to the proposed ACP.

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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.

The subject area is identified as falling within the Brentwood Drainage Catchment and the WC advised 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. This was supplied by the proponents on the 21 September 2020 and forwarded to MRWA on that date. MRWA has provided comment further to assessment of the ACP documentation and additional information advising that it objected to the ACP as submitted for the following reasons;

1. The draft ACP has a number of errors and issues and requires amendment.
2. The Transport Impact Assessment has errors and requires amendment.

MRWA provided a detailed table identifying the errors identified.

**Service and Infrastructure Agencies- Proposed Modifications**

MRWA was the only agency to provide further comment in response to the proposed modified ACP. MRWA repeated its concerns raised in its advice received in response to the original ACP as submitted reiterating its view that the traffic and transport information provided by the proponent was not satisfactory and on this basis it was not in a position to support the proposed ACP.

**P21/3903 – KARDINYA ACTIVITY CENTRE PLAN – RECOMMENDATION TO WESTERN AUSTRALIAN PLANNING COMMISSION (REC) (ATTACHMENTS)****City of Melville Design Review Panel**

The proposed ACP as submitted was also 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 COVID-19 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.

Where modifications are recommended to the proposed ACP in response to submissions received during the advertising, the proposed modifications may be advertised with the same process/ timeframes applicable. On this basis the proposed modifications were advertised for 42 days ending on 8<sup>th</sup> January 2021 with the City required to forward its final recommendation to the WAPC before 8<sup>th</sup> April 2021. If no recommendation is forwarded to the WAPC by this date the WAPC can determine the ACP in the absence of a recommendation from the City. Once the final recommendation is received by the WAPC it has 120 days to make a determination on the proposed ACP.

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 costs associated with the assessment of the ACP.

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**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

<b>Risk Statement &amp; Consequence</b>	<b>Level of Risk*</b>	<b>Risk Treatment</b>
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 of any input from the City.	Moderate consequences which are likely, resulting in a high level of risk.	Ensure ACP is considered and a final resolution made at the March 2021 Council meeting.

**POLICY IMPLICATIONS**

No specific policy implications.

**COMMENT**

**Modifications resolved at Council meeting of 17<sup>th</sup> November 2020**

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.

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 responding to the issues identified and addressing the majority of concerns raised during community engagement.

On this basis a range of modifications were initially identified;

- Modify the proposed ACP boundary.  
The ACP boundary 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 an area west of North Lake Road, which was not included in the ACP as originally submitted.

[3903 Attachment 5 Proposed ACP Boundary Modification Map](#)

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- Modify the proposed precincts.  
The precincts 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 which is 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 be included within a “Residential Frame” Precinct.

**[3903 Attachment 6 Proposed ACP Precinct Modification Map](#)**

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

**[3903 Attachment 7 Advertised Proposed ACP Maximum Building Height Modification Map](#)**

- Modify residential densities.  
The proposed residential densities are excessive and should be modified to reduce proposed densities to R40, R60 and R80. 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, between the proposed R80 in the Mixed Use Frame Precinct and adjoining 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.

The modified densities significantly reduce 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 dwellings per gross hectare as required in SPP 4.2.

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

**[3903 Attachment 8 Proposed ACP Densities Modification Map](#)**

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- 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 (R40). A maximum of 3 storeys would apply to smaller areas of proposed R60 while the 4 storeys at R80 will mainly apply to existing R80 designated areas.
- 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 if/when justification is demonstrated for this widening.
- 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.

**[3903 Attachment 9 Kardinya Activity Centre Plan Summary of Proposed 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.

The above modifications were advertised during the second engagement period.

**Final recommended modifications**

The major issue identified in the second round of engagement was the proposed 9 storey height limit for developments within the district centre (Centre zone and Core precinct) component of the ACP with the majority of those submitters who raised this issue preferring a lower maximum, often suggested as 3-4 storeys.

The original ACP proposed a default of 15 storeys and potentially 20 storeys in selected locations while the development application for the redevelopment of the Kardinya Park Shopping Centre sought 12 storeys but was finally approved by the DAP at nine storeys. The nine storey limit proposed in the modifications was based on the DAP approved height. Other than the nine storey apartment building the highest building approved under the Kardinya Park redevelopment proposal is the cinema complex building equivalent to six storeys.

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The existing planning framework supports potential heights of five (Local Planning Scheme 6) to six (Murdoch Specialist Centre Activity Centre Plan) storeys (the same as the cinema complex in the development approval). Proposing a maximum height less than currently possible within the existing planning framework is not supported and it is unlikely to be approved by the WAPC.

By way of comparison the Melville District Centre ACP is similar in character to Kardinya and is the only district centre ACP in place for a district centre that is not identified as part of a Strategic Development Area in the City of Melville Local Planning Strategy. Under the Melville District Centre ACP the maximum default height is 5 storeys (with the possibility of up to two additional storeys where additional community benefit items are provided as part of development).

Given the existing planning framework, the approach taken at similar district centres, the characteristics of Kardinya including its phase of development, it is anticipated that had the City, rather than a private landowner, prepared the ACP, maximum heights in the centre core would most likely be proposed at no more than six storeys.

It is noted that application of a six storey maximum height limit for the 'Core' precinct will not remove the development approval for the nine storeys issued under the previous DAP decision as long as development proceeds in accordance with that approval, but would mean that the ACP would stipulate any future development proposals within the 'Core' should be no more than six storeys. It would apply to any development within that part of the 'Core' not included in the previous development approval (Kardinya Square), but if an alternative development proposal were to be submitted for the area included in the current development approval (Kardinya Park) instead of the proposal already approved, then the ACP height limit would also apply.

In consideration of the above matters further modification to the ACP to stipulate a maximum building height of six storeys within the 'Centre' zoned 'Core' precinct is supported.

Modifications to Part 1 Statutory Provisions of the ACP are also outlined to reflect the modifications proposed above.

**[3903 Attachment 10 Proposed Modified ACP Statutory Provisions](#)**

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**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

<b>Alternative Options</b>	<b>Implication</b>
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 the modifications to proposed ACP as submitted.	Modifications based upon a realistic assessment of the characteristics of the district centre, community expectations and compliance with both the State and Local planning framework represent the most appropriate and balanced ACP outcome and should be considered by the WAPC on this basis.

**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 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 while meeting all requirements under the relevant State and Local planning and policy frameworks.

This approach will provide a balanced outcome that is appropriate for the status and character of the Kardinya District Centre at this stage in its evolution while meeting policy/statutory requirements and on this basis should be appropriately supported by the WAPC in making its determination on the ACP. Refer Attachment 12 for an indicative ACP based on the modifications recommended.

[3903 Attachment 11 Proposed Modified ACP Plan](#)

**P21/3903 – KARDINYA ACTIVITY CENTRE PLAN – RECOMMENDATION TO WESTERN AUSTRALIAN PLANNING COMMISSION (REC) (ATTACHMENTS)**

At 7:50pm prior to discussion and debate on the matter, the mover and seconder consented to the Officer Amendment correcting the Attachment numbers to “9, 10 and 11”.

**OFFICER RECOMMENDATION (3903)****APPROVAL**

At 7:50pm Cr Macphail moved, seconded Cr Fitzgerald –

**That the Council:**

- 1. resolves to recommend to the West Australian Planning Commission that the proposed Kardinya District Centre Activity Centre Plan only be approved subject to modification to the Plan as outlined in Attachments 9, 10 and 11 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. directs the Chief Executive Officer to advise the West Australian Planning Commission in writing of its decision.**

*At 7:54pm Ms Young left the meeting and returned at 7:56pm.*

**Amendment****COUNCIL RESOLUTION**

At 7:54pm Cr Robins moved, seconded Cr Robartson-

**That the Council adds the following point 3 to the officer recommendation:**

- 3. directs the Chief Executive Officer to organise for one or more City of Melville planning officers to request to make a deputation to the meeting of the Statutory Planning Committee of the Western Australian Planning Commission at which it considers the Kardinya Activity Centre Plan, to ensure that the City and community’s position is communicated effectively.**

At 7:56pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

**P21/3903 – KARDINYA ACTIVITY CENTRE PLAN – RECOMMENDATION TO WESTERN AUSTRALIAN PLANNING COMMISSION (REC) (ATTACHMENTS)****Substantive Motion as Amended****COUNCIL RESOLUTION**

At 7:50pm Cr Macphail moved, seconded Cr Fitzgerald –

**That the Council:**

- 1. resolves to recommend to the West Australian Planning Commission that the proposed Kardinya District Centre Activity Centre Plan only be approved subject to modification to the Plan as outlined in Attachments 9, 10 and 11 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. directs the Chief Executive Officer to advise the West Australian Planning Commission in writing of its decision.**
- 3. directs the Chief Executive Officer to organise for one or more City of Melville planning officers to request to make a deputation to the meeting of the Statutory Planning Committee of the Western Australian Planning Commission at which it considers the Kardinya Activity Centre Plan, to ensure that the City and community's position is communicated effectively.**

At 7:57pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

At 7:58pm Cr Macphail left the meeting and returned at 8:00pm

**P21/3905 REVIEW OF LOCAL PLANNING POLICY 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)**

Ward : All  
 Category : Policy  
 Application Number : Not applicable  
 Property : Not applicable  
 Proposal : Review of Local Planning Policy 1.17 Additional Development Exemptions  
 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 : P16/3702 - Proposed Council Policy – CP-098 Additional Development Exemptions – 19 April 2016 Ordinary Meeting of Council.  
 P16/3727 – Proposed update to Council Policy – CP098 Additional Development Exemptions – 15 November 2016 Ordinary Meeting of Council.  
 P16/3718 - Review of Planning Policies – 20 September 2016 Ordinary Meeting of Council.  
 Responsible Officer : Peter Prendergast  
 Manager Statutory Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P21/3905 REVIEW OF LOCAL PLANNING POLICY 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- During 2020, the State Government initiated a number of changes to the planning and development framework
- These changes include modifications to the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations) which became operational on 15 February.
- As part of the changes to the Regulations the range of development which can proceed without development approval has been broadened to include small residential projects such as water tanks, shade sails, pergolas, flag poles and cubby houses as well as the installation of solar panels on commercial buildings. The development exemptions are only available if the proposal meets the criteria outlined in Table 2 of Clause 61, Schedule 2 of the Regulations.
- In light of these changes it is considered appropriate to amend Local Planning Policy 1.17 Additional Development Exemptions to ensure this policy does not repeat or duplicate the matters covered in the Regulations.
- It is proposed to retain the existing policy provisions with regard to patios and outbuildings, with minor changes to the wording to improve the clarity of these clauses and remove all other exemptions. It is also proposed to retain the current exemptions for demolition.
- Changes to State Planning Policy 7.3 Residential Design Codes 'Volume 1' will be operational in July 2021. This policy will be required to be modified again or alternatively revoked at that time, however this will be the subject of a separate report to Council, closer to that time.
- These changes are considered to be minor in nature and as such it is recommended that if endorsed by the Council, they are adopted without advertising as permitted by the Regulations. A notice to advise of the changes to the Local Planning Policy will be published in the local newspaper and on the City's website.

**BACKGROUND**

The Regulations were gazetted in August 2015 and came into effect on 19 October 2015. Clause 61 of Schedule 2 of the Regulations, details the types of works and land uses which are exempt from development approval.

In relation to residential works development approval is not required for:

- The erection or extension of a single house;
- The erection or extension of an ancillary dwelling, outbuilding, external fixture, boundary wall or fence, patio, pergola, veranda, garage, carport or swimming pool on the same lot as a single house or a grouped dwelling;
- The demolition of a single house and associated structures; and
- Other works as described in a local planning policy

Local Planning Policy 1.17 Additional Development Exemptions was adopted by Council in April 2016 to augment to provisions of Clause 61 and to remove the need for development approval for a range of minor projects.

**P21/3905 REVIEW OF LOCAL PLANNING POLICY 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)**

During 2020 and in response to the state of emergency brought about by COVID-19, the State Government initiated a range of planning reform measures aimed at stimulating the economy by making it easier for people to make minor changes to their homes or businesses. One of these reform measures involves making changes to the Regulations to broaden the range of development proposals which are exempt from development approval subject to meeting certain criteria. Other changes to the regulations include revised consultation processes for complex development applications, prioritising online publication of planning documents and making it easier to set up businesses. On 15 February 2021, the revised Regulations became operational.

The updated list of development exemptions in the Regulations covers demolition, cubby houses, flag poles, swimming pools, water tanks and shade structures. The Regulations allow local government to adopt a Local Planning Policy to provide further development exemptions.

**Scheme Provisions**

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

**Site Details**

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

**DETAIL**

In essence the changes that are proposed to the exemptions provided by the Regulations align strongly with the exemptions that are provided by the City already by virtue of LPP 1.17. The introduction of the changes to the regulations means that it is no longer necessary for the City to maintain all of the development exemptions provided by LPP 1.17. As such it is proposed to delete the development exemptions relating to shade sails, pergolas, flag poles, cubby houses, letterboxes, and swimming pools as these are now covered by the changes to the Regulations.

Given the above, it is also proposed to make changes to the policy objective and policy scope to reflect the more restrained nature of the updated policy which refers only to patios and outbuildings.

It is proposed to retain the exemptions for patios and outbuildings as the development requirements are not clearly covered by the changes to the Regulations or the existing provisions of State Planning Policy 7.3 Residential Design Codes 'Volume 1' (the R-Codes) however minor changes are proposed in order to improve the clarity of these clauses.

**P21/3905 REVIEW OF LOCAL PLANNING POLICY 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)**

It is also proposed to retain the existing development exemption for demolition. This allows for demolition of any building type as long as it is not impacted by heritage considerations. It is considered burdensome to require a Development Application for demolition as the amenity and safety considerations associated with this work are adequately covered by the Demolition Permit issued by the City's Building Services.

These minor changes are described below.

Outbuildings clause

The deemed to comply provisions of the R-Codes set out particular criteria in terms of the height, size and setback of outbuildings. Under the current version of the R-Codes outbuildings shall be setback a minimum of 1 metre from the boundary as per Table 2. The exemptions clause allows outbuildings to be located with a nil setback to the boundary on the basis that this results in an improved use of space on site. The additional wording clarifies that the length of boundary wall must comply with the relevant provisions of LPP3.1 'Residential Development' (LPP3.1) however the outbuilding height must still be 2.4 metres as per the deemed to comply provisions in order to meet this exemption.

Patios

The deemed to comply provisions of the R-Codes indicate that the supporting posts of patios should be setback at least a metre from the side boundary. The exemptions policy acknowledges that the supporting posts of patios have a very minimal bulk impact given that they are slimline structures without a solid wall in between. It is therefore appropriate that patios of a modest size are located within a metre of the boundary as long as the total length of the patio and other boundary wall on site does not exceed the deemed to comply provisions in LPP 3.1.

The proposed changes to the exemptions policy include:

- Changing the format from bullet points to numbers;
- Clarifying that roof, gutters and eave can also be within 1 metre of the boundary; and
- Clarifying the expectation for patios more than 1 metre from the boundary.

These changes are considered to make this policy clearer resulting in a more consistent interpretation by customers and decision makers. It is noted that most patios which are exempt from the need for development approval are likely to require a building permit. The relevant building legislation sets out minimum boundary setbacks and owners and applicants will need to keep these in mind when designing a patio structure.

Changes to the R-Codes will be gazetted on 2 July 2021. These changes will include revised assessment criteria for patios and outbuildings. Once the amended R-Codes are in place it is likely that LPP 1.17 will need to be reviewed again. This will occur via a separate report to Council close to the gazettal date. A number of other local planning policies are also likely to need revision to respond to the R-Codes changes. These amendments to the City's Local Planning Policy framework will be initiated as and when required.

**P21/3905 REVIEW OF LOCAL PLANNING POLICY 1.17 ADDITIONAL DEVELOPMENT  
EXEMPTIONS (REC) (ATTACHMENT)****STAKEHOLDER ENGAGEMENT**

Advertising Required:	N/A
Neighbour's Comment Supplied:	N/A
Reason:	N/A
Support/Object:	N/A

**I. COMMUNITY**

The *Regulations* came into effect on 19 October 2015. Clause 5 of Schedule 2 of the Regulations contains requirements for amending a local planning policy. In accordance with subclause 5(2) the local government may amend a local planning policy without advertising if in the opinion of the local government the proposed changes are minor in nature. In this instance the changes to the policy are of an administrative nature to reflect the current statutory planning framework and advertising of the amended policy is not required.

A notice of the revised policy will be published in the local newspaper and on the City's website if it is adopted by Council.

**II. OTHER AGENCIES / CONSULTANTS**

Clause 4(4) of Schedule 2 of the Regulations requires that Council advise the Western Australian Planning Commission (WAPC) if it is of the opinion that it is inconsistent with any State Planning Policy.

The proposed changes bring LPP 1.17 into line with the recent changes made to the Regulations. The changes to the Regulations were advertised to various stakeholders for comment in 2020 by the Department of Planning, Lands and Heritage.

Given the above, the WAPC is not required to be consulted.

**STATUTORY AND LEGAL IMPLICATIONS**

No statutory or legal implication have been identified as a part of this review.

**FINANCIAL IMPLICATIONS**

There are no financial implications identified in relation to this policy change.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**P21/3905 REVIEW OF LOCAL PLANNING POLICY 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)****POLICY IMPLICATIONS**

The local planning policy the subject of this report has been reviewed to ensure it remains consistent with the current planning framework and will continue provide a sound basis for the assessment and determination of planning applications.

**COMMENT**

The Planning and Development (Local Planning Scheme) Regulations 2015 were recently updated by the State Government to deliver on the promises made in the Action Plan for Planning Reform released in August 2019 and to aid in economic recovery from the COVID - 19 pandemic and associated state of emergency. The amended Regulations increase the range of development types which may proceed without development approval to include flag poles, cubby houses, water tanks and the installation of solar panels on commercial buildings. Given these changes, the majority of the exemptions in LPP 1.17 Additional Development Exemptions are no longer required and proposed to be deleted.

It is proposed to retain development exemptions for outbuildings and patios as these are not adequately covered by the existing R-Codes. It is also proposed to maintain the existing exemption for demolitions.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Council may choose not to amend the policy however this is not recommended as it may lead to inconsistency between the Regulations and the City's Local Planning frameworks. The regulations are considered to be a higher order legal instrument than the local planning policy and as such would take precedence..

**CONCLUSION**

It is proposed to change LPP 1.17 Additional Development Exemptions without advertising as these are minor changes consistent with the recent changes to the Planning and Development (Local Planning Scheme) Regulations 2015.

The adopted changes would be advertised in the local newspaper and on the City's website following the Council decision as required by the Regulations.

**P21/3905 REVIEW OF LOCAL PLANNING POLICY 1.17 ADDITIONAL DEVELOPMENT EXEMPTIONS (REC) (ATTACHMENT)****OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3905)                      APPROVAL**

At 7:58pm Cr Barton moved, seconded Cr Robartson -

**That the Council**

- 1.    pursuant to clause 4, schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 adopts the changes to Local Planning Policy LPP1.17 Additional Development Exemptions as detailed below in the attachment.**
  
- 2.    endorses the publication of a notification of the changes in the local newspaper and on the City's website as required by the Planning and Development (Local Planning Schemes) Regulations 2015.**

At 8:00pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

**ATTACHMENT**

**[3905 LPP 1.17 Additional Development Exemptions With Tracked Changes](#)**

*At 8:00pm Mr Prendergast left the meeting and returned at 8:02pm.*

**T21/3904 REQUEST TO REMOVE STREET TREE AT 23A ST MICHAEL TERRACE  
MOUNT PLEASANT (REC) (ATTACHMENT)**

Ward : Applecross - Mt Pleasant  
 Category : Operational  
 Subject Index : Street Trees  
 Customer Index : Resident at 23A St Michaels Terrace, Mount Pleasant  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Not Applicable  
 Works Programme : Not Applicable  
 Funding : Not Applicable  
 Responsible Officer : Jeff Bird  
 Manager Natural Areas and Parks

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**T21/3904 REQUEST TO REMOVE STREET TREE AT 23A ST MICHAEL TERRACE,  
MOUNT PLEASANT (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Request for removal of the street tree on the verge of 23A St Michael Terrace, Mount Pleasant.
- The tree is commonly known as the Queensland Box Tree.
- Officers assessed the tree and recommended it be retained, responding to the resident on 12 October 2020.
- Resident asked for review of this decision through the Mayor, Ward Councillors and Director Technical Services.
- The Mayor and Ward Councillors agreed for the tree in question to be brought before Council for a decision on retention or removal.
- This information is now being presented to full Council for a decision in accordance with CP-029 Tree Policy.
- The Officer's recommendation is to refuse the request for the removal of the Queensland Box verge tree at 23A St Michael Terrace, Mount Pleasant.

**BACKGROUND**

This report presents the background information as to why the resident requests the tree to be removed, maintenance history, community feedback on the request and information provided by an independent Arboriculture Consultant on the condition of the tree. Photos of the tree located adjacent to 23A St Michael Terrace, Mount Pleasant are attached below.

[3904 – Photo 1 of Tree](#)

[3904 – Photo 2 of Tree](#)

[3904 – Photo 3 of Tree](#)

**DETAIL**

The resident of 23A St Michael Terrace has requested that one of the three City trees on the verge be removed. The tree in question is a mature *Lophostemon confertus* (Queensland Box) tree. There are two other verge trees, one is a Melaleuca and the other is a Jacaranda.

The Queensland Box Tree is semi mature and in good health with a fair coverage of healthy canopy. It is at a height of 11 meters and has a canopy spread of nine metres. The tree has an anticipated useful life expectancy of 20-50 years with an amenity dollar value of \$6,511.05. The amenity dollar value has been determined by City Officers utilising the City of Melville Tree Evaluation Method.

This request has been a result of the resident's belief that the root system of the tree is damaging the limestone boundary wall and has concerns with tree debris and inhibiting progress to undertake front yard renovations such as a new concrete pool, new retaining wall, paving and lawn.

**T21/3904 REQUEST TO REMOVE STREET TREE AT 23A ST MICHAEL TERRACE  
MOUNT PLEASANT (REC) (ATTACHMENT)**

Originally, the resident requested that the Melaleuca and the Queensland Box trees be removed. Once it was explained to the resident that if Council agreed to the removal request, the applicant is responsible for all removal and replacement costs. Once this was understood, the resident chose only to request the removal of the Queensland Box tree.

The City has received seven maintenance requests since December 2011 for the Queensland Box Tree and the Jacaranda. According to the City's records, the requests have been attributed to the three points below:

- Debris;
- Damage to private property; and
- Encroachment to private property inhibiting renovations.

On each request, the City has inspected and conducted appropriate property line canopy reduction and under pruning of the tree.

City Officers have inspected the Queensland Box Tree on a number of occasions and are of the opinion that the tree is at a sufficient distance away from the wall for it not to be causing damage. The distance of the trunk's base to the wall measures 300mm, natural growth of the trunk at the base is unlikely to increase 300mm over the course of its useful life expectancy of approximately 40-50 more years. Photos of the distance between the tree and the wall are attached below.

[3904 - Photo 1 of Wall](#)

[3904 - Photo 2 of Wall](#)

Recently, City Officers inspected the roots at the base of the trees adjacent to the limestone wall where a gap in the wall was identified. A trench was dug along the wall down to the footing. All roots identified were minor feeder roots not structural roots and were cut at the time of inspection. There was also a pool and /or irrigation pipe that has been inserted in the gap of the wall from the private property. Photos of the gap and the crack in the wall are attached below.

[3904 - Photo 1 of Gap](#)

[3904 - Photo 2 of Roots](#)

[3904 - Photo 3 of Roots](#)

In addition to the City Officer's assessment, an independent arboriculture consultant (Paperbark Technologies) was engaged to assess the tree. A summary of their assessment is outlined below.

*"The tree at 23A St Michael Terrace is an early mature Lophostemon confertus (Queensland Box) and is at a height of 11.7 meters and has a canopy spread of up to approximately 7.0 metres and trunk diameter of 60 centimetres measured at the base. The tree was found to be in good health and fair structural condition with a suitable cover of healthy foliage with no evidence of insect infestation visible at this time. A visual amenity valuation took place using the Helliwell System, which is used by this consultant to assess the amenity value of a tree; in this case the tree was valued at \$4,267.80."*

**T21/3904 REQUEST TO REMOVE STREET TREE AT 23A ST MICHAEL TERRACE  
MOUNT PLEASANT (REC) (ATTACHMENT)**

It is acknowledged that there are three verge trees adjacent to the applicant's property. The Melaleuca tree is not a large species and is not a species that the City would normally plant on a verge of this size as these trees remain relatively small, limiting its ability to spread. The Melaleuca has limited spread and therefore only contributes marginally to the streetscape. The Jacaranda is the larger verge tree of the three, however it has been heavily pruned in the past using the pollarding technique, which has compromised the natural form and habit of the tree through the establishment of predominantly leader branches growing from the pruned sites. This may impact on the longer term integrity and longevity of the tree, particularly once the Queensland Box was removed and the Jacaranda is allowed to extend into the vacant space. In addition the City's records indicate the Jacaranda is reaching the end of its useful life and replacement would be required within the next 10 years, noting that other Jacaranda verge trees along the street are showing signs of declining health due to their age.

The consulting arborist states in the report that the Queensland Box tree displays evidence of periodic pruning and limited canopy extension over the adjacent property. The stem including bark was found to be sound at this time and there was no evidence of previous significant limb failure from the tree. The base of the tree is located approximately 5.5m from the roadway and 0.3m from the low limestone boundary wall and fence of the adjacent property. No damage to the boundary wall was evident at this time. A copy of the Arboriculture Advice is attached. [3904 - Arboriculture Advice](#)

**Lophostemon confertus (Queensland Box) Trees**

Within the City, there are approximately 2,760 *Lophostemon confertus* (Queensland Box) trees located on verges. These trees were regularly planted by local governments in the past across Perth as well as Sydney and Melbourne. The trees are considered useful as a street tree due to its disease and pest resilience, its high tolerance to air pollution, drought and the fact that it needs only moderate-to-light upkeep. The tree is considered one of the hardiest and most successful street trees utilised for verge plantings by local governments.

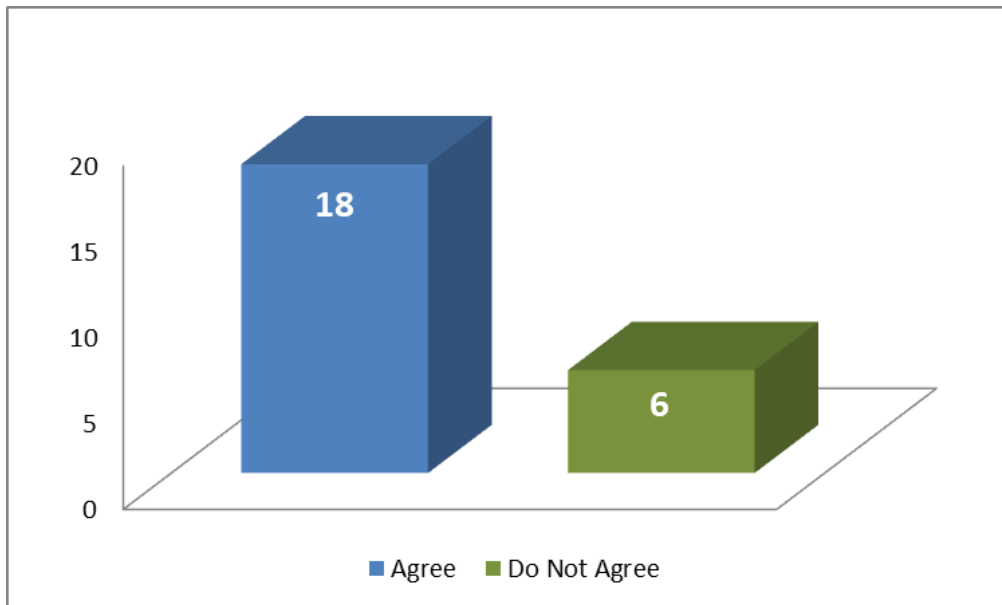
Unfortunately the trees do drop a fair amount of debris, mainly the nuts, which are considered a nuisance by many in the community, noting that all trees drop foliage and other materials during their life. Many local governments have gone away from planting these trees as a result of the complaints received. There is again discussion about the many benefits of the Queensland Box trees, in particular its resilience in a tough growing environment such as a streetscape, and in its ability to adapt to a drying climate. The City does not plant new Queensland Box trees in its verges at this point in time, but will monitor industry best practice and consider the feasibility of planting these trees in future.

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

The consultation process involved writing to residents in the local area, who may be impacted by the decision to remove the tree, and sought feedback on their preference to remove or retain the tree. Residents were advised that their feedback would be included in the report and used to assist in the decision making process.

A copy of the survey form is attached for information. [3904 – Survey Form](#)

**T21/3904 REQUEST TO REMOVE STREET TREE AT 23A ST MICHAEL TERRACE  
MOUNT PLEASANT (REC) (ATTACHMENT)**



As can be seen in the above graph, of the 70 properties surveyed 24 residents provided feedback for 23A St Michael Terrace, Mount Pleasant. The outcome of the survey indicates favoritism towards the removal of the tree for those that provided feedback. Note that the feedback information and comments from residents does not include the preference from the residents at 23A St Michael Terrace, as they obviously support the removal of the tree. [3904 – Residential Feedback Summary](#)

**II. OTHER AGENCIES / CONSULTANTS**

Arboriculture Consultant, Paperbark Technologies conducted a site visit to inspect the tree at 23A St Michael Terrace, Mount Pleasant on 11 January 2021 and provided the above attached report.

**STATUTORY AND LEGAL IMPLICATIONS**

No legal or statutory advice has been sought on this item.

**FINANCIAL IMPLICATIONS**

Tree Removal and Replacement

The cost to procure the independent Arboriculture Report was approximately \$350.

If the decision to remove the tree is approved by the Council, all costs associated with the removal and replacement is to be paid for by the person seeking the removal (applicant) as if the tree was authorised for removal under Clause 6.4 of Tree Policy CP-029 which is outlined below.

**T21/3904 REQUEST TO REMOVE STREET TREE AT 23A ST MICHAEL TERRACE  
MOUNT PLEASANT (REC) (ATTACHMENT)**

In the event a tree is authorised for removal as part of a development application, (including planning, building, demolition and crossover application), the following will occur:

- The applicant will approach the City to formally request the approved trees removal process to commence.
- The applicant will pay the invoice provided by the City for:
  - Tree removal.
  - Stump grinding to min 300mm below ground level.
  - Traffic management cost as required.
  - Two replacement trees.
  - Establishment of replacement trees for 3 years.
- Upon receipt of this payment the City will arrange:
  - Tree removal and stump grinding within approximately 10 weeks
  - Tree replacement during the next planting season after development works have been completed.
- A minimum of one street tree shall be replaced on the verge adjacent to the development, where sufficient space.
- Where sufficient space additional trees may be placed on the verge at the City's discretion.

The City would manage the removal and replacement process utilising the City's tree pruning contract, CO20/17 Supply of Tree Pruning Services. The contracted rates have been market tested and are very competitive.

The removal cost for the tree is \$410 which includes stump grinding. As per the Policy two trees would need to be purchased as replacements for the tree removed. Each tree will cost \$440 for a total of \$880. A total of \$1,290 would be invoiced to the applicant.

#### Tree Retention

If the decision by Council is to retain the trees they would be managed within on-going operational budgets, the required works generally includes:

- Pruning – formative, remedial (due to damage), asset/boundary clearance.
- Health treatments – fertiliser, microbes, pesticide applications as required.
- Removal at end of useful life (ULE), including stump grinding and replacement.

**T21/3904 REQUEST TO REMOVE STREET TREE AT 23A ST MICHAEL TERRACE  
MOUNT PLEASANT (REC) (ATTACHMENT)**

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

<b>Risk Statement &amp; Consequence</b>	<b>Level of Risk</b>	<b>Risk Treatment</b>
<p>A Council decision to remove healthy trees will result in community opposition and reputational damage. This may set a future precedent requesting the removal of healthy trees.</p> <p>Inconsistent with other Council City's policies and strategies to protect and enhance the City's green spaces.</p>	<p>Minor consequences which are possible, resulting in a <b>Medium</b> level of risk</p>	<p>During the decision making process ensure Council is aware and consider the following endorsed Council Policies and Strategy documents.</p> <p>Environmental Policy CP- 030</p> <p>Urban Forest and Green Space Policy CP-102</p> <p>CP- 029 Tree Policy Urban Forest Strategic Plan – Part A</p>

**POLICY IMPLICATIONS**

Environmental Policy CP-030 – Policy Statement - The City aims to prevent, manage and minimise environmental impacts associated with its activities, while conserving and enhancing the City of Melville's biodiversity and environmental quality, thereby maintaining and creating healthy surroundings for the community.

Tree Policy CP-029 – Policy Statement - 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.

Urban Forest and Green Space Policy CP-102 – Policy Statement:

1. To protect, preserve and enhance the aesthetic character of the City of Melville.
2. To realise the social, environmental and economic benefits of trees and other vegetation as an integral element of the urban environment.
3. To contribute to community wellbeing by integrating and aligning the efficient provision of physical, social and green infrastructure and management of natural areas to achieve community wellbeing today and tomorrow.
4. To encourage a sense of shared responsibility and balance individual and community rights to equitably distribute the costs and the benefits of a greener City.
5. To ensure that the urban forest and green spaces that are integral to the City's sense of place are not compromised in areas of increased residential density.

**T21/3904 REQUEST TO REMOVE STREET TREE AT 23A ST MICHAEL TERRACE  
MOUNT PLEASANT (REC) (ATTACHMENT)****ALTERNATE OPTIONS AND THEIR IMPLICATIONS**Approve the removal of the tree

Approve the removal and replacement of the tree, all costs associated with this process is the responsibility of the applicants seeking removal.

Replace with transplanted mature tree

Remove tree and replace with mature tree that will reduce the impact of the loss of the existing mature trees, funded by the applicant seeking removal. Costs would include the tree, installation, including crane and traffic management as required, watering and management of the tree to warranty requirements for 24 months after planting. A mature tree can range from \$5,000 to \$15,000 dependent on the height and species of tree.

**CONCLUSION**

Green space and trees figure prominently in the City of Melville's Strategic Community Plan People Places Participation 2016 – 2026. Our community vision for the future is described as:

*"A safe City with green, leafy streets, suburbs and open spaces where people enjoy high levels of health and wellbeing, participate in local events and activities; have access to community services and local business opportunities are encouraged."*

Specific aspirations in the Community Plan are impacted by the benefits of trees as detailed in the below points:

- Clean and Green - We want our pathways, well-shaded for when temperatures soar and a place where people are encouraged to be physically and mentally healthy in an attractive outdoor environment.
- Sustainable and Connected Transport - We need to use alternative forms of transport, including public transport, walking or cycling to get where we need to go.
- Healthy Lifestyle - Opportunities for a healthy lifestyle both indoors and out and about in local parks and suburbs walking, running, cycling and exercising individually or in groups.

Concern has been raised by the resident that the tree and or its root system is damaging the wall, the City does not believe this is the case. The Queensland Box Tree is at a sufficient distance away from the wall that it would be unlikely to cause structural damage in the medium to long term. The root system was also inspected and a number of smaller roots were removed to further ensure the tree will not damage the wall.

It must be noted that when viewing the wall, one can clearly see that pipes have been placed through the wall and that this section of the wall that appears to be compromised. The remainder of the wall appears to be in good condition.

**T21/3904 REQUEST TO REMOVE STREET TREE AT 23A ST MICHAEL TERRACE  
MOUNT PLEASANT (REC) (ATTACHMENT)**

Debris is common with all trees and is a natural characteristic which does impact on the community. Removing healthy mature trees may solve short term issues, such as debris drop, however the multiple benefits that tree has provided, (e.g. shade, amenity, heat reduction, habitat, oxygen generation, contribution to visual streetscape), will take many years to replace. It may solve today's problem, however consideration also needs to be given to the benefits the tree will provide for future generations and its contribution toward adapting to the impacts of climate change.

There are a number of risks in removing healthy trees, particularly along street verges where multiple functions essential for living are required to be undertaken and located, (path, crossovers, and utilities such as power, water, gas and communications). Verges are one of the key locations outside of parks and bushlands where the City can not only protect but add to the urban forest.

A major risk in removing healthy trees is that it sets an undesirable precedent and may generate concerns in the wider community regarding the City's genuine direction toward the environment, sustainability and potentially lead to an increase in similar requests further challenging the number of strategic documents and Council endorsed policies relating to protecting and enhancing the City's urban forest.

Notwithstanding this, it is acknowledged that the majority of residents that provided feedback from the request letter support the removal of the tree.

The officers recommendation is for the *Lophostemon confertus* (Queensland Box) verge tree at 23A St Michael Terrace, Mount Pleasant be retained.

**OFFICER RECOMMENDATION (3904)****APPROVAL****That the Council:**

- 1. does not support the request to remove and replace the *Lophostemon confertus* (Queensland Box) verge street tree at 23A St Michael Terrace, Mount Pleasant.**
- 2. directs the Chief Executive Officer to advise the applicant seeking removal of the tree of this decision.**

**T21/3904 REQUEST TO REMOVE STREET TREE AT 23A ST MICHAEL TERRACE  
MOUNT PLEASANT (REC) (ATTACHMENT)**

**Reject and Replace**

At 8:00pm Cr Pazolli moved, seconded Cr Sandford –

**That the Council:**

1. **supports the request to remove and replace the *Lophostemon confertus* (Queensland Box) verge street tree at 23A St Michael Terrace, Mount Pleasant.**
2. **directs the Chief Executive Officer to advise the applicant seeking removal of the tree of this decision.**

At 8:15pm the Mayor declared the motion

**LOST (5/6)**

<b>Yes</b>	5	Cr Barber, Cr Mair, Cr Sandford, Cr Pazolli, Mayor Gear
<b>No</b>	6	Cr Robartson, Cr Barton, Cr Wheatland, Cr Robins, Cr Fitzgerald, Cr Macphail

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3904)**

**APPROVAL**

At 8:15pm Robins moved, seconded Cr Wheatland –

**That the Council:**

1. **does not support the request to remove and replace the *Lophostemon confertus* (Queensland Box) verge street tree at 23A St Michael Terrace, Mount Pleasant.**
2. **directs the Chief Executive Officer to advise the applicant seeking removal of the tree of this decision.**

At 8:16pm the Mayor declared the motion

**CARRIED (8/3)**

<b>Yes</b>	8	Cr Robartson, Cr Macphail, Cr Barton, Cr Wheatland, Cr Mair, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	3	Cr Barber, Cr Sandford, Cr Pazolli

**M21/5803 – REVIEW OF COUNCIL POLICY CP-018 TERMS OF OFFICE (REC)  
(ATTACHMENT)**

Ward : All  
 Category : Policy  
 Subject Index : Corporate Policy  
 Customer Index : City of Melville  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : M19/5664 Management Services Policy Review (February 2019 Ordinary Meeting of Council)  
 M20/5797 – Late Item Governance Committee Representation and Presiding Member (December 2020 Ordinary Meeting of Council)  
 Works Programme : Not Applicable  
 Funding : Not Applicable  
 Responsible Officer : Corrine Newman  
 Governance Coordinator

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**M21/5803 – REVIEW OF COUNCIL POLICY CP-018 TERMS OF OFFICE (REC)  
(ATTACHMENT)****KEY ISSUES / SUMMARY**

- Council Policy CP-018 Terms of Office is due for review. This policy has been in place for a significant number of years and seeks to provide more opportunities for Elected Members to perform the role of Deputy Mayor by rotation and by voluntary resignation after twelve months of occupying the position.
- The *Local Government Act 1995* deals with the position of Deputy Mayor, including appointment, role, allowances and resignation.
- This report recommends the Policy be revoked and the Deputy Mayor determine their term in the role in accordance with the provisions of the Act and their personal circumstances.

**BACKGROUND**

At the Ordinary Meeting of Council held 8 and 9 December 2020, the Council considered the membership of the City's Governance Committee, and resolved as follows:

*"That the Council:*

- 1 Resolve by absolute majority decision that Cr Pazolli remain as a member on the Governance Committee;*
- 2 Notes that the practice of the Deputy Mayor holding the position for a period of 12 month period only in accordance with Council Policy CP-018 "Terms of Office" will be reviewed in February 2021 with any changes to be implemented following the October 2021 councillor elections."*

This policy was previously reviewed at the Ordinary Meeting of Council held 15 February 2019. [5803 CP-018 – Terms of Office](#)

**DETAIL**

Council Policy CP-018 Terms of Office appears to have been in place for in excess of 20 years and was last reviewed in February 2019. The objective of the Policy is to increase the number of opportunities for Elected Members to perform the role of Deputy Mayor, with the intention that the Deputy Mayor resign from the position after twelve months to enable another election for the position to be undertaken.

The position of Deputy Mayor is referred to in the Local Government Act 1995, which requires:

- Section 2.9 – that the deputy mayor performs the functions of the Mayor when authorised to do so under section 5.34 (if the office of Mayor is vacant, and when the Mayor is not available to, or unable or unwilling to perform the functions of Mayor).
- Section 2.15 – that the Deputy Mayor is elected by the Council, by secret ballot.

**M21/5803 – REVIEW OF COUNCIL POLICY CP-018 TERMS OF OFFICE (REC)  
(ATTACHMENT)**

- Section 2.17 – that if the method of filling the office of Mayor is election by electors, the Council is to consist of not less than 5 and not more than 14 councillors, one of whom is to hold the office of deputy mayor in conjunction with his or her office as a councillor.
- Section 2.29(2) –that a person elected by the council as Deputy Mayor is to make a declaration in the prescribed form before acting in the office.
- Section 2.28, item 12 – the term of office for a Deputy Mayor is from the time they are elected until the start of the next meeting after the next ordinary election.
- Section 2.31 – provides for a councillor to resign from the office of Deputy Mayor (and still remain a councillor).

*The Local Government Act 1995* provides for the position of Deputy Mayor be filled at the first meeting after an ordinary local government election, which means that an Elected Member will hold the position of Deputy Mayor for two years from one ordinary election until the next ordinary election. Ordinary local government elections are held on the third Saturday in October biennially.

Additionally, the Deputy Mayor may preside at meetings of the Council or electors meeting if the office of Mayor is vacant or if the Mayor is unable or unwilling to preside at such meetings and the Council may resolve to pay the deputy may an additional allowance as determined annually by the Salaries and Allowances Tribunal.

In recent times, the application of Council Policy CP-018 Terms of Office has caused confusion in that the Deputy Mayor also holds an ex-officio position on the Governance Committee. In October 2020, the then Deputy Mayor, Councillor Pazolli, resigned from the position of Deputy Mayor in accordance with the intent of Council Policy CP-018. This had the unintended effect of also removing Cr Pazolli from his position as Chairperson of the Governance Committee. This matter then took significant time and effort to resolve.

The policy requests “voluntary” resignation from the office of deputy mayor after 12 months, however it does not prevent the incumbent from renominating for the position and it cannot over-ride the provisions of the *Local Government Act 1995*.

The *Local Government Act 1995* specifically addresses the position of Deputy Mayor, how the office is elected, the role of the position, the term and the process for resigning from the position and does not prevent an Elected Member from resigning from the office of Deputy Mayor, whilst retaining the position of Councillor.

The current review structure of the policy does not provide an opportunity for the incoming new Council to confirm that the policy reflects the position of the Council of the day.

It is recommended, that to avoid further confusion, that the policy be revoked and each individual Elected Member elected to the office of Deputy Mayor determine if and when they wish to voluntarily resign from the office of Deputy Mayor, in accordance with the provisions of the *Local Government Act 1995*, and based on their individual circumstances.

**M21/5803 – REVIEW OF COUNCIL POLICY CP-018 TERMS OF OFFICE (REC)  
(ATTACHMENT)****STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

The election of the Deputy Mayor is a matter for the Council to undertake and therefore no community input has been sought on this policy review.

**II. OTHER AGENCIES / CONSULTANTS**

No consultation with external agencies or consultants has been sought in relation to this report.

**STATUTORY AND LEGAL IMPLICATIONS**

The *Local Government Act 1995* makes reference to the position of Deputy Mayor, as outlined in this report.

**FINANCIAL IMPLICATIONS**

Council Policy CP-091 Elected Members Allowances and Expenses, as adopted by the Council at the 21 and 22 July Ordinary Meeting of Council provides for the Deputy Mayor to be paid an allowance of 25% of the Mayoral Annual Allowance, as determined by the Salaries and Wages Tribunal and adopted by the Council.

All Elected Member allowances and expenses, including the Allowance paid to the Deputy Mayor are provided for in the annual budget process.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

This report is the review of a current policy of the Council, the subject of this policy is dealt with under the *Local Government Act 1995*.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The Council could resolve not to revoke Council Policy CP-018 – Terms of Office and their would be limited change to current practices.

**M21/5803 – REVIEW OF COUNCIL POLICY CP-018 TERMS OF OFFICE (REC)  
(ATTACHMENT)**

**CONCLUSION**

As outlined in this Report the position of Deputy Mayor is comprehensively and clearly provided for in the Local Government Act 1995. The intent of the policy whilst worthwhile is not always practical when considering the personal circumstances and commitments of the each individual Elected Member and it is recommended the policy be revoked.

**OFFICER RECOMMENDATION (5803)**

**APPROVAL**

**That the Council revoke Council Policy CP-018 – Terms of Office.  
5803 CP-018 – Terms of Office**

**Procedural Motion**

At 8:17pm Cr Sandford moved, seconded Cr Pazolli -

**That the Item M21/5803 – Review of Council Policy CP-018 Terms of Office be deferred.**

At 8:17pm the Mayor declared the motion

**LOST (4/7)**

<b>Yes</b>	<b>4</b>	Cr Mair, Cr Sandford, Cr Pazolli, Mayor Gear
<b>No</b>	<b>7</b>	Cr Robartson, Cr Barber, Cr Barton, Cr Wheatland, Cr Robins, Cr Fitzgerald, Cr Macphail

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5803)**

**APPROVAL**

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

**That the Council revoke Council Policy CP-018 – Terms of Office.  
5803 CP-018 – Terms of Office**

At 8:28pm the Mayor declared the motion

**CARRIED (7/4)**

<b>Yes</b>	<b>7</b>	Cr Robartson, Cr Barton, Cr Wheatland, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	<b>4</b>	Cr Barber, Cr Mair, Cr Sandford, Cr Macphail

**M21/5810 – NEW AND AMENDED REGULATIONS – LOCAL GOVERNMENT (MODEL CODE OF CONDUCT) REGULATIONS 2021, LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021 (AMREC) (ATTACHMENT)**

Ward : All  
 Category : Policy  
 Subject Index : Legislation  
 Customer Index : City of Melville  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Not Applicable  
 Works Programme : Not Applicable  
 Funding : Not Applicable  
 Responsible Officer : Corrine Newman  
 Governance Coordinator

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**M21/5810 – NEW AND AMENDED REGULATIONS – LOCAL GOVERNMENT (MODEL CODE OF CONDUCT) REGULATIONS 2021, LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021 (AMREC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- To advise the Council of the gazettal and introduction of:
  - Local Government (Model Code of Conduct) Regulations 2021;
  - Local Government (Administration) Amendment Regulations 2021; and
  - Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021.
- For the Council to direct the Chief Executive Officer to commence the processes to implement:
  - A Model Code of Conduct for Elected Members, including the associated complaint handling policy and procedure;
  - Standards for the Recruitment, Selection, Performance Review and Termination of Chief Executive Officers;
- For the Council to adopt a form for Complaints about an Alleged Breach.
- For the Council to delegate authority to the Chief Executive Officer to appoint officers to deal with receiving and withdrawing (not determining) complaints associated with the new model Code of Conduct for Elected Members.

**BACKGROUND**

In June 2019 the Local Government Legislation Amendment Act was passed by Parliament, which introduced a range of new legislative requirements for local governments, with the first phase of reforms coming into operation during 2020.

On 2 February 2021 the following new legislation (collectively known as the New Regulations):

- Local Government (Model Code of Conduct) Regulations 2021;
- Local Government (Administration) Amendment Regulations 2021; and
- Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021,

were gazetted and came into effect on 3 February 2021, with an implementation phase of up to three months, during which time the City will be required to undertake a series of actions to operationalise the new requirements.

Elected Members were advised of the introduction of the new legislation via the 5 February 2021 edition of the Elected Member Bulletin and the new legislation has been published to the website.

**M21/5810 – NEW AND AMENDED REGULATIONS – LOCAL GOVERNMENT (MODEL CODE OF CONDUCT) REGULATIONS 2021, LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021 (AMREC) (ATTACHMENT)****DETAIL****Local Government (Model Code of Conduct) Regulations 2021**

The *Local Government (Model Code of Conduct) Regulations 2021* (Model Code Regulations) brings into effect sections 48-51 of the Amendment Act by introducing a mandatory code of conduct for council members, committee members and candidates.

The Model Code Regulations provide for:

- overarching principles to guide behaviour
- behaviours which are managed by local governments
- rules of conduct breaches which are considered by the Standards Panel.

The purpose of the Model Code is to guide decisions, actions and behaviours. It also recognises that there is a need for a separate code for Elected Members, committee member and candidates to clearly reflect the community expectations of behaviour and to ensure consistency between local governments.

The City of Melville has had a separate Code of Conduct for Elected Members since 2014. The City will be required to prepare and adopt the Model Code of Conduct within three months of this legislation coming into effect (3 May 2021). In the interim the provisions of the Model Code of Conduct apply.

The new Model Code of Conduct provides for the City to manage complaints made in relation to the Code of Conduct. Complaints need to be lodged within one month of the alleged breach. To begin the implementation process the Council is required to:

- appoint a person to receive the lodgement and withdrawal of (not determine) complaints; and
- approve a form for complaints to be lodged.

The Department of Local Government, Sport and Cultural Industries has provided a template form for use by local governments [5810 Complaint About Alleged Breach Form](#). This form will apply until the Council adopts this form or a replacement thereof.

The Council will need to approve a policy and procedures for handling complaints before any complaints can be determined.

It should be noted that the Model Code of Conduct for Elected Members retains the provision for alleged breaches under Rules of Conduct (Division 4) to be referred to the Standards Panel.

**[5810 Local Government \(Model Code of Conduct\) Regulations 2021](#)**

**M21/5810 – NEW AND AMENDED REGULATIONS – LOCAL GOVERNMENT (MODEL CODE OF CONDUCT) REGULATIONS 2021, LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021 (AMREC) (ATTACHMENT)****Local Government (Administration) Amendment Regulations 2021 (CEO Standards Regulations)**

These Amendment Regulations bring into effect section 22 of the Amendment Act by introducing mandatory minimum standards that cover the:

- recruitment,
- selection,
- performance review and
- early termination of local government Chief Executive Officers.

Key features of these regulations include the requirement;

- to establish a selection panel comprised of council members and at least one independent person to conduct the recruitment and selection process for the position of CEO;
- to establish performance review process by agreement between the local government and the CEO; and
- to conduct a recruitment and selection process where incumbent CEO has held the position for a period of ten or more consecutive years on expiry of the CEO's contract.

Additionally, requirements for advertising of vacant CEO positions have been updated to align with amendments to state-wide public notice provisions.

The City is required to prepare and adopt the Model Standards within three months of these regulations coming into effect (by 3 May 2021).

**[5810 Local Government \(Administration\) Amendment Regulations 2021 CEO Standards](#)****Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021 (Employee Code Regulations)**

The Employee Code Regulations bring into effect section 25 of the Amendment Act by prescribing the minimum requirements for an employee code of conduct.

The CEO is to prepare and implement a code of conduct to be observed by employees of the local government. The Employee Code Regulations provides for the minimum requirements for:

- gifts,
- conflicts of interest, and
- disclosures

and it must contain requirements in relation to:

- behaviour,
- disclosure of information,
- use of information and resources,
- record keeping; and
- dealing with misconduct.

**M21/5810 – NEW AND AMENDED REGULATIONS – LOCAL GOVERNMENT (MODEL CODE OF CONDUCT) REGULATIONS 2021, LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021 (AMREC) (ATTACHMENT)**

The City is required to review and amend its code of conduct to meet the requirements of the Employee Code Regulations as soon as possible. This will be undertaken by the CEO as it is the CEO's responsibility to do so under the Act and Regulations.

**[5810 Local Government Regulations Amendment \(Employee Code of Conduct\) Regulations 2021](#)**

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

The Department of Local Government conducted extensive community consultation as part of the Review of the Local Government Act. This new legislation is an outcome of that review process.

**II. OTHER AGENCIES / CONSULTANTS**

The Department of Local Government conducted extensive consultation with local government sector and associated stakeholders as part of the Review of the Local Government Act. This new legislation is an outcome of that review process.

**STATUTORY AND LEGAL IMPLICATIONS**

There are significant statutory and legal implications associated with the new legislation. Further reports will be presented to the Council on each of the new components and these will address all implications in detail.

**FINANCIAL IMPLICATIONS**

The financial implications of the new legislation will be addressed in detail in future reports to the Council on each of the components of the new legislation.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

<b>Risk Statement &amp; Consequence</b>	<b>Level of Risk</b>	<b>Risk Treatment</b>
That the local government does not comply with the new legislation.	Moderate consequences which are likely, resulting in a <b>Medium</b> level of risk	Commence the relevant review process to ensure the City's policies and procedures reflect the intent of the new Legislation.

**M21/5810 – NEW AND AMENDED REGULATIONS – LOCAL GOVERNMENT (MODEL CODE OF CONDUCT) REGULATIONS 2021, LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021 (AMREC) (ATTACHMENT)****POLICY IMPLICATIONS**

The new legislation will require the review of existing policies and the development of new policies to support the implement of the new legislation. Each of these will be addressed in greater details in future reports to the Council.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

This report is to advise the Council of the gazettal and introduction of the new legislation and to commence the process to meet the implementation requirements of the Department of Local Government. The legislation has been gazetted and has come into effect and the only alternatives available to the City are to accept the Model Code of Conduct for elected members and complaint forms or develop it's own.

**CONCLUSION**

There is significant work to be undertaken to review existing and develop new policies and procedures to support the implementation of the new legislation. This report is to advise of the new legislation and for endorsement to commence review processes.

To ensure complaints may be lodged or withdrawn under the new Model Code of Conduct for Elected Members, and officer is required to be appointed to this task. It is recommended that the CEO be delegated authority to make the appointment to ensure that complaints can be lodged whilst the new supporting policies and procedures are being developed. Complaints must be lodged on a form approved by the Council and officers recommend the template provided by the Department of Local Government be adopted in the short term. The investigation of complaints received regarding alleged breaches of the behaviours set out in the Code of Conduct for Elected Members, will be undertaken in a manner to be determined by the Council at a future date. Complaints regarding alleged Breaches against the Rules of Conduct will continue to be handled in the same way as they are currently and be determined by the Local Government Standards Panel.

**M21/5810 – NEW AND AMENDED REGULATIONS – LOCAL GOVERNMENT (MODEL CODE OF CONDUCT) REGULATIONS 2021, LOCAL GOVERNMENT (ADMINISTRATION) AMENDMENT REGULATIONS 2021 (AMREC) (ATTACHMENT)****OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5810)  
ABSOLUTE MAJORITY DECISION****That the Council:**

- 1. Notes the introduction and gazettal of *Local Government Regulations Amendment (Employee Code of Conduct) Regulations 2021*.**
- 2. Notes the introduction and gazettal of the *Local Government (Administration) Amendment Regulations 2021* (CEO Standards) and directs the Chief Executive Officer to commence a process for Elected Members to review processes and policies associated with the CEO Recruitment, Performance Review and Termination to ensure alignment with the new model standards.**
- 3. Notes the introduction and gazettal of the *Local Government (Model Code of Conduct) Regulations 2021*; and**
  - adopts the attached “[5810 Complaint About Alleged Breach Form](#)” in accordance with clause 11(2) of the Regulations;**
  - by absolute majority decision delegates authority to the CEO to appoint officers to receive and withdraw complaints in accordance with clause 11(3) of the Regulations**
  - directs the Chief Executive Officer to commence a process to develop a complaints handling, investigation and determination policy and procedures in alignment with the new Model Code of Conduct for Elected Members to be presented to the Council for adoption before implementation.**

At 7:23pm the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)**

**M21/5813 – CITY OF MELVILLE HEALTH (EATING-HOUSES) REPEAL LOCAL LAW 2021 (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. Item M20/5784 – Local Laws Repeal and Amendment – Ordinary Meeting of Council – October 2020.
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Anne Hill Governance Project Officer

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**M21/5813 – CITY OF MELVILLE HEALTH (EATING-HOUSES) REPEAL LOCAL LAW  
2021 (AMREC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Council in October 2020 resolved to repeal the *City of Melville Health (Eating-Houses) Local Laws 2001*.
- The Local Government Act prescribes the procedure for making new local laws, including repeal and amendment local laws.
- A public notice in accordance with s.3.12 of the Act was issued on 3 December 2020 inviting submissions on the draft *City of Melville Health (Eating-Houses) Repeal Local Law 2021* by 8 February 2021.
- One public submission was received.
- Council is requested to make the attached *City of Melville Health (Eating-Houses) Repeal Local Law 2021* under section 3.12(4) of the *Local Government Act 1995*.
- The purpose and effect of this local law is to repeal the *City of Melville Health (Eating-Houses) Local Laws 2001*.

**BACKGROUND**

The *City of Melville Health (Eating Houses) Local Laws 2001* 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 local laws were published in the *Government Gazette* on 21 December 2001.

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. The *City of Melville Health (Eating Houses) Local Laws 2001* have effectively been inoperative and redundant since 2008 when the legislative head of power ceased to exist.

In April 2016, Council resolved to initiate the review of eight local laws, in accordance with the requirements of the *Local Government Act 1995* (Local Government Act). Council resolved in August 2016 to endorse the outcome of that review, including a recommendation to repeal the *City of Melville Health (Eating Houses) Local Laws 2001*.

In October 2020, Council resolved by absolute majority to repeal the *City of Melville Health (Eating Houses) Local Laws 2001* and authorised the CEO to commence the necessary processes in accordance with section 3.12 of the Local Government Act.

**DETAIL**

The purpose and effect of the *City of Melville Health (Eating-Houses) Repeal Local Law 2021* (attached) is to repeal the *City of Melville Health (Eating-Houses) Local Laws 2001*.

In accordance with section 3.12(3)(a) of the Local Government Act, public notice of the proposed *City of Melville Health (Eating-Houses) Repeal Local Law 2021* was given on 3 December 2020 with submissions closing on 8 February 2021. Only one submission was received and details are provided below.

**M21/5813 – CITY OF MELVILLE HEALTH (EATING-HOUSES) REPEAL LOCAL LAW  
2021 (AMREC) (ATTACHMENT)**

Copies of the proposed local law were provided to the Minister for Health and the Minister for Local Government on 3 December 2020 in accordance with section 3.12(3)(b) of the Local Government Act.

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

Community stakeholder engagement was undertaken in accordance with section 3.12(3) of the Local Government Act. Local public notice was given in accordance with section 1.7 of the Local Government Act and regulation 3A of the *Local Government (Administration) Regulations 1996* as follows:

- A notice was published on 3 December 2020 on the engagement page of the City's website (<https://www.melvillecity.com.au/melvilletalks>);
- A notice was published on 3 December 2020 in the Melville Gazette;
- A notice was published in the 4 December 2020 edition of the City's eNewsletter "Melville Matters" which is distributed to over 15,000 subscribers;
- The public notice was displayed in all the City's libraries and at the Civic Centre between 3 December 2020 and 8 February 2021; and
- Notice of the consultation was posted on the City's Facebook page with links to the further information on the website.

Public submissions were invited until 8 February 2021.

One public submission was received. This submission did not comment on the content of the proposed local law, but asked "*what are the practical consequences for the public in terms of the safety and health issues that might arise following the repeal of the Act?*"

A response was sent to the submitter explaining that there would be no practical consequences because Part V Division 3 of the *Health Act 1911* has been superseded by the *Food Act 2008*, and the City is an enforcement agency under that Act.

**II. OTHER AGENCIES / CONSULTANTS**

As required by section 3.12(3)(b) of the Local Government Act, a copy of the proposed local law was given to the Minister(s) administering the Acts under which the local laws are proposed to be made. In this case the relevant Ministers are the Minister for Local Government and the Minister for Health.

The Minister for Local Government asked the Department of Local Government, Sport and Cultural Industries to examine the proposed local law and respond directly to the City. The Department responded on 3 February 2021 recommending some minor stylistic editing and suggesting the removal of the "purpose and effect" clause. While a statement of purpose and effect is required in the public notices, it has no legislative effect and is not required in the local law itself.

All the Departmental recommendations have been incorporated in the attached *City of Melville Health (Eating-Houses) Repeal Local Law 2021*.

An acknowledgement but no comment was received from the Minister for Health.

**M21/5813 – CITY OF MELVILLE HEALTH (EATING-HOUSES) REPEAL LOCAL LAW  
2021 (AMREC) (ATTACHMENT)****STATUTORY AND LEGAL IMPLICATIONS**

Section 342 of the *Health (Miscellaneous Provisions) Act 1911* (Health Act) provides for local governments to make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the *Local Government Act 1995* for the purposes specified in the Health (Miscellaneous Provisions) Act (formerly the *Health Act 1911*). Subsection 342(3) of the Health Act specifies that section 3.14 of the *Local Government Act 1995* does not apply in relation to such local laws. The effect of this exemption is that a local law made under the Health Act comes into operation on the day on which it is published in the Gazette.

Section 43(4) of the *Interpretation Act 1984* states that “where a written law confers a power to make subsidiary legislation, it shall be deemed also to include a power exercisable in the like manner and subject to the like conditions (if any) to amend or repeal any such subsidiary legislation”.

Section 3.12(1) of the Local Government Act states that “In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.”

Subsections 3.12(2) and 3.12(3) of the Local Government Act have now been complied with.

Subsection 3.12(4) provides:

“After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law\* that is not significantly different from what is proposed.

*\*Absolute majority required.*”

Discussions at officer level with the Department have confirmed that the minor stylistic edits recommended by the Department do not constitute “significant difference” for the purposes of section 3.12(4).

After making the local law, the local government is to publish it in the *Government Gazette*, and give copies of the local law to the responsible Ministers (s.3.12(5) of the Local Government Act), and give local public notice of its publication (s.3.12(6)).

In addition, the City must comply with the requirements of the Minister’s Local Laws *Explanatory Memoranda Directions 2010* and forward the Explanatory Memoranda material to the Joint Standing Committee on Delegated Legislation within 10 days of the gazettal publication date.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no environmental management implications in this matter. No additional risk will be incurred as the current local law is effectively inoperative and redundant.

**M21/5813 – HEALTH (EATING-HOUSES) REPEAL LOCAL LAW 2021 (AMREC)  
(ATTACHMENT)**

<b>Risk Statement &amp; Consequence</b>	<b>Level of Risk</b>	<b>Risk Treatment</b>
Redundant and/or outdated local laws cause confusion and do not meet their intended purpose	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**

There are no policy implications associated with this item.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Council could choose not to make the *City of Melville Health (Eating-Houses) Repeal Local Law 2021*. Since the legislative head of power for the *City of Melville Health (Eating-Houses) Local Laws 2001* no longer exists, the local law 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.

**CONCLUSION**

Changes in State legislation have resulted in the *City of Melville Health (Eating-Houses) Local Laws 2001* becoming inoperative and redundant. Public consultation has not indicated any public objection to repealing these local laws.

Council is asked to resolve, by absolute majority, to make the attached *City of Melville Health (Eating-Houses) Repeal Local Law 2021*.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5813)  
ABSOLUTE MAJORITY DECISION**

**That the Council:**

- 1) **Resolves to make the [City of Melville Health \(Eating-Houses\) Repeal Local Law 2021](#) and authorises the affixing of the Common Seal of the City to that Local Law.**
- 2) **Authorises the Chief Executive Officer to continue the process specified in section 3.12 of the *Local Government Act 1995* to give effect to resolution 1.**

At 7:23pm the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)**

**M21/5814 – CITY OF MELVILLE BUSH FIRES (FIREBREAKS) REPEAL LOCAL LAW 2021 (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. Item M20/5784 – Local Laws Repeal and Amendment – Ordinary Meeting of Council – October 2020.
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Anne Hill Governance Project Officer

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**M21/5814 – CITY OF MELVILLE BUSH FIRES (FIREBREAKS) REPEAL LOCAL LAW  
2021 (AMREC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- Council in October 2020 resolved to repeal the *City of Melville Local Law Relating to Firebreaks 1997*.
- The Local Government Act prescribes the procedure for making new local laws, including repeal and amendment local laws.
- A public notice in accordance with s.3.12 of the Act was issued on 3 December 2020 inviting submissions on the draft *City of Melville Bush Fires (Firebreaks) Repeal Local Law 2021* by 8 February 2021.
- One public submission was received.
- Council is requested to make the attached *City of Melville Bush Fires (Firebreaks) Repeal Local Law 2021* under section 3.12(4) of the *Local Government Act 1995*.
- The purpose and effect of this local law is to repeal the *City of Melville Local Law Relating to Firebreaks 1997*.

**BACKGROUND**

The *City of Melville Local Law Relating to Firebreaks 1997* was made under section 33(5a) of the *Bush Fires Act 1954* and published in the *Government Gazette* on 1 July 1997. Amendments were gazetted on 22 April 2005 and 24 June 2005..

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 practice is not relied upon by the City. The City of Melville is one of very few metropolitan local governments to retain a firebreaks local law.

In October 2020, Council resolved by absolute majority to repeal the *City of Melville Local Law Relating to Firebreaks 1997*, and authorised the CEO to commence the necessary processes in accordance with section 3.12 of the *Local Government Act*.

**DETAIL**

The purpose and effect of the *City of Melville Bush Fires (Firebreaks) Repeal Local Law 2021* (attached) is to repeal the *City of Melville Local Law Relating to Firebreaks 1997*.

In accordance with section 3.12(3)(a) of the *Local Government Act*, public notice of the proposed *City of Melville Bush Fires (Firebreaks) Repeal Local Law 2021* was given on 3 December 2020 with submissions closing on 8 February 2021. Only one submission was received and details are provided below.

**M21/5814 – BUSH FIRES (FIREBREAKS) REPEAL LOCAL LAW 2021 (AMREC)  
(ATTACHMENT)**

Copies of the proposed local law were provided to the Minister for Emergency Services and the Minister for Local Government on 3 December 2020 in accordance with section 3.12(3)(b) of the Local Government Act.

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

Community stakeholder engagement was undertaken in accordance with section 3.12(3) of the Local Government Act. Local public notice was given in accordance with section 1.7 of the Local Government Act and regulation 3A of the *Local Government (Administration) Regulations 1996* as follows:

- A notice was published on 3 December 2020 on the engagement page of the City's website (<https://www.melvillecity.com.au/melvilletalks>);
- A notice was published on 3 December 2020 in the Melville Gazette;
- A notice was published in the 4 December 2020 edition of the City's eNewsletter "Melville Matters" which is distributed to over 15,000 subscribers;
- The public notice was displayed in all the City's libraries and at the Civic Centre between 3 December 2020 and 8 February 2021; and
- Notice of the consultation was posted on the City's Facebook page with links to the further information on the website.

Public submissions were invited until 8 February 2021.

One public submission was received. This submission did not comment on the content of the proposed local law, but expressed concern that owners of empty properties are only reminded to make their properties fireproof in November each year and overgrown grass is a danger all year to surrounding properties, referencing as an example a property near their own.

Officers have contacted the submitter to explain the City's power to issue a notice under section 3.25 of the Local Government Act to the owner of a property to remove overgrown vegetation at any time, and to advise how residents may report such matters.

**II. OTHER AGENCIES / CONSULTANTS**

As required by section 3.12(3)(b) of the Local Government Act, a copy of the proposed local law was given to the Minister(s) administering the Acts under which the local laws are proposed to be made. In this case the relevant Ministers are the Minister for Local Government and the Minister for Emergency Services.

The Minister for Local Government asked the Department of Local Government, Sport and Cultural Industries to examine the proposed local law and respond directly to the City. The Department responded on 4 February 2021 recommending some minor stylistic editing and suggesting the removal of the "purpose and effect" clause. While a statement of purpose and effect is required in the public notices, it has no legislative effect and is not required in the local law itself.

**M21/5814 – BUSH FIRES (FIREBREAKS) REPEAL LOCAL LAW 2021 (AMREC)  
(ATTACHMENT)**

All the Departmental recommendations have been incorporated in the attached *City of Melville Bush Fires (Firebreaks) Repeal Local Law 2021*.

The Minister for Emergency Services replied by letter dated 5 January 2021 stating that the Department of Fire and Emergency Services had advised him that it had no comment regarding the content of the local law.

**STATUTORY AND LEGAL IMPLICATIONS**

Section 33(5a) of the *Bush Fires Act 1954* provides that a local government may make local laws in accordance with subdivision 2 of Division 2 of Part 3 of the Local Government Act 1995 requiring owners and occupiers of land in its district to clear fire-breaks as specified in the local law. The *City of Melville Local Law Relating to Firebreaks 1997* was made under this head of power.

Section 43(4) of the *Interpretation Act 1984* states that “where a written law confers a power to make subsidiary legislation, it shall be deemed also to include a power exercisable in the like manner and subject to the like conditions (if any) to amend or repeal any such subsidiary legislation”.

Section 3.12(1) of the Local Government Act states that “In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.”

Subsections 3.12(2) and 3.12(3) of the Local Government Act have now been complied with.

Subsection 3.12(4) provides:

“After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law\* that is not significantly different from what is proposed.

*\*Absolute majority required.*”

Discussions at officer level with the Department have confirmed that the minor stylistic edits recommended by the Department do not constitute “significant difference” for the purposes of section 3.12(4).

After making the local law, the local government is to publish it in the *Government Gazette*, and give copies of the local law to the responsible Ministers (s.3.12(5) of the Local Government Act), and give local public notice of its publication (s.3.12(6)).

In addition, the City must comply with the requirements of the Minister’s Local Laws *Explanatory Memoranda Directions 2010* and forward the Explanatory Memoranda material to the Joint Standing Committee on Delegated Legislation within 10 days of the gazettal publication date.

**M21/5814 – BUSH FIRES (FIREBREAKS) REPEAL LOCAL LAW 2021 (AMREC)  
(ATTACHMENT)**

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no additional environmental management implications in this matter. No additional risk will be incurred as the City will continue its current practice of issuing public and individual notices each year using its powers under the Bush Fires Act.

<b>Risk Statement &amp; Consequence</b>	<b>Level of Risk</b>	<b>Risk Treatment</b>
Redundant and/or outdated local laws cause confusion and do not meet their intended purpose	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**

There are no policy implications associated with this item.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Council could choose not to make the *City of Melville Bush Fires (Firebreaks) Repeal Local Law 2021*. However, since the City issues individual and public notices concerning firebreak requirements under section 33(1) of the Bush Fires Act, the local law adds no additional value to the City's bush fire prevention and management processes.

**CONCLUSION**

The *City of Melville Local Law Relating to Firebreaks 1997* is redundant given the City's existing processes of issuing public and individual notices under the Bush Fires Act relating to firebreaks. Public consultation has not indicated any public objection to repealing this local law.

Council is asked to resolve, by absolute majority, to make the attached *City of Melville Bush Fires (Firebreaks) Repeal Local Law 2021*.

**M21/5814 – BUSH FIRES (FIREBREAKS) REPEAL LOCAL LAW 2021 (AMREC)  
(ATTACHMENT)****OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5814)  
ABSOLUTE MAJORITY DECISION****That the Council:**

- 1) Resolves to make the [City of Melville Bush Fires \(Firebreaks\) Repeal Local Law 2021](#) and authorises the affixing of the Common Seal of the City to that local law.**
- 2) Authorises the Chief Executive Officer to continue the process specified in section 3.12 of the *Local Government Act 1995* to give effect to resolution 1.**

At 7:23pm the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)**

**M21/5815 – CITY OF MELVILLE STREET NUMBERING AMENDMENT LOCAL LAW 2021  
(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. Item M20/5784 – Local Laws Repeal and Amendment – Ordinary Meeting of Council – October 2020.
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Anne Hill Governance Project Officer

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**M21/5815 – CITY OF MELVILLE STREET NUMBERING AMENDMENT LOCAL LAW 2021  
(AMREC) (ATTACHMENTS)****KEY ISSUES / SUMMARY**

- Council in October 2020 resolved to amend the *City of Melville Local Law Relating to Street Numbering 2006*.
- The Local Government Act prescribes the procedure for making new local laws, including repeal and amendment local laws.
- A public notice in accordance with s.3.12 of the Act was issued on 3 December 2020 inviting submissions on the draft *City of Melville Street Numbering Amendment Local Law 2021* by 8 February 2021.
- Three public submissions were received.
- Council is requested to make the attached *City of Melville Street Numbering Amendment Local Law 2021*.

**BACKGROUND**

The *City of Melville Local Law Relating to Street Numbering 2006* was made under the *Local Government Act 1995* and published in the *Government Gazette* on 21 April 2006.

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

In October 2020, Council resolved by absolute majority to amend the *City of Melville Local Law Relating to Street Numbering 2006* as specified in the proposed *City of Melville Street Numbering Amendment Local Law*, and authorised the CEO to commence the necessary processes in accordance with section 3.12 of the Local Government Act.

**DETAIL**

The purpose of the *City of Melville Street Numbering Amendment Local Law 2021* 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.

In accordance with section 3.12(3)(a) of the Local Government Act, public notice of the proposed *City of Melville Street Numbering Amendment Local Law 2021* was given on 3 December 2020 with submissions closing on 8 February 2021. Three residents made submissions and details are provided below.

Copies of the proposed local law were provided to the Minister for Emergency Services and the Minister for Local Government on 3 December 2020 in accordance with section 3.12(3)(b) of the Local Government Act.

**M21/5815 – CITY OF MELVILLE STREET NUMBERING AMENDMENT LOCAL LAW 2021  
(AMREC) (ATTACHMENTS)**

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

Community stakeholder engagement was undertaken in accordance with section 3.12(3) of the Local Government Act. Local public notice was given in accordance with section 1.7 of the Local Government Act and regulation 3A of the *Local Government (Administration) Regulations 1996* as follows:

- A notice was published on 3 December 2020 on the engagement page of the City’s website (<https://www.melvillecity.com.au/melvilletalks>);
- A notice was published on 3 December 2020 in the Melville Gazette;
- A notice was published in the 4 December 2020 edition of the City’s eNewsletter “Melville Matters” which is distributed to over 15,000 subscribers;
- The public notice was displayed in all the City’s libraries and at the Civic Centre between 3 December 2020 and 8 February 2021; and
- Notice of the consultation was posted on the City’s Facebook page with links to the further information on the website.

Public submissions were invited until 8 February 2021.

Three residents made submissions, which are summarised in the table below.

<b>Submitter*</b>	<b>Date received</b>	<b>Summary of submission</b>	<b>Response</b>
1	4/12/20	No comment on proposed local law – requested clarification of the reasons for amendment	Response sent to submitter explaining the reasons for amending the local law.
2	4/12/20	No comment on proposed local law – suggested that the current system of numbering group housing leads to misdirected mail and asking that number/letter combinations be used instead of number/number combinations (eg 10F, not 6/10)	Response sent to submitter explaining the current policy, which is consistent with established national standards.
3	4/12/20	No comment on proposed local law – raised concern about a particular property with a misleading street number resulting from subdivision of a corner lot.	Submitter’s concern was referred to Planning which initiated a review of the numbering of the specified property with a view to renumbering it. Submitter was advised of this. (The proposed amendment to clause 2 of the local law, requiring numbers to relate to the street from which primary access is gained, will ensure that the reported situation does not recur.)

\*All three submitters requested that their names not be published.

**M21/5815 – CITY OF MELVILLE STREET NUMBERING AMENDMENT LOCAL LAW 2021  
(AMREC) (ATTACHMENTS)****II. OTHER AGENCIES / CONSULTANTS**

As required by section 3.12(3)(b) of the Local Government Act, a copy of the proposed local law was given to the Minister(s) administering the Acts under which the local laws are proposed to be made. In this case the only relevant Minister is the Minister for Local Government.

The Minister for Local Government asked the Department of Local Government, Sport and Cultural Industries to examine the proposed local law and respond directly to the City. The Department responded on 4 February 2021 recommending some minor stylistic editing and suggesting the removal of the “purpose and effect” clause. While a statement of purpose and effect is required in the public notices, it has no legislative effect and is not required in the local law itself.

All the Departmental recommendations have been incorporated in the attached *City of Melville Street Numbering Amendment Local Law 2021*.

**STATUTORY AND LEGAL IMPLICATIONS**

The *City of Melville Local Law Relating to Street Numbering 2006* was made under Part 3 Division 2 of the *Local Government Act 1995*. Amendment is required because:

- (a) it contains outdated legislative references, and the definition of “lot” does not recognise strata lots;
- (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; and
- (e) the style and formatting of parts of the local law are no longer consistent with modern drafting practice and the State Law Publisher’s standards.

Section 43(4) of the *Interpretation Act 1984* states that “where a written law confers a power to make subsidiary legislation, it shall be deemed also to include a power exercisable in the like manner and subject to the like conditions (if any) to amend or repeal any such subsidiary legislation”.

Section 3.12(1) of the Local Government Act states that “In making a local law a local government is to follow the procedure described in this section, in the sequence in which it is described.”

Subsections 3.12(2) and 3.12(3) of the Local Government Act have now been complied with.

**M21/5815 – CITY OF MELVILLE STREET NUMBERING AMENDMENT LOCAL LAW 2021  
(AMREC) (ATTACHMENTS)**

Subsection 3.12(4) provides:

“After the last day for submissions, the local government is to consider any submissions made and may make the local law as proposed or make a local law\* that is not significantly different from what is proposed.

*\*Absolute majority required.*”

Discussions at officer level with the Department have confirmed that the minor stylistic edits recommended by the Department do not constitute “significant difference” for the purposes of section 3.12(4).

After making the local law, the local government is to publish it in the *Government Gazette*, and give copies of the local law to the responsible Ministers (s.3.12(5) of the Local Government Act), and give local public notice of its publication (s.3.12(6)).

In addition, the City must comply with the requirements of the Minister’s Local Laws *Explanatory Memoranda Directions 2010* and forward the Explanatory Memoranda material to the Joint Standing Committee on Delegated Legislation within 10 days of the gazettal publication date.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no additional environmental management implications in this matter. No additional risk will be incurred and reducing the level of officer discretion may diminish the risk of assigning misleading street numbers, particularly following sub-division of corner lots.

<b>Risk Statement &amp; Consequence</b>	<b>Level of Risk</b>	<b>Risk Treatment</b>
Redundant and/or outdated local laws cause confusion and do not meet their intended purpose	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**

There are no policy implications associated with this item. Assigning street numbers that relate to the street from which primary access is gained to the lot is covered in clause 1.1 of the existing CP-068 – Street Numbering Policy. This policy statement has now been reflected in the local law consistent with the requirements of the Joint Standing Committee on Delegated Legislation.

**M21/5815 – CITY OF MELVILLE STREET NUMBERING AMENDMENT LOCAL LAW 2021  
(AMREC) (ATTACHMENTS)****ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Council could choose not to make the *City of Melville Street Numbering Amendment Local Law 2021* or could resolve to amend the content and substance of the proposed local law.

The first option would result in the current *City of Melville Local Law Relating to Street Numbering 2006* remaining in operation, and not resolve the current uncertainty associated with its reference to policy or its failure to address strata lots. The local law would remain outdated and non-compliant with current requirements of Parliament.

Amendment to the proposed *City of Melville Street Numbering Amendment Local Law 2021* that resulted in it being significantly (substantively) different from the local law previously published for public comment, would require the public consultation phase to be recommenced in accordance with section 3.13 of the Local Government Act.

**CONCLUSION**

The *City of Melville Local Law Relating to Street Numbering 2006* contains outdated references and does not currently cover lots in strata schemes. It also invokes a Council policy, contrary to the requirements of the Joint Standing Committee on Delegated Legislation.

Public consultation has not revealed any concern with the proposed amendments to this local law, and the Department of Local Government, Sport and Cultural Industries has supported it subject to minor style and formatting edits, which have been incorporated in the attached local law.

Council is asked to resolve, by absolute majority, to make the [City of Melville Street Numbering Amendment Local Law 2021](#) as shown in attachment 1.

For information only, attachment 2 shows the [City of Melville Local Law Relating to Street Numbering 2006](#) as it will look after the *City of Melville Street Numbering Amendment Local Law 2021* comes into operation.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5815)****ABSOLUTE MAJORITY****That the Council:**

- 1) Resolves to make the [City of Melville Street Numbering Amendment Local Law 2021](#) and authorises the affixing of the Common Seal of the City to that local law.**
- 2) Authorises the Chief Executive Officer to continue the process specified in section 3.12 of the *Local Government Act 1995* to give effect to resolution 1.**

At 7:23pm the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)**

Disclosure of Interest

Member	Cr Macphail
Type of Interest	Interest under the Code of Conduct
Nature of Interest	I was the subject of complaint to the Local Government Standards Panel (S.P. 2016-43) by City of Melville Residents and Ratepayers Committee Association Inc., (S.P. 2018-135) by Mr Clive Ross, (S.P. 2020-116) by Mr Clive Ross and (S.P. 2020-126) by Mr David Maynier.
Request	Stay, discuss and vote
Decision	Stay, discuss and vote

**M21/5819 MOTIONS FROM THE ANNUAL GENERAL MEETING OF ELECTORS  
17 FEBRUARY 2021 – MOTIONS CARRIED (REC)**

Ward	: All
Category	: Operational
Subject Index	: Council Administration – Annual General Meeting
Customer Index	: Elected Members
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Not Applicable
Works Programme	: Not Applicable
Funding	: No specific funding has been provided in the current budget to implement the motions that were supported, should the Council adopt those motions.
Responsible Officer	: Bruce Taylor Manager Governance and Property

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**M21/5819 MOTIONS FROM THE ANNUAL GENERAL MEETING OF ELECTORS  
17 FEBRUARY 2021 – MOTIONS CARRIED (REC)****KEY ISSUES / SUMMARY**

- The City of Melville Annual General Meeting of Electors was held Wednesday 17 February 2021, for the community to receive the Community Annual Report 2019-2020 for the year ended 30 June 2020.
- Seven motions were submitted by the community at the meeting, one was not accepted and the other six were presented and carried.
- The Minutes of the meeting were presented to be confirmed at the 16 March 2021 Ordinary Meeting of Council.
- In this report Officers have provided comment on the motions and presented recommendations for the consideration of the Council.

**BACKGROUND**

Section 5.27 of the *Local Government Act 1995* requires that:

- “(1) *A general meeting of the electors of a district is to be held once every financial year.*
- “(2) *A general meeting is to be held on a day selected by the local government but not more than 56 days after the local government accepts the annual report for the previous financial year.*
- “(3) *The matters to be discussed at general electors’ meeting are to be those prescribed.*”

The *Local Government (Administration) Regulations 1996* prescribes:

*“15 For the purposes of section 5.27(3), the matters to be discussed at a general electors meeting are, firstly, the contents of the annual report for the previous financial year and then any other general business.”*

The Community Annual Report 2019-2020 was presented to, and accepted by the Council at its Ordinary Meeting held 8 and 9 December 2020. The Annual Electors Meeting was delayed due to COVID related lock down restrictions over the week the meeting was originally scheduled to be held.

**DETAIL**

At the commencement of the General Meeting of Electors 10 Electors of the City of Melville and one non-electors in the Conference Room and because of COVID19 restrictions 10 members of the public and one member of the press were in attendance electronically.

Seven motions were presented to the meeting:

**M21/5819 MOTIONS FROM THE ANNUAL GENERAL MEETING OF ELECTORS  
17 FEBRUARY 2021 – MOTIONS CARRIED (REC)****MOTION 1**

Motion 1 was not accepted by the Presiding Member.

The six carried motion are now presented for the Council to consider as follows:

**MOTION 2**

**The MRRA endorses the Mayor's recent establishment of the CBAC review, Community-Committee and intentions to establish further Community Committees. In support of this new direction the MRRA, requests Council directs the Chief Executive Officer to further conform to the Local Government Act and further engage the Community by:**

- (a) immediately establishing and publishing on the City's website, an easily found page listing the activity and membership of all currently existing committees and including detail of the process for community member nomination to each committee;**
- (b) publish to the above page, a list of proposed new, community-inclusive committees to support the functions of the Council. For example a Community Service Review and Advisory Committee whose purpose is to review customer service performance and thence advise Council on possible improvements.**

Officer Comment

It is unclear what the motion refers to in relation to the statement "requests Council directs the Chief Executive Officer to further conform to the Local Government Act ...". The Council complies with the requirements of establishing committees and appointing representatives to them as required by the Act and Regulations.

The establishment and election of representatives to Council Committees is considered on a biennial basis after each election. The Council also reviews the continuation of each advisory and management committee, local government and community committee at the same time. This is articulated in Council Policy CP-021 - Advisory and Management Committees.

The last review was conducted at a Special Meeting of the Council held 21 October 2019. Information on the current Council committees, advisory, management, local government and community committees can be found in the minutes of that the meeting.

The only community representative on a Council Committee is on the Financial Management, Audit, Risk and Compliance Committee which is a legislative requirement.

Current engagements and community inclusive committees, advisory and feedback panels are already published to the City's website via the Melville Talks Engagement page. At the time of writing this report the page lists 27 current engagement projects, some of which include community committees.

**M21/5819 MOTIONS FROM THE ANNUAL GENERAL MEETING OF ELECTORS  
17 FEBRUARY 2021 – MOTIONS CARRIED (REC)**

Any advisory or feedback panels that the Council may establish would be advised on the Melville Talks page. The City will consider listing the names of community members selected to be members of committees or advisory panels on the web page.

The MRRA should be referred to the minutes of the Special Meeting of Council held 21 October 2019 for information relating to Council and community committees.

In relation to (b) of the motion it would be for the Council to propose any "...new, community-inclusive committees to support the functions of the Council." If supported these panels/committees would be advised through the Melville Talks webpage.

Officer Recommendation

That Motion 2 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the Council/Community Committees be noted and the MRRA be referred to

- 1 the minutes of the Special Meeting of the Council held 21 October 2019 for the list of Council committee, advisory, management, local government and community committees and
- 2 the Melville Talks webpage for the list of current engagements and community inclusive feedback/advisory panels and committees.

**MOTION 3**

**The MRRA requests Council directs the Chief Executive Officer to:**

- (a) immediately start reporting to every ordinary meeting of Council actual customer service and other operational performance metrics relative to monthly and yearly targets; and,**
- (b) within 4 months provide a report to Council with improvement recommendations post a review by a Community Inclusive Committee of the performance metrics reporting per (a) above.**

Officer Comment

- (a) Operational KPI's are reported by the City to the Elected Members quarterly which includes customer response data. In addition the Chief Executive Officer's performance is contractually reviewed annually to determine progress on customer service and other operational performance matters.

The City reports all operational related matters in the Annual Report to the Community with extensive up to date community outcome reporting available for viewing on the City's website.

- (b) The review analysis and oversight of implementation of the performance metrics is the role of the Council.

**M21/5819 MOTIONS FROM THE ANNUAL GENERAL MEETING OF ELECTORS  
17 FEBRUARY 2021 – MOTIONS CARRIED (REC)**

There are existing reporting mechanisms to the Council similar to those the subject of this motion. A proposal to establish a “Community Inclusive Committee” to “review the customer service and other operational performance metrics” would need to be considered on its merits by the Council based on clear objectives, terms of reference and budget implications. Extensive Community Outcome reporting is also provided on the City’s web-site which reports back to the ‘priority Outcomes identified by the Community when responding to the Strategic Community Plan – see <https://www.melvillecity.com.au/our-city/city-management/community-outcome-reporting>

Based on the above information the officer recommendation is that the motion is noted only.

Officer Recommendation

That Motion 3 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the reporting of operational performance metrics is noted.

**MOTION 4**

**That the Council of the City ensures that the review into the City administration is appropriately directed noting that cultural change begins at the top.**

Officer Comment

The City acknowledges that cultural change begins at the top with workshops being recently held with both Elected Members and the Executive Team to review the City’s vision and values to ensure that they reflect the future strategic direction of the City.

The City has also been working on cultural change program for over the last 12 months, with the CEO and Executive working closely with Elected Members to develop and implement a cultural action program. The initial phases included detailed surveys involving Elected Members and senior staff to identify core issues and focus areas, as well as an Australian Institute of Company Directors consultancy which also included a survey and presentation in the latter part of 2020.

The progress report of the 12 action initiatives identified in the cultural action program is being reported to Elected Members on fortnightly basis, with the latest update provided on 12 February 2021.

At the 16 February 2021 Ordinary Council Meeting the draft Terms of Reference for the Organisational review was adopted by the Council. The Scope for the Organisational Review was finalised in accordance with the process presented to the Council, with the Request for Quote (RFQ) advertised on 24 February 2021.

Based on the above information the officer recommendation is that the motion is noted and it be acknowledged that the intent of the motion was considered when finalising the scope of the organisational review.

**M21/5819 MOTIONS FROM THE ANNUAL GENERAL MEETING OF ELECTORS  
17 FEBRUARY 2021 – MOTIONS CARRIED (REC)**Officer Recommendation

That Motion 4 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the scope of the review and focus of the review, be noted as this work has already been undertaken with the Council and was further considered when finalising the scope of the upcoming organisational review.

**MOTION 5**

**That the Council limit the extent of the authority delegated to Planning Officers so that the Council retains the right to require these officers to change any official or unofficial reports or recommendations prepared by these officers when Council does not agree with or support the conclusions contained in those reports or recommendations.**

Officer Comment

Motion 5 is fundamentally misconceived and wrong.

One of the most important roles given to the CEO and the Administration (including planning officers) under the *Local Government Act 1995* is to give advice and information (including recommendations) to the Council (section 5.41(a) and (b)).

Consistent with governance principles and best practice, that advice and information must be given professionally, without fear or favour.

A Council would be acting beyond its powers and unlawfully if it attempted to require an officer to change their advice or recommendation.

To the extent that Motion 5 deals with powers delegated to the CEO or to another City employee –

- (1) the Council can delegate a power to the CEO – but only if the Council itself has been given that power under specific legislation;
- (2) if the Council delegates that power to the CEO (or another delegate), the Council cannot lawfully direct the delegate how to exercise the power; and
- (3) once the CEO (or other delegate) exercises the delegated power, the Council cannot attempt to re-exercise the power, or otherwise interfere with its exercise by the delegate.

Officer Recommendation

That the Council notes Motion 5 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the Council limiting the extent of the authority delegated to Planning Officers.

**M21/5819 MOTIONS FROM THE ANNUAL GENERAL MEETING OF ELECTORS  
17 FEBRUARY 2021 – MOTIONS CARRIED (REC)****MOTION 6**

**That Council prepares an instrument of delegation so that the Council's Governance Committee has delegated authority to itself conduct investigations or appoint an independent investigator to conduct investigations into complaints against the CEO and is authorised to do so and to obtain access to documents or information held by the City without the involvement of the City's administration.**

Officer Comment

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."*

At the November 2020 Ordinary Meeting of Council the Council resolved to direct the CEO to present a report on the implications of providing limited delegated powers to the Governance Committee.

At the 20 March 2012 Council meeting (Item C12/5218) the Council formally amended the Governance Committee Charter to remove the "decision making authority" and the public attendance at meetings and replaced it with the responsibility to make recommendations to the Council. The Council can delegate powers or duties to a committee of the Council as long as they relate to a function that can be undertaken by the Council.

Legal advice has previously been sought and presented to the Council in relation to a committee of the Council being able to undertake investigations and appoint consultants. This advice was received 13 February 2020 and forwarded to the Mayor and Elected Members and provided to Elected Members in the Elected Member Bulletin. The advice was also provided to the Governance Committee as a confidential attachment relating to Item C20/5752 at the 24 June 2020 Governance Committee.

The report providing general information on establishing Committees and the legislation that relates to being able to delegate powers and duties to committees, depending on the committee and its representation, will be presented to the next meeting of the Governance Committee. The report will also include the implications of delegating powers and duties to the Committee.

Based on the above information the officer recommendation is that the motion is noted and will be considered when the Council considers the report on the implications of delegations to the Governance Committee.

Officer Recommendation

That Motion 6 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the Council delegating investigatory powers and appointment functions to the Governance Committee, be noted considered in the context of Council's consideration of the implications of delegating powers and duties to the Committee.

**M21/5819 MOTIONS FROM THE ANNUAL GENERAL MEETING OF ELECTORS  
17 FEBRUARY 2021 – MOTIONS CARRIED (REC)****MOTION 7**

**That the Council investigates and resolves all complaints against the CEO alleging breaches or non-performance of duties before concluding the CEO's performance review.**

Officer Comment

The Council has the authority to initiate investigations into allegations against the Chief Executive Officer. However, the Chief Executive Officer's current performance review was concluded at the Ordinary Meeting of Council held 16 February 2021 (Item M21/5812) where the Council considered and approved the recommendation from the Governance Committee that concluded the current CEO performance review process.

Any substantiated complaints against the CEO will be referred to the Governance Committee and responded to in accordance with performance clauses of the CEO contract.

Reflective it should be noted contractual terms apply to both the CEO's performance review process, inclusive of timeframes, and separately to the conduct of investigations. That these terms would be deemed workplace rights as they are a process contained within a workplace instrument.

As a workplace right the Council as the CEO's employer must not take adverse action against the CEO e.g. take wilful or proposed actions that would impede or deny those rights.

Reflective where there are expressed terms and deemed workplace rights within a workplace instrument (employment contract) that are breached due to a failure whether wilful or otherwise this can expose the City to potential industrial relations claims.

Further as custom and practice any investigations and performance management issues can be initiated and should be initiated and concluded in a timely manner at any time to ensure procedural fairness, practical resolution and as applicable clarity on opportunities for improvement.

The outcome and findings of any investigation into substantiated complaints will be reported to the Governance Committee and it is this Committee that undertakes the annual review of the CEO's performance.

Based on the above information the officer recommendation is that the motion is noted and the initiator of the motion be informed that the CEO's performance review has already been concluded.

Officer Recommendation

That Motion 7 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the Council investigating and resolving all complaints against the CEO before concluding the CEO's current performance review be noted.

It is further noted that at the Ordinary Meeting of Council held 16 February 2021 (Item M21/5812) the Council considered and approved the recommendation from the Governance Committee that concluded the current CEO performance review process.

**M21/5819 MOTIONS FROM THE ANNUAL GENERAL MEETING OF ELECTORS  
17 FEBRUARY 2021 – MOTIONS CARRIED (REC)****STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

The date, time, location and purpose of the General Meeting of Electors was advertised in the local newspapers, on the City of Melville website and on City of Melville noticeboards at the Civic Centre, Libraries and Recreation Centres in accordance with the requirements of the Local Government Act. Additional social media advertising was also undertaken.

The advertising and holding of the General Meeting of Electors gave 20 members of the community the opportunity to participate in the discussion, question time and voting on the motions.

There has been no specific consultation or engagement with the Community in preparing this report.

**II. OTHER AGENCIES / CONSULTANTS**

Legal advice has been sought regarding Motion 5.

**STATUTORY AND LEGAL IMPLICATIONS**

Relevant statutory and legal implications need to be considered in relation to each separate motion presented and supported at the Annual General Meeting of Electors.

**FINANCIAL IMPLICATIONS**

No funding has been provided in the current year budget to implement or undertake any actions in relation to the motions carried. Funding requirements maybe required depending on the Council resolution in relation to each motion.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Strategic and risk implications will need be considered depending on the Council resolution in relation to each motion.

There is a risk of dissatisfaction among some members of the community, should the Council not support the motions carried at the electors meeting. There is a risk of the Council acting beyond its legal authority should the Council support motions for which the local government does not have power. The officer comments and rationale and the recommendations presented may assist to mitigate this risk.

**POLICY IMPLICATIONS**

There are no policy implications relating to the motions supported at the AGM.

**M21/5819 MOTIONS FROM THE ANNUAL GENERAL MEETING OF ELECTORS  
17 FEBRUARY 2021 – MOTIONS CARRIED (REC)****ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

No alternative options are proposed by the administration in relation to the motions carried at the annual general meeting.

In relation to **Motion 2** part (b) it would be for the Council to propose any “... new, community-inclusive committees to support the functions of the Council.” If this was supported an Elected Member Workshop should be held to discuss possible advisory and feedback panels and for the administration to prepare advice on a suitable Charter, terms of reference, delegations, representation etc for each proposed committee.

In relation to **Motion 5** legal advice has been sought on the Council requiring officers to change any official or un-official reports or recommendations prepared by officers in their professional capacity. Should the Council wish to limit the extent of the authority delegated to Planning Officers in other ways, this may be done as part of the annual review of Council delegations.

**CONCLUSION**

This report considers the motions presented and supported at the AGM and provides officer comment and a recommendation in relation to each motion.

*At 8:30pm Cr Pazolli left the meeting and returned at 8:32pm.*

**M21/5819 MOTIONS FROM THE ANNUAL GENERAL MEETING OF ELECTORS  
17 FEBRUARY 2021 – MOTIONS CARRIED (REC)****OFFICER RECOMMENDATION****APPROVAL**

At 8:30pm Cr Robins moved, seconded Cr Macphail –

**Motion 2**

That the Council notes Motion 2 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the Council/Community Committees and the MRRA be referred to:

- 1 the minutes of the Special Meeting of the Council held 21 October 2019 for the list of Council committee, advisory, management, local government and community committees and
- 2 the Melville Talks webpage for the list of current engagements and community inclusive feedback/ advisory panels and committees.

**Motion 3**

That the Council notes Motion 3 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the reporting of operational performance metrics.

**Motion 4**

That the Council notes Motion 4 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the scope and focus of the organisational review, and advises it was considered when finalising the scope of the Organisational Review approved by the Council at the 16 February 2021 Ordinary Meeting of Council.

**Motion 5**

That the Council notes Motion 5 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the Council limiting the extent of the authority delegated to Planning Officers.

**Motion 6**

That the Council notes Motion 6 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the Council delegating investigatory powers and appointment functions to the Governance Committee, for the Council's future consideration of the implications of delegating powers and duties to the Governance Committee.

**Motion 7**

That the Council notes Motion 7 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the Council investigating and resolving complaints against the CEO before concluding the CEO's current performance review and confirms that the CEO's annual performance review was resolved by the Council to be concluded at the 16 February 2021 Ordinary Meeting of Council.

**M21/5819 MOTIONS FROM THE ANNUAL GENERAL MEETING OF ELECTORS  
17 FEBRUARY 2021 – MOTIONS CARRIED (REC)****Amendment**

At 8:34pm Cr Pazolli moved

**That a point 3 be added to Motion 2 as follows: –**

**“That the CEO arrange for a page on the City’s website with a list of links to the relevant documents referred to in point 1 and 2.”**

**LAPSED FOR WANT OF A SECONDER**

*At 8:36pm Cr Barton left the meeting and returned at 8:37pm.*

**M21/5819 MOTIONS FROM THE ANNUAL GENERAL MEETING OF ELECTORS  
17 FEBRUARY 2021 – MOTIONS CARRIED (REC)****OFFICER RECOMMENDATION AND OFFICER RESOLUTION****APPROVAL**

At 8:30pm Cr Robins moved, seconded Cr Macphail –

**Motion 2**

That the Council notes Motion 2 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the Council/Community Committees and the MRRA be referred to:

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That the Council notes Motion 5 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the Council limiting the extent of the authority delegated to Planning Officers.

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**Motion 7**

That the Council notes Motion 7 carried at the Annual General Meeting of Electors held 17 February 2021, relating to the Council investigating and resolving complaints against the CEO before concluding the CEO's current performance review and confirms that the CEO's annual performance review was resolved by the Council to be concluded at the 16 February 2021 Ordinary Meeting of Council.

At 8:40pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

**M21/5000 – COMMON SEAL REGISTER (REC)**

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

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**KEY ISSUES / SUMMARY**

This report details the documents to which the City of Melville Common Seal has been applied for the period from 13 January 2021 up to and including 16 February 2021 for the Council's noting.

**M21/5000 – COMMON SEAL REGISTER (REC)**

**BACKGROUND**

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

**DETAIL**

<b>Register Reference</b>	<b>Parties</b>	<b>Description</b>	<b>ECM Reference</b>
CS2158	City of Melville and New Star Shining Pty Ltd and Oldbrook Pty Ltd	Creation of Easements for Lots 11 (4B) and 101 (2) Majestic Close, Applecross	DA-2020-695
CS2159	City of Melville and Carrooda Pty Ltd and Sansom Nominees	Amendment No.07 Report to Local Planning Scheme No.6	6063864
CS2160	City of Melville and Vision Surveys and Landgate	Section 70A Notification on Certificate of Title Lot 5760 Jemerson Street Willagee	DA-2020-1615
CS2162	McLeods and City of Melville	Withdrawal of Caveats - Lot 225 and 969 Carrington Street Palmyra	6075370
CS2164	City of Melville and Arc Infrastructure Pty Ltd	Licence to Use and Occupy Corridor Land (Ken Hurst Park Leeming) - Access agreement for rail corridor Ken Hurst Park	6065069

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

Not applicable.

**II. OTHER AGENCIES / CONSULTANTS**

Not applicable.

**M21/5000 – COMMON SEAL REGISTER (REC)****STATUTORY AND LEGAL IMPLICATIONS**

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

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

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

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

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

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

There are no policy implications in this report.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable.

**CONCLUSION**

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

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

**That the Council notes the actions of His Worship the Mayor and the Chief Executive Officer in executing the documents listed under the Common Seal of the City of Melville from 13 January 2021 up to and including 16 February 2021.**

At 7:23pm the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)**

**C21/5808 – 2020-2021 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)**

Ward	:	All
Category	:	Operational
Subject Index	:	Budgeting – Review
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	:	Item C20/6177 Special Meeting of Council held 29 June 2020 – Consideration and Adoption of the 2020-2021 Budget.
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Debbie Whyte Manager Financial Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**C21/5808 - 2020-2021 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- A Mid Year Budget Review (the Review) is required to be undertaken in accordance with the *Local Government (Financial Management) Regulations 1996*.
- This report presents the results of the Review for the period 1 July 2020 to 31 December 2020 and highlights the significant positive and negative variations that require budget amendment.
- Subsequent amendments were also made as a result of the State Government imposed lockdown in February 2021 due to Covid-19.
- This report recommends that the Council notes the results of the Review, and by absolute majority, approves the recommended budget amendments required to the 2020-2021 Budget as a result of the Review.

**BACKGROUND**

The City of Melville reviews its actual versus budget position on an ongoing basis and a budget variation listing and budget variance report is submitted to Council in the monthly Statements of Financial Activity Report.

The Financial Management Regulations (33A) specify that Local Governments must at the least undertake a formal budget review between 1 January and 31 March each year, have it reviewed and adopted by the Council and submit the findings to the Department of Local Government, Sport and Cultural Industries. The City of Melville has undertaken the Review within this period based on the financial year to date revenue and expenditure position as at 31 December 2020.

The results of the Review were adjusted to reflect the impact of the State Government imposed lockdown in February 2021 due to Covid-19.

**DETAIL**

A review of budgets has been undertaken by Budget Responsible Officers, and then reviewed by the Management Accounting team and Executive and Management Leadership Teams.

As presented, the amended financial position for the City as at 31 December 2020 will have a positive net budget variance of \$186,000. This is the net result of both positive and negative variances across both operating and capital budgets and funds to be set aside and funds to be used from specific purpose reserve accounts.

**C21/5808 - 2020-2021 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)**

The following table is a summary of the 2020-2021 Mid Year Review results, with positive variances shown as \$xxx and negative variances shown as (\$xxx) i.e. in red parentheses:

	Variance between Revised Budget and Budget Review \$
<b>Net Operating Activities</b>	
Governance	882,502
General Purpose Funding	(55,949)
Law, Order and Public Safety	273,892
Health	6,350
Education and Welfare	13,956
Housing	(6,724)
Community Amenities	498,863
Recreation and Culture	(159,078)
Transport	(317,696)
Economic Services	(445,931)
Other Property and Services	102,700
<b>Net Operating Variance</b>	<b>792,885</b>
<b>Operating Activities Excluded from Budget - (Profit)/loss on asset disposals</b>	<b>(43,570)</b>
<b>Investing Activities</b>	
Non-operating grants, subsidies and contributions	263,222
Proceeds from disposal of assets	43,570
Purchase of furniture and equipment	(91,000)
Purchase of plant and equipment	(143,137)
Purchase of land and buildings	(353,248)
Purchase of infrastructure assets	959,531
<b>Net Investing Variance</b>	<b>678,938</b>
<b>Financing Activities</b>	
Proceeds from self-supporting loans	86,369
Net Reserve Fund Transfers	(2,100,486)
<b>Net Financing Variance</b>	<b>(2,014,117)</b>
<b>Estimated amount to be raised from general rates</b>	<b>771,864</b>
<b>Net Variance as at 31 December 2020 surplus/(deficit)</b>	<b>186,000</b>

Key findings are shown below and amendments are shown in line with the Adopted Annual Budget format in attachment: [5808A Mid Year Budget Review 2020-2021 Summary Amendments](#).

Whilst the reporting levels adopted by the Council when adopting the 2020-2021 Budget, at its Ordinary Meeting of Council held on 29 June 2020, were 10% or \$50,000 (whichever is greater), some commentary has been provided on variances less than these amounts where considered necessary to gain a full understanding of the amended net position resulting from the Review.

**C21/5808 - 2020-2021 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)****Key material findings in the Operating Budget:****Governance – \$882,502 Net Positive Variance**

- Reduction to CEO legal costs budgets amounting to \$47,784 due to reallocation to Statutory Planning Services to fund legal costs relating to a planning matter.
- Reduction to Governance legal fees budgets amounting to \$18,031 due to reallocation to Statutory Planning Services to fund legal costs relating to a planning matter.
- Reduction to CEO special projects funds amounting to \$50,000 due to reallocation to Strategic Urban Planning to fund consultancy costs relating to Canning Bridge – economic, social and environmental impact assessment of Main Roads double duck and dive proposal.
- Reduction to CEO strategic communication budget amounting to \$52,954 due to reallocation to Strategic Urban Planning to fund consultancy costs relating to Canning Bridge – economic, social and environmental impact assessment of Main Roads double duck and dive proposal.
- Reduction of net savings budget by \$726,178. The 2020-21 was prepared amidst the Covid-19 pandemic, with many of the budget parameters being conservative due to the economic uncertainty. In September 2020, budget amendments were processed to reset some of these budget parameters, with material adjustments relating mainly to the early reopening of facilities. Surplus funds were quarantined in a Governance account and have been released in this Review to fund other variances.

**General Purpose Funding (including estimated additional rates income) – \$715,915 Net Positive Variance**

- Reduction to budget for investment income earned from reserve funds by \$244,240 due interest rates being lower than anticipated. 50% of this reduction has been offset against reserves as a reduction to interest earnings set aside to reserves.
- Increase to budget for investment income earned from municipal funds by \$177,375 due to higher amounts held as municipal funds than expected.
- Increase to budget for income generated from residential and commercial rates by \$1,004,965. This is mainly due to the development of properties at 908 Canning Highway, Applecross, 893 Canning Highway, Mount Pleasant, and 36 Kintail Road Applecross.
- Increase to Residential Rates Concessions cost budget by \$271,657 due to the impact of multi unit/single title properties that were not considered per individual unit when formulating the budget. In addition, the levy of increased levels of interim rates as described above has also meant that a higher than anticipated number of rate concessions have been raised.
- The amount relating to the rates growth and 1% of the additional net rates income earned over the original budget for rates income have been transferred to the New/Upgrade Works Reserve and Public Open Space and Urban Forest Reserve respectively.
- Increase to rates income budget of \$20,000 for rates income from currently non rated properties in the Carawatha development project.

**Law, Order and Public Safety – \$273,892 Net Positive Variance**

- Budget for income from Animal Control fees and charges increased by \$151,000 due to residents opting for the lifetime registration of dogs and cats.

**C21/5808 - 2020-2021 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)**

- Budgeted net expenditure from community security services is expected to be \$79,786 lower due to slightly higher income and savings from two vacant positions during the first six months of the financial year. This amount has been offset in the Community Surveillance and Security Reserve as a reduction to funds used from the reserve.

**Health – \$6,350 Net Positive Variance**

- Represented by non material amounts in other Health and Preventative Services.

**Education and Welfare - \$13,956 Net Positive Variance**

- Reduction to employment cost budgets by \$36,057 due to savings arising from a vacant position in the Volunteer Resource Centre.
- Increase to budgeted funds required for the National Reconciliation Week event by \$8,250.
- Minor reductions totalling \$11,429 to income budgets including the community bus service and room and hall hire at Cirque.

**Housing – (\$6,724) Net Negative Variance**

- Represented by non material amounts in Property Services.

**Community Amenities – \$498,863 Net Positive Variance**

- Sanitation
  - Income budgets for FOGO (Food Organics, Garden Organics) increased by \$248,153 and represent the final Better Bins grant payment to be received this financial year.
  - Expenditure budgets for FOGO increased by \$142,167 and represent the combined result of reduced waste disposal costs due to lower tonnages and additional stores and materials costs utilising the Better Bins grant income.
  - Reduction of commercial refuse and recycling collection income budgets by \$109,617 due to a reduction in the number of services being delivered when compared to budget.
  - Reduction of expenditure related to commercial refuse and recycling collection by \$47,669 in line with lower income.
  - Increase of expenditure budgets for Bulk Verge Collection amounting to \$116,406 representing staffing level increases, higher waste disposal and contractor costs driven by higher tonnages than budgeted.
  - Reduction to expenditure budgets for Domestic Refuse and Recycling collection of \$427,573 due to a combination of lower tonnages and cheaper waste disposal rates than budgeted.
  - All adjustments made to income and expense budgets relating to waste services have been offset against the Commercial Refuse Reserve and Refuse Facilities Reserve.
- Town Planning and Regional Development
  - Increase to income budgets for Development Application Fees, Land Information Certificates and Planning fines totalling \$357,039.
  - Increase of \$99,488 to employment cost budget for additional staff in Planning Administration.
  - Increase of \$227,500 to legal cost budgets in relation to planning matters.
  - Increase of \$102,954 to legal cost budget for consultancy services related to the Canning Bridge project.

**C21/5808 - 2020-2021 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)**

- Reduction of \$100,000 to the Property Rationalisation Project budget due to a delay in the project – these funds are offset against funds used from the Special Projects Reserve.
- Reduction of \$45,000 to the Transport Strategy Project budget due to project being on hold – these funds are offset against funds used from the Special Projects Reserve.
- Protection of Environment
  - Reduction of \$48,227 in Natural Areas and Parks service area including adjustments to budgets for waste cost allocation and adhoc contractor costs.

**Recreation and Culture – (\$159,078) Net Negative Variance**

- Increase in budgeted income from Commercial, Clubhouse and Community Leases of \$25,601 due to the total of the City of Melville Stimulus waivers being lower than forecast.
- Budget for recoup of interest for self supporting loan to Melville Glades Golf Club increased by \$34,716 due to non eligibility for stimulus package.
- Budget for income from reserve hire increased by \$130,224 due to removal of City of Melville Stimulus waiver applicable to the last winter season.
- Budget for income from Leisurefit Booragoon reduced by \$25,393 and represents adjustments made due to higher activity levels over the previous months offset by the impact of the temporary closure of facilities in February 2021 due to Covid-19.
- Budget for income from Leisurefit Melville reduced by \$315,707 and represents adjustments to how services and programs are delivered.
- Budget for income from Tompkins Park Recreation Centre increased by \$47,000 in anticipation of room hire and Gym lease income when works are completed.
- Budget for income from Willagee Community centre reduced by \$52,899 due to temporary closure.

**Transport – (\$317,696) Net Negative Variance**

- Streets, Roads, Bridges and Depot
  - Increase to budget for footpath maintenance by \$200,000 to improve standards to ensure high risk defects identified are rectified.
  - Increase to budget for traffic management by \$50,000 to improve standards and undertake extra footpath contractor works safely.
  - Reduction to budget for street lighting utility costs by \$40,000 in line with actual trend.
- Parking Facilities
  - Budget for income from parking fees reduced by \$119,800 mainly due to free hours offered at Canning Bridge and Fiona Stanley Hospital.

**C21/5808 - 2020-2021 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)****Economic Services – (\$445,931) Net Negative Variance**

- Increase to building licence fee income budget by \$50,000 in line with actual trend.
- Reduction to employment cost budgets in building control services amounting to \$68,719 due to savings from a vacant position.
- Establishment of a \$550,000 budget for the first cash call for the Kardinya South Under Ground Power project. This expense is funded by funds drawn from the Rates Equalisation Reserve and will be returned to the reserve in the next financial year when these funds are rated in 2021-2022.

**Other Property and Services - \$102,700 Net Positive Variance**

- Increase of \$120,000 to expense recoup income in relation to staff on secondment at another local government.
- Increase of \$107,034 to labour hire cost budgets in information Technology due to staffing required for new software roll out over the remainder of the financial year.
- Reduction of \$45,429 to employment cost budgets in Customer Services due to savings from vacant positions.
- Reduction of \$42,000 to employment cost budgets in the Operations Centre for garden maintenance.

**Key material findings in the Capital Budget:****Non-Operating Grants, Subsidies and Contributions – \$263,222 Net Positive Variance**

- Budget increase includes adjustments to grant funding for Tompkins Park Redevelopment Stage 2, Stock Road and Roads to Recovery projects.

**Purchase of Furniture and Equipment – (\$91,000) Net Negative Variance**

- IT Capital Equipment – Budget increased by \$91,000 mainly due to additional funds required for the Data Centre internet routers/switches and a Virtual Desktop Infrastructure node. This increase is funded by the Information Technology Reserve.

**Purchase of Plant and Equipment - (\$143,137) Net Negative Variance**

- The increase of the budget relates mainly to the purchase cost of a crane, a trailer for Piney Lakes and the increased cost of electrical powered equipment. This increase is partly funded by the Fleet Services Vehicles, Plant and Equipment Replacement Reserve.

**Purchase of Land and Buildings – (\$353,248) Net Negative Variance**

- Tompkins Park Redevelopment – Increase budget by \$178,743 due to the sporting association spend being higher than the estimate.
- Wireless Hill Anchor Block North – Cost increased by \$50,000 based on initial assessment, final costs still to be determined. .
- Civic Centre Refurbishment – Reduction to budget by \$150,000 due to project being completed under budget.
- Change room upgrades – Increase to budget by \$56,257 by bringing forward funds from the 2021-2022 change room upgrade strategy budget allocation.
- Operations Centre Bunker Refurbishment - Increase to budget by \$136,430 due to revised estimate including contingency and overheads.
- Melville Woodturners – Business Case – \$50,000 budget required for design and quantity surveyor estimates. Project is planned to commence in 2022-2023.

**C21/5808 - 2020-2021 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)****Purchase of Infrastructure Assets – \$959,531 Net Positive Variance**

- Drainage projects negative variance of (\$260,109) represented by;
  - Environmental Drainage Projects - increase in budget by \$320,000 for drainage works at Haig Road and Blackwall Reach and to cover costs related to water treatment requirements to plant gross pollutant traps.
  - Cunningham Street Carpark Water Sensitive Urban Design installation – reduce budget by \$40,000 due to completion of project under budget.
- Jetties and Boardwalks negative variance of (\$30,000) due to survey costs increase in the Bicton Water Polo Revetment project budget.
- Irrigation projects positive variance of \$243,112 resulting from the deferral of Irrigation Renewal – Riseley Street project due to competing priorities, and uncertainty around the Riseley Centre Structure Plan.
- Lighting positive variance of \$83,679 represented by;
  - Tompkins Park Redevelopment Stage 2 – Reduction of \$135,000 due to project being completed under budget.
  - Lighting Pole Renewal Program 2020-2021 - Increase of \$60,000 due to the urgent pole structural issues arising from pole audit.
- Parks and Streetscapes positive variance of \$225,000 represented by;
  - Goolugatup Heathcote Lower Development –\$400,000 returned to the Public Open Space and Urban Forest Reserve, to be drawn down in future years. Current year budget will cover the cost of detailed design only.
  - Riseley Median Island Upgrade – Reduction of \$140,000 due to deferral of project. The project was deferred due to competing priorities and further planning required around the Riseley Centre Structure Plan.
  - Mountain Bike Track - Point Walter– Creation of \$50,000 budget to cover estimated cost of project.
  - Whole of Park Renewal Program 2020-2021 – Increase budget by \$50,000 to cover additional costs associated with the completion of works at Ken Douglas and Bicton Substation.
  - Heathcote Vision - Swan House – Increase budget by \$50,000 to cover additional costs for unforeseen underground infrastructure.
  - Urban Forest Tree Expansion Program – Reduction to budget by \$75,000 due to the removal of watering costs from the capital project.
  - Point Walter Foreshore Paving Stage 2 – Removal of \$150,000 budget due to deferral of project to 2022-2023 in view of potential increase in scope.
  - Bicton Quarantine Steps and Walls – Increase of \$380,000 to cover additional costs required to respond to the detailed design.
- Paths negative variance of (\$271,721) represented by;
  - Beach Street – Increase of \$215,569 to cover additional design, supervision and construction costs.
  - Bicton Quarantine - Path Renewal – Increase of \$78,847 to cover costs of unexpected renewal of wall and fence.
  - Davies Crescent (34 Davies-30 Bellairs) – Increase of \$98,157 to due to extensive change in scope of works, and bringing forward works scheduled for 2021-2022.

**C21/5808 - 2020-2021 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)**

- Roy Neal Park (Cnr Harrison-seating) – Creation of \$60,000 budget to renew pedestrian ramps identified as part of the defects survey.
- Bike Plan Implementation Works 2020-2021- Reallocation of funds amounting to \$200,000 to Links Road project.
- Roads positive variance of \$969,570 represented by;
  - Deep Water Point Carpark Renewal – Reduction of \$486,932 due to delays in the parking management plan finalisation. Funds returned to Infrastructure Asset Management and New/Upgrade Works Reserves to be drawn down in 2021-2022.
  - Hulme Court (McCoy Street - roundabout) – Reduction of \$166,633 due to completion of project under budget and refund of incorrect claim.
  - Wheatley Drive Median Islands – Reduction of \$150,000 due to construction being delayed as a result of consultation needs and time needed to complete detailed design. Funds returned to New/Upgrade Works reserve to be drawn down in 2021-2022
  - Point Walter Road/Canning Highway intersection – Removal of \$450,000 budget due to project being delayed. Funds returned to Infrastructure Asset Management and New/Upgrade Works Reserves to be drawn down in 2021-2022.
  - Safe Active Street - Ardross - Increase of \$305,000 to cover additional costs relating to supplementing cycling projects and facilitating the planting of more trees along the project area.

A listing of material capital works program adjustments is included in attachment [5808B Significant Capital Works Project Budget Amendments 2020-2021](#).

**Proceeds from self-supporting loans – \$86,369 Net Positive Variance**

Budget for recoup of principal for self supporting loan to Melville Glades Golf Club increased by \$86,369 due to non eligibility for stimulus package.

**Key material findings in relation to Reserve Accounts:****Net Funds Used/Funds Set Aside – (\$2,100,486) Net Negative Variance**

- Community Facilities Reserve – positive variance of \$256,341 represented by; Increase to funds to be used by \$256,341 for net increases in current year spend on reserve funded building renewal projects in the capital works program. A significant amount of this increase relates to amendments to the Tompkins Park Redevelopment project and Operations Centre Bunker Refurbishment project.
- Community Surveillance and Security Reserve – negative variance of (\$79,786) represented by; Reduction to funds to be used by \$79,786 due to the reduced deficit to be generated from the Community Safety Service operations as a result of higher income from security patrol fees and employment cost savings arising from vacant positions.
- Commercial Refuse Reserve – positive variance of \$61,948 represented by; Reduction to funds to be set aside by \$61,948 due to the lower surplus expected from the commercial refuse and recycling operation as a result of a reduction in the number of services being delivered.

**C21/5808 - 2020-2021 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)**

- Fleet Services Vehicles, Plant and Equipment Replacement Reserve – negative variance of (\$430,313) represented by;
  - Increase to funds to be set aside by \$500,000 as a result of resetting the budget parameters. \$2m is set aside annually however the adopted budget for 2020-2021 only allowed for \$1.5m due to funding restraints.
  - Increase to funds to be used by \$69,687 which relates to budget amendments made to net purchasing cost of heavy plant and vehicles and light vehicles.
- Information Technology Reserve – positive variance of \$91,000 represented by;
  - Increase to funds to be used by \$91,000 to fund the purchase of the Data Centre internet routers/switches and a Virtual Desktop Infrastructure node.
- Infrastructure Asset Management Reserve – negative variance of (\$450,671) represented by;
  - Increase to funds set aside by \$130,000 due to indexing the funds set aside. The funds were not indexed in the adopted budget due to funding constraints.
  - Reduction to funds to be used by \$320,671 which is represented by the net reduction to current year spend on reserve funded infrastructure renewal projects in the capital works program. A significant amount of this reduction relates to the deferral of the Irrigation Renewal – Riseley, Point Walter Foreshore Paving Stage 2 and Deep Water Point Carpark Renewal projects.
- New/Upgrade Works Reserve – negative variance of (\$1,234,024) represented by;
  - Increase to funds to be set aside by \$916,750 representing additional rates generated from growth in new properties at 908 Canning Highway, Applecross, 893 Canning Highway, Mount Pleasant, and 36 Kintail Road Applecross.
  - Reduction to funds to be used by \$317,274 which relates to net reductions in current year spend on reserve funded new and upgrade projects in the capital works program. A significant amount of this reduction relates to the delays in Deep Water Point Carpark Renewal and Wheatley Drive Median Islands projects.
- Parking Management – Riseley Activity Centre Reserve – negative variance (\$6,140) represented by;  
Increase to funds set aside by \$6,140 being 50% of the parking fee income from the Riseley Precinct. This did not form part of the adopted budget due to funding constraints.
- Parking Management – Canning Bridge Activity Centre Reserve – negative variance of (\$100,828) represented by;  
Increase to funds set aside by \$100,828 and represents 50% of the parking fee income from the Canning Bridge Precinct. This did not form part of the adopted budget due to funding constraints.
- Private Swimming Pool Inspection Fee Reserve – positive variance of \$34,433 represented by;  
Increase to funds to be used by \$34,433 to fund employment cost increases.

**C21/5808 - 2020-2021 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)**

- Public Open Space and Urban Forest Reserve – negative variance of (\$506,007) represented by;  
Reduction to funds to be used budget by \$505,000 which mainly relates to the deferral of the Goolugatup Heathcote Lower Development project.
- Rates Equalisation Reserve – positive variance of \$550,000 represented by;  
Increase to funds to be used by \$550,000 to meet the first cash call of the Kardinya South Underground Power project. These funds will be returned to the reserve in the next financial year when these funds are rated in 2021-2022.
- Refuse Facilities Reserve – negative variance of (\$163,559) represented by;  
Increase to funds to be set aside by \$163,559 due to a surplus being expected from the domestic waste operation due to increased income and reduced costs.
- Special Projects Reserve – negative variance of (\$245,000) represented by;
  - Increase to funds to be set aside by \$100,000 as a result of resetting the budget parameters. This did not form part of the adopted budget due to funding constraints.
  - Reduction to funds to be used by \$145,000 due to the reduction of the budgets for the Property Rationalisation and Transport Strategy strategic urban planning projects.
- Reserve Interest – positive variance of \$122,120 represented by;  
Reduction to funds to be set aside by \$122,120 due to the reduction in interest expected to be earned on reserve accounts.

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

Not Applicable

**II. OTHER AGENCIES / CONSULTANTS**

Not Applicable

**STATUTORY AND LEGAL IMPLICATIONS****33A. Review of budget**

- (1) *Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.*
- (2A) *The review of an annual budget for a financial year must —*
  - (a) *consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and*
  - (b) *consider the local government's financial position as at the date of the review; and*
  - (c) *review the outcomes for the end of that financial year that are forecast in the budget.*
- (2) *Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.*

**C21/5808 - 2020-2021 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)**

*(3) A council is to consider a review submitted to it and is to determine\* whether or not to adopt the review, any parts of the review or any recommendations made in the review.*

**FINANCIAL IMPLICATIONS**

After taking into account the various positive and negative variances and Reserve Funds adjustments, the mid year Budget Review has identified an overall net positive budget variance of \$186,000 after Reserve transfers.

However, this is based on the accrual accounting concept and not necessarily reflective of the cash position. At the time of writing this report, the City had outstanding debtors of \$25.4m. The cash position of the City will continue to be monitored to ensure there is adequate cashflow to fund operations.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

There are no specific strategic, risk and environmental management implications associated with the mid year Budget Review.

**POLICY IMPLICATIONS**

The Review has been conducted in accordance with the Accounting Policy CP-025 using the Programme and Sub Programme categories and Financial Sustainability – Forward Financial Planning and Funding Allocation Policy CP-008.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

After considering the review the Council is to determine whether or not to adopt the review, any parts of the review, or any recommendations in the review.

**CONCLUSION**

The Budget Review has identified a number of programs requiring budget amendments. Overall the net positive impact of the 2020-2021 Budget Review is represented by a surplus of \$186,000 after Reserve transfers.

**C21/5808 - 2020-2021 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5808)  
ABSOLUTE MAJORITY DECISION**

**That the Council:**

- 1. Notes the 2020-2021 Mid Year Budget Review and attachments [5808A Mid Year Budget Review Summary Amendments](#) and [5808B Significant Capital Works Project Budget Amendments](#)**
- 2. By Absolute Majority decision adopts the budget review with the following amendments to be made to the Rate Setting Statement adopted in the 2020-2021 Annual Budget;**

	Variance between Revised Budget and Budget Review \$
<b>Net Operating Activities</b>	
Governance	882,502
General Purpose Funding	(55,949)
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Community Amenities	498,863
Recreation and Culture	(159,078)
Transport	(317,696)
Economic Services	(445,931)
Other Property and Services	102,700
<b>Net Operating Variance</b>	<b>792,885</b>
<b>Operating Activities Excluded from Budget - (Profit)/loss on asset disposals</b>	<b>(43,570)</b>
<b>Investing Activities</b>	
Non-operating grants, subsidies and contributions	263,222
Proceeds from disposal of assets	43,570
Purchase of furniture and equipment	(91,000)
Purchase of plant and equipment	(143,137)
Purchase of land and buildings	(353,248)
Purchase of infrastructure assets	959,531
<b>Net Investing Variance</b>	<b>678,938</b>
<b>Financing Activities</b>	
Proceeds from self-supporting loans	86,369
Net Reserve Fund Transfers	(2,100,486)
<b>Net Financing Variance</b>	<b>(2,014,117)</b>
<b>Estimated amount to be raised from general rates</b>	<b>771,864</b>
<b>Net Variance as at 31 December 2020 surplus/(deficit)</b>	<b>186,000</b>

At 7:23pm the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)**

**C21/6000 - INVESTMENT STATEMENTS FOR JANUARY 2021 (REC)**

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

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**KEY ISSUES / SUMMARY**

This report presents the investment statements for the period ending 31 January 2021 for the Council's information and noting.

**C21/6000 - INVESTMENT STATEMENTS FOR 31 JANUARY 2021 (REC)**

**BACKGROUND**

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

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

**DETAIL**

The following statement details the investments held by the City as at 31 January 2021.

<b>CITY OF MELVILLE STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 31 JANUARY 2021</b>		
<b>SUMMARY BY FUND</b>		
Municipal		\$55,429,558
Reserve		\$147,502,108
Trust		\$-
Citizen Relief		\$217,779
<b>TOTAL</b>		<b>\$203,149,445</b>
<b>SUMMARY BY INVESTMENT TYPE</b>		
11AM		\$8,653,801
31Days at Call		\$6,000,000
60Days at Call		\$2,000,000
90Days at Call		\$16,600,000
Term Deposit		\$169,720,473
Units (Local Govt Hse)		\$175,171
<b>TOTAL</b>		<b>\$203,149,445</b>
<b>SUMMARY BY CREDIT RATING</b>		
AAA Category	AAA	
AA Category (AA+ to AA-)	AA-	\$151,973,558
A Category (A+ to A-)	A+	\$12,000,716
	A	
	A-	
BBB+ Category	BBB+	\$39,000,000
Units (Local Government House)		\$175,171
<b>TOTAL</b>		<b>\$203,149,445</b>

**C21/6000 - INVESTMENT STATEMENTS FOR 31 JANUARY 2021 (REC)**

Exposure to an individual institution is limited according to Council policy and in January 2021 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	\$ 8,500,000	4.18%	30.00%	✓
AMP	BBB+	BBB+ Category	\$ -	0.00%	15.00%	✓
Bankwest	AA-	AA Category	\$ -	0.00%	30.00%	✓
Bank of Queensland	BBB+	BBB+ Category	\$ 29,500,000	14.52%	15.00%	✓
ING Bank	A-	A Category	\$ -	0.00%	25.00%	✓
Bendigo & Adelaide	BBB+	BBB+ Category	\$ 9,500,000	4.68%	15.00%	✓
CBA	AA-	AA Category	\$ 38,000,000	18.71%	30.00%	✓
Macquarie	A+	A Category	\$ 9,000,716	4.43%	25.00%	✓
NAB	AA-	AA Category	\$ 48,731,998	23.99%	30.00%	✓
St George	AA-	AA Category	\$ -	0.00%	30.00%	✓
Suncorp	A+	A Category	\$ 3,000,000	1.48%	25.00%	✓
Westpac	AA-	AA Category	\$ 56,741,560	27.93%	30.00%	✓
Units in Local Govt House	NA	NA	\$ 175,171	0.09%	100.00%	✓
<b>TOTAL</b>			<b>\$ 203,149,445</b>	<b>100%</b>		

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

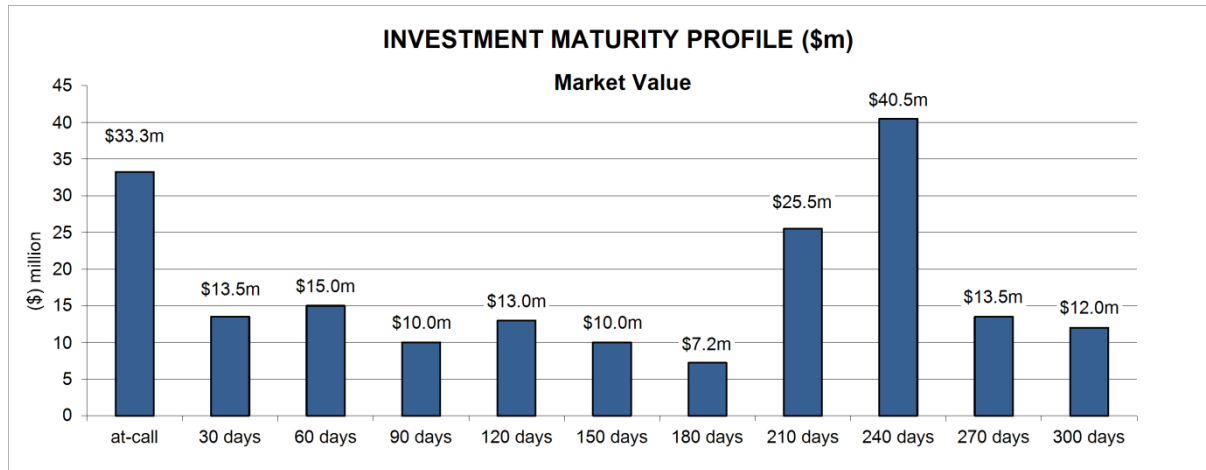
The City's investments were invested within the limits allowed within each category rating for January 2021.

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-)	\$ 151,973,558	75%	80%	✓
A Category (A+ to A-)	\$ 12,000,716	6%	50%	✓
BBB+ Category	\$ 39,000,000	19%	25%	✓
Units in Local Govt House	\$ 175,171	0%	100%	✓
<b>TOTAL</b>	<b>\$ 203,149,445</b>	<b>100%</b>		

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

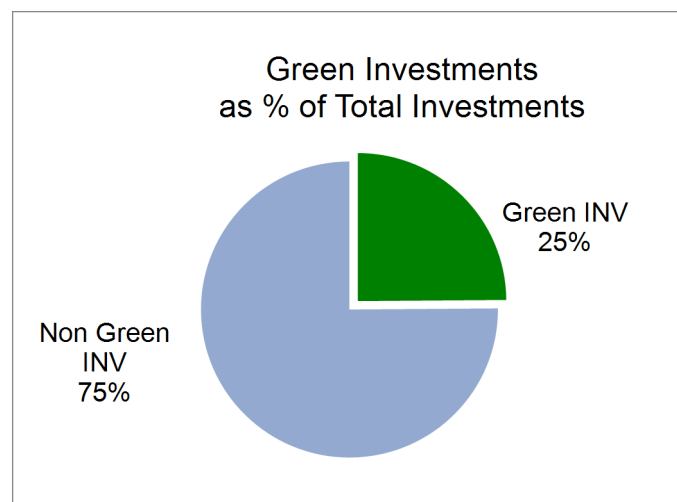
**C21/6000 - INVESTMENT STATEMENTS FOR 31 JANUARY 2021 (REC)**

The below graph summarises the maturity profile of the City’s investments at market value as at 31 January 2021. The immediacy of the demand for funds depends on the particular Fund or Reserve Account(s) of the City. The maturity profile provided in the table above meets the liquidity requirements of the Council policy.



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

The total investment in authorised institutions that do not lend to industries engaged in the exploration for, or production of, fossil fuels, as at 31 January 2021 was \$50,500,000 or 24.8% of total investment holdings being in non-fossil fuels institutions, compared to \$50,500,000 (24.6%) in December 2020. The total investments holding for January and December were \$203,149,445 and \$205,148,515 respectively.



**C21/6000 - INVESTMENT STATEMENTS FOR 31 JANUARY 2021 (REC)**

<b>Green Investment with financial institutions</b>			
<b>Institution</b>	<b>Credit Rating</b>	<b>Credit Rating Category</b>	<b>Funds held at period end</b>
Bendigo & Adelaide	BBB+	BBB+ Category	\$ 9,500,000
CBA	AA-	AA Category	\$ 38,000,000
Suncorp	A+	A Category	\$ 3,000,000
<b>TOTAL</b>			<b>\$ 50,500,000</b>

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 Investment.

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

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

**II. OTHER AGENCIES / CONSULTANTS**

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

**STATUTORY AND LEGAL IMPLICATIONS**

The following legislation is relevant to this report:

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

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

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

**C21/6000 - INVESTMENT STATEMENTS FOR 31 JANUARY 2021 (REC)**

**FINANCIAL IMPLICATIONS**

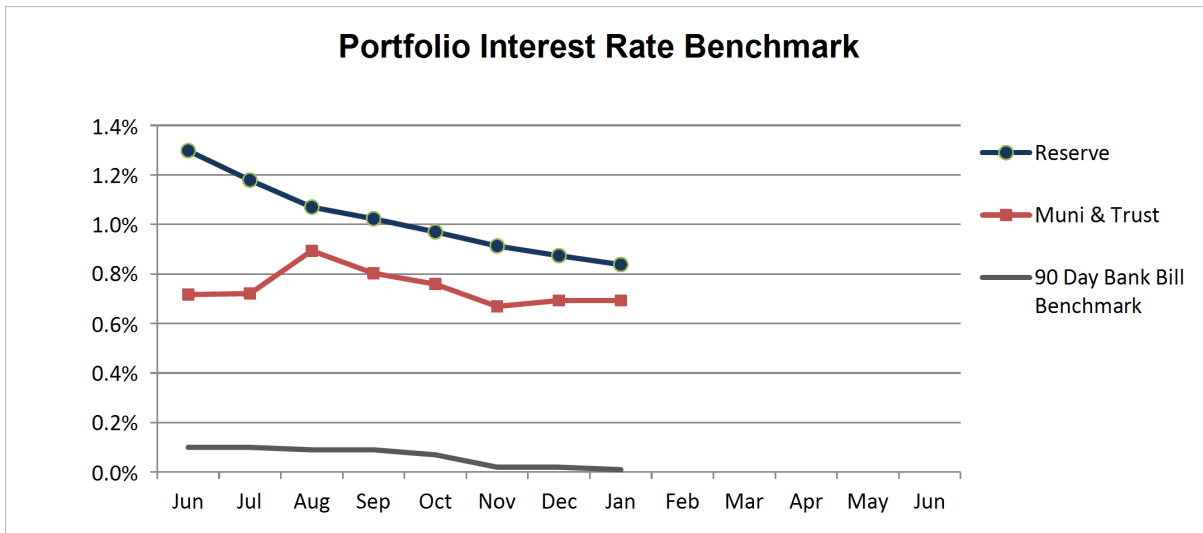
For the period ending 31 January 2021:

- Investment earnings on Municipal and Trust Funds were \$203,127 against a year to date budget of \$43,750 representing a positive variance of \$159,377.

The weighted average interest rate for Municipal and Trust Fund investments as at 31 January 2021 was 0.69% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.01%.

- Investment earnings on Reserve accounts were \$826,722 against a year to date budget of \$831,250 representing a negative variance of \$4,528.

The weighted average interest rate for Reserve account investments as at 31 January 2021 was 0.84% which compares favorably to the benchmark three month bank bill swap (BBSW) reference rate of 0.01%.



**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

**Strategic**

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

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

**Risk**

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

**C21/6000 - INVESTMENT STATEMENTS FOR 31 JANUARY 2021 (REC)****Environmental**

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable as this report only presents information for noting.

**CONCLUSION**

The City's investment portfolio is invested in highly secure investments with a low level of risk yielding a weighted average rate of return of 0.69% to 0.84% which exceeds the benchmark three month bank bill swap (BBSW) reference rate of 0.01%.

24.8% 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 24.6% in December 2020.

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

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

**That the Council notes the Investment Report for the period ending 31 January 2021.**

At 7:23pm the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)**

**C21/6001 – SCHEDULE OF ACCOUNTS PAID FOR JANUARY 2021 (REC)  
(ATTACHMENT)**

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

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**KEY ISSUES / SUMMARY**

This report presents the details of payments made under delegated authority to suppliers for the period of January 2021 and recommends that the Schedule of Accounts Paid be noted.

**C21/6001 – SCHEDULE OF ACCOUNTS PAID FOR JANUARY 2021 (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 and other senior staff. 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 January including Payment Register numbers, Cheques: 787-788, Electronic Funds Transfers batches: 683-690, Trust Payments, Card Payments and Payroll was distributed to the Elected Members of the Council on 26 February 2021.

A total of \$11,430,878 direct creditor payments were paid during the month, of which, 13% of payments were paid to suppliers located within the City of Melville and 17% to suppliers within the South West Group, compared to 21% and 24% of the total of \$11,083,551 direct creditor payments made over December 2020 respectively. The biggest payment of \$5,817,165 made during the month was the ESL Remittance to Department of Fire and Emergency Services. Approximately 96% of supplier invoices are paid within 30 days of receipt of the invoices.

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

<b>SCHEDULE OF PAYMENTS MADE JANUARY 2021</b>		
<i>Payments made under Delegated Authority DA-035</i>		
<b>MUNICIPAL FUNDS - DIRECT CREDITOR PAYMENTS</b>		
<b>Cheques</b>	Chq Payment Register No. 787 and 788	\$118,234.79
	Chq Payment on Restricted Funds Register No.	\$0.00
	Less Cancelled Chqs	(\$7,250.55)
<b>Electronic Funds Transfers</b>	EFT Payment Register No. 687,689 and 690	\$11,114,394.55
	EFT Payment on Restricted Funds Register No. 103,688	\$205,499.45
	Less Cancelled EFTs	-
		<b>\$11,430,878.24</b>
<b>Direct Debits</b>	Bank Fees	\$28,832.09
	Caltex Fuel	\$70,064.90
<b>Direct Payments</b>		\$8,872.89
	<b>Total Direct Creditor Payments</b>	<b>\$11,538,648.12</b>
<b>Payroll</b>	Total Pay 14 and 15	\$3,502,109.35
		<b>Total Payroll</b>
<b>Cards</b>	Corporate Cards	\$7,011.70
	Purchase Cards	\$46,103.02
	American Express	\$22,947.83
	<b>Total Card Payments</b>	<b>\$76,062.55</b>
<b>Total Direct Creditor Payments from Municipal Account</b>		<b>\$15,116,820.02</b>

**C21/6001 – SCHEDULE OF ACCOUNTS PAID FOR JANUARY 2021 (REC)  
(ATTACHMENT)**

*Schedule of Payments Made continued.*

<b>INTERFUND &amp; INVESTMENT TRANSACTIONS</b>			
<b><i>Interfund Transfers</i></b>			
Loan			\$0.00
Citizen Relief Trust			\$0.00
Citizen Relief Operating			\$0.00
Municipal			(\$2,999,070.74)
Reserve			\$2,999,070.74
Trust			\$0.00
<b><i>Total Interfund Transfers</i></b>			<b>\$0.00</b>
<b><i>New Municipal Investments</i></b>			
Westpac Bank	4/01/2021		\$1,000,000.00
Westpac Bank	8/01/2021		\$1,000,000.00
Macquarie Bank	12/01/2021		\$1,000,000.00
Westpac Bank	19/01/2021		\$3,500,000.00
Westpac Bank	20/01/2021		\$1,000,000.00
Westpac Bank	22/01/2021		\$2,000,000.00
Westpac Bank	27/01/2021		\$1,000,000.00
<b><i>Total New Investments</i></b>			<b>\$10,500,000.00</b>
<b>Grand Total</b>			<b>\$25,616,820.02</b>

Details of the payments are shown in attachment [6001 Payment Details January 2021](#). 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**

**C21/6001 – SCHEDULE OF ACCOUNTS PAID FOR JANUARY 2021 (REC)  
(ATTACHMENT)****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 \$25,616,820.02.

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

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

**That the Council notes the Schedule of Accounts paid for the period January 2021 as approved by the Director Corporate Services in accordance with delegated authority DA-035, and detailed in attachment [6001 Payment Details January 2021](#).**

At 7:23pm the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)**

**C21/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR JANUARY 2021 (REC)  
(ATTACHMENTS)**

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

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**KEY ISSUES / SUMMARY**

<p>This report presents:</p> <ul style="list-style-type: none"> <li>• The Statements of Financial Activity by Program, Sub-Program and Nature and Type, and other supporting statements for the period ending 31 January 2021 and recommends that they be noted by the Council.</li> <li>• The variances for the month of 31 January 2021 and recommends that they be noted by the Council.</li> <li>• No budget amendments for the month due to the Mid-Year Budget Review being underway.</li> </ul>
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**C21/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR JANUARY 2021 (REC)  
(ATTACHMENTS)****BACKGROUND**

The Statements of Financial Activity for the period ending 31 January 2021 have been prepared and tabled in accordance with the *Local Government (Financial Management) Regulations 1996*.

**OVERALL SUMMARY OF THE CITY'S FINANCIAL POSITION**

- The Municipal cash balance at the end of the month is \$55.4m.
- In January 2021 the total investment holdings have been decreased by \$2.0m to \$147.5m. 73% of the City's investment holdings are held in reserve accounts which are restricted to the defined purpose for which the reserve account was established.
- There were no budget amendments processed during January due to the Mid-Year Budget Review being underway. The Mid-Year Budget Review is undertaken in accordance with the *Local Government (Financial Management) Regulations 1996* and will be presented to Council in March.
- Rates raised year to date were \$81,241,810 with a positive variance of \$822,071 compared to the year to date annual budget of \$80,419,739. This is due mainly to a material positive variance in residential interim rates.

Rates collection progress for January is at 78.6% which is below the month end target of 80.2%.

- Total debtor collections for January equalled \$10,131,830. The year to date total outstanding debtors (including all rates and sundry debtors) is \$25,419,821. The YTD cash collection of \$90,897,552 from total debtors is lower than the cash collection of \$102,755,520 during the same period in the previous year. The rates raised in 2020-21 were lower due to COVID -19 concessions, hence the amount collected is also lower.
- Total waivers under the Community Stimulus Package adopted by Council on 9 April 2020, is \$1,079,318 over multiple financial years.

**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.

**C21/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR JANUARY 2021 (REC)  
(ATTACHMENTS)**

**Variations**

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

[6002C Statement Sub Program January 2021](#): Rate Setting Statement by Sub-Program

[6002H Statement of Variations January 2021](#): Statement of Variations in Excess of \$50,000

**Revenue**

Rates raised as at January were \$81,241,810, compared to a year to date budget of \$80,419,739. The positive variance of \$822,071 is due mainly to a positive variance of \$1,023,333 of interim rates raised off set by \$226,911 of rate concessions.

**Rates Collection**

<b>SUMMARY OF RATE DEBTOR MOVEMENT</b>					
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	102,148,569	102,386,849	0%	115,787,201	-12%
Payments Received	(87,172,295)	(77,887,290)	12%	(97,740,539)	-11%
Closing Balance	24,118,761	33,642,047	-28%	24,654,344	-2%

Total rate debtor collections for the month equalled \$9,285,005 .

**Sundry Debtor Movement**

<b>SUMMARY OF SUNDRY DEBTOR MOVEMENT</b>					
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	3,764,280	2,736,509	38%	5,499,563	-32%
Receipts	(3,725,257)	(2,878,432)	29%	(5,014,981)	-26%
Prepayments	23,172	11,550	101%	40,175	-42%
Closing Balance	1,301,060	1,108,491	17%	957,630	36%

**C21/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR JANUARY 2021 (REC)  
(ATTACHMENTS)**

Sundry debtor balances increased by \$192,569 over the course of January from \$1,108,491 to \$1,301,060. 90 day sundry debtors over \$1,000 for the month total \$426,868, representing 33% of total sundry debtors. Debtors are actively monitored and provided with monthly statements.

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

Not applicable for January 2021.

**Budget Amendments**

There were no budget amendments in January 2021 due to the Mid-Year Budget Review being underway.

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

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

There were no debts written off under Delegation DA-032 for the month of January 2021.

The following attachments form part of the Attachments to the Agenda for the month of January 2021.

<b>DESCRIPTION</b>	<b>LINK</b>
Statement of Financial Activity By Nature and Type	<a href="#"><u>6002A Statement Nature Type January 2021</u></a>
Rate Setting Statement by Program	<a href="#"><u>6002B Rate Setting Program January 2021</u></a>
Rate Setting Statement by Sub-Program	<a href="#"><u>6002C Rate Setting Sub Program January 2021</u></a>
Representation of Net Working Capital	<a href="#"><u>6002E Net Working Capital January 2021</u></a>
Reconciliation of Net Working Capital	<a href="#"><u>6002F Reconciliation Net Working Capital January 2021</u></a>
Notes on Rate Setting Statement reporting on variances of 10% or \$50,000 whichever is greater	<a href="#"><u>6002H Notes Rate Setting Statement January 2021</u></a>
Summary of Rates Debtors	<a href="#"><u>6002L Summary Rate Debtors January 2021</u></a>
Graph Showing Rates Collections	<a href="#"><u>6002M Rates Collections Graph January 2021</u></a>
Summary of General Debtors aged 90 Days Old or Greater	<a href="#"><u>6002N General Debtors Aged 90days January 2021</u></a>

**C21/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR JANUARY 2021 (REC)  
(ATTACHMENTS)****STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

Not applicable.

**II. OTHER AGENCIES / CONSULTANTS**

Not applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

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

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

**C21/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR JANUARY 2021 (REC)  
(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 subregulation (2), are to be —

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

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

The variance adopted by the Council 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.

**C21/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR JANUARY 2021 (REC)  
(ATTACHMENTS)****FINANCIAL IMPLICATIONS****Variances**

Variances are detailed and explained in attachment [6002H Notes Rate Setting Statement January 2021](#): Notes on Statement of Variances in excess of \$50,000 by Sub-Program.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable

**CONCLUSION**

The attached financial reports reflect a positive financial position of the City of Melville as at 31 January 2021.

**C21/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR JANUARY 2021 (REC)  
(ATTACHMENTS)**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6002)                      NOTING**

**That the Council:**

**Notes the Rate Setting Statement and Statements of Financial Activity for the month ending 31 January 2021 as detailed in the following attachments:**

<b>DESCRIPTION</b>	<b>LINK</b>
Statement of Financial Activity By Nature and Type	<a href="#"><u>6002A Statement Nature Type January 2021</u></a>
Rate Setting Statement by Program	<a href="#"><u>6002B Rate Setting Program January 2021</u></a>
Rate Setting Statement by Sub-Program	<a href="#"><u>6002C Rate Setting Sub Program January 2021</u></a>
Representation of Net Working Capital	<a href="#"><u>6002E Net Working Capital January 2021</u></a>
Reconciliation of Net Working Capital	<a href="#"><u>6002F Reconciliation Net Working Capital January 2021</u></a>
Notes on Rate Setting Statement reporting on variances of 10% or \$50,000 whichever is greater	<a href="#"><u>6002H Notes Rate Setting Statement January 2021</u></a>
Summary of Rates Debtors	<a href="#"><u>6002L Summary Rate Debtors January 2021</u></a>
Graph Showing Rates Collections	<a href="#"><u>6002M Rates Collections Graph January 2021</u></a>
Summary of General Debtors aged 90 Days Old or Greater	<a href="#"><u>6002N General Debtors Aged 90days January 2021</u></a>

At 7:23pm the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)**

**P21/3907 – LATE ITEM FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY, WILLAGEE WA 6156 (REC) (ATTACHMENT)**

Ward : Palmyra – Melville - Willagee  
 Category : Operational  
 Application Number : DA-2020-673  
 Property : Lot 31 (No. 161) Leach Highway, Willagee WA 6156  
 Proposal : Four Grouped Dwellings  
 Applicant : Eric Soh, Architectural Studio 63  
 Owner : Jason Fook Ngian Wong & Li Lu Khoo  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Not Applicable  
 Responsible Officer : Peter Prendergast  
 Manager Statutory Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P21/3907 - FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY,  
WILLAGEE WA 6156 (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Development approval is sought for four grouped dwellings at Lot 31 (No. 161) Leach Highway, Willagee.
- 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 (the R-Codes) and relevant local planning and council policies.
- The proposed development requires a performance assessment in relation to building setbacks and visual privacy and as such was advertised to the adjoining owners and occupiers in accordance with Part 4 of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1). Two submissions were received both of which objected to the proposed building setbacks to the west and visual privacy setbacks to the south.
- Notwithstanding the objections received, it is considered that the development is acceptable when assessed against the relevant Design Principles of the R-Codes.
- It is recommended that approval be granted subject to conditions.



**Figure 1 – Aerial photography of subject site**

**P21/3907 – LATE ITEM FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY, WILLAGEE WA 6156 (REC) (ATTACHMENT)**

**BACKGROUND**

**Scheme Provisions**

MRS Zoning	:	Urban
LPS6 Zoning	:	Residential
R-Code	:	R20/R60
Use Type	:	Residential
Use Class	:	Permitted

**Site Details**

Lot Area	:	802m <sup>2</sup>
Retention of Existing Vegetation	:	N/A
Street Tree(s)	:	No
Street Furniture (drainage pits etc.)	:	No
Site Details	:	Refer to Figure 1 above

**[3907 Attachment 1 Site Plan Elevations Proposed 4 Group Dwellings](#)**

**DETAIL**

In June 2020, a development application was lodged for four grouped dwellings at Lot 31 (No. 161) Leach Highway, Willagee.

The application has been assessed against the provisions of LPS6, the R-Codes and relevant local planning and council policies. The proposal satisfies all of the relevant deemed-to-comply provisions with the exception of those matters listed below, which require assessment against the Design Principles of the R-Codes.

**Residential Design Codes**

<b>Design Element</b>	<b>Deemed to Comply standard</b>	<b>Proposed</b>	<b>Comments</b>	<b>Delegation to approve variation</b>
Clause 5.1.3 C3.1(i) Lot Boundary Setbacks	First Floor Stairs/Landing setback 1.2 metres (West)	Minimum setback of 1.14 metres	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit
	Second Floor Stairs/Bed 4 (bulk) setback 2.9 metres (West)	Minimum setback of 2.45 metres		
Clause 5.3.1 C1.1 Outdoor Living Areas	Outdoor living areas to be located behind street setback area	Unit 1-4 outdoor living areas located within Leach Highway street setback area	Requires assessment against the Design Principles of the R-Codes.	Manager Statutory Planning
Clause 5.4.1 C1.1 Visual Privacy	Balconies - Cone of vision setback 6.0 metres from lot boundaries (South)	First Floor: Unit 1-4 balconies minimum cone of vision setback 3.5 metres	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit

**P21/3907 – LATE ITEM FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY, WILLAGEE WA 6156 (REC) (ATTACHMENT)**

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

Advertising Required: Yes  
 Neighbour's Comment Supplied: Yes  
 Reason: Required pursuant to LPP 1.1 Planning Process and Decision Making Clause 3.4(a)

In accordance with the requirements of LPP1.1, the application was advertised to the affected landowners for a period of 14 days, commencing 6 October 2021 and concluding 20 October 2020. Two submissions were received from the landowners, one objecting to the proposal, and one which requested screening along the first floor balconies.

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

<b>Summary of Issues Raised</b>	<b>Comments</b>	<b>Action (Condition/ Uphold/ Not Uphold)</b>
Building size, setbacks and building bulk	Refer to the comments section of this report.	Not Uphold
Impacts of dwellings on the streetscape as dwellings are setback 1.0 metre from Leach Highway.	The proposed dwellings meet the minimum and average street setback requirements for an R60 development as stipulated under Table 1 of the R-Codes.	Not Uphold
Visual privacy impacts from reduced building setbacks from western lot boundary.	There are no major openings along the western elevation of the building and therefore, there will be no overlooking or adverse amenity impacts.	Not Uphold

**II. OTHER AGENCIES / CONSULTANTS**

The City referred the application to Main Roads Western Australian (MRWA) as the subject site abuts Leach Highway which is subject to high exposure to road noise. In accordance with *State Planning Policy 5.4 – Road and Rail Noise*, an Acoustic Report was referred to MRWA on 26 November 2020 for comments. MRWA has provided no objection to the proposal subject to conditions of approval detailed within the Officer Recommendation.

**FINANCIAL IMPLICATIONS**

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

**P21/3907 – LATE ITEM FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH  
HIGHWAY, WILLAGEE WA 6156 (REC) (ATTACHMENT)****STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

**POLICY IMPLICATIONS**

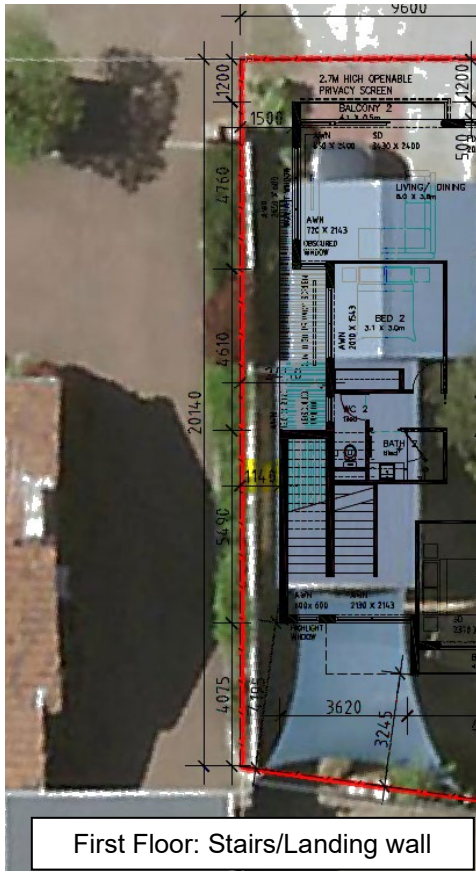
There are no policy implications for the City relating to this proposal.

**COMMENT**Lot Boundary Setbacks

As detailed in the table above two sections of the western facing wall of unit four do not meet the deemed to comply provisions of the R-Codes and therefore require a performance assessment. The setbacks are considered to meet the Design Principles of the R-Codes for the following reasons:

- Both the first floor and second floor walls are well articulated through the use of varying materials, alternating wall heights, varied setbacks and window openings. This articulation ensures the walls will not add excess building bulk to the adjoining western property;
- The orientation of the wall will ensure that access to direct sunlight and ventilation to the adjoining western property will not be restricted;
- The wall is located next to the driveway area of the adjoining site. This serves to mitigate any potential bulk impact on the actual adjoining dwelling which is consequently set further away from the lot boundary.; and
- There are no major openings along this section of wall, ensuring the development does not pose any overlooking concerns for the adjoining owners/occupiers.

**P21/3907 – LATE ITEM FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY, WILLAGEE WA 6156 (REC) (ATTACHMENT)**



**Figures 2a and 2b:** First Floor Plan (left) and Second Floor Plan (right) overlay of the subject site and the neighbouring property. The measurement highlighted in red denotes the setback of the wall from the neighbouring western lot boundary.

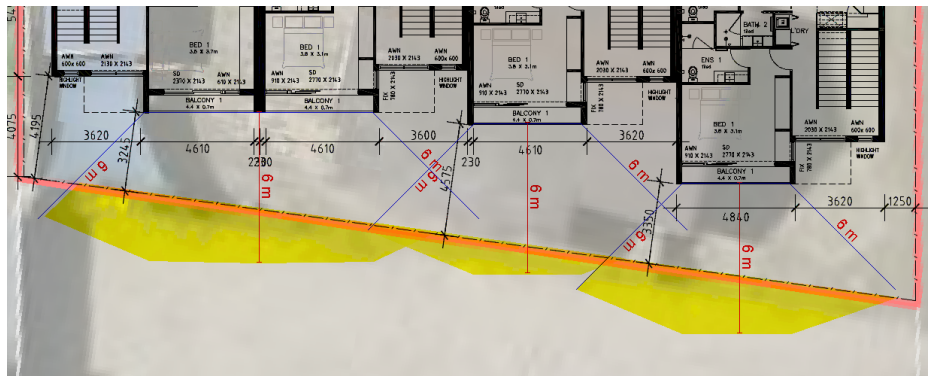
**Balcony Setbacks**

Whilst the proposed 2<sup>nd</sup> floor balconies are screened in accordance with the deemed to comply provisions of the R Codes, the proposed dwellings also each have an unscreened balcony on the first floor facing the southern adjoining lot. Balconies such as these are required to provide a minimum 6 metre cone of vision setback from the southern boundary, but in this case the cone of vision extends beyond the southern lot boundary. In view of this, a performance assessment against Clause 5.4.1 Visual Privacy of the R-Codes is required. The unscreened balconies at the first floor of the southern boundary are considered to meet the Design Principles of the R-Codes for the following reasons:

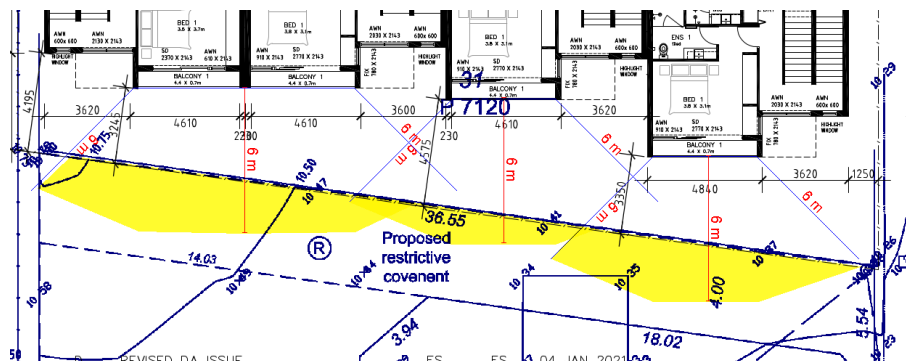
- The impacted area to the south is currently vacant, that lot having been cleared pending its subdivision into two lots. A future vehicle access driveway (noted as restrictive covenant area on Figure 3b) is proposed along the northern boundary. This driveway will provide access to the proposed subdivided lot, onto which the cone of vision setbacks from the first floor balconies will extend (see figures 3a and 3b below);
- The reduced cone of vision from the balconies will not directly overlook into any active habitable spaces on the lot when developed as the area of incursion will be restricted to the access driveway itself and is not an active habitable space;

**P21/3907 – LATE ITEM FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY, WILLAGEE WA 6156 (REC) (ATTACHMENT)**

- Unscreened balconies represent an improved design outcome taking into account the amenity of the future occupiers of the dwellings, the streetscape, and in embracing designing out crime principles as detailed in the dot points below;
- Unscreened balconies provide better passive surveillance from the dwellings onto the vehicle access and towards the entrance areas of each of the dwellings. High levels of visual surveillance supports a safer residential environment; and



**Figure 3a:** First Floor Plan (above) overlay of the subject site. The section highlighted in yellow shows the cone of vision arc encroachment from the balconies onto the southern adjoining lot.



**Figure 3b:** First Floor Plan (above) overlay of the subject site. The section highlighted in yellow shows the cone of vision arc encroachment from the balconies onto the southern adjoining lot.

**Car Parking**

The proposed development is fully compliant in respect of car parking. Given the location of the property within 250m of a high frequency bus transport route, the R Code car parking requirement is for 1 bay per dwelling.

In the subject case there are two bays proposed within a double garage for each of the dwellings. In addition there is scope for occasional car parking for visitors to the front of each garage.

Although located on Leach Highway, access for vehicles is proposed to be taken from Winnacott Street, at a point furthest away from the intersection with Leach Highway.

In respect of vehicle access, the DA was referred to Main Roads WA as well as the City's own traffic engineers. No concerns have been raised by MRWA or the City's traffic engineers.

**P21/3907 – LATE ITEM FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY, WILLAGEE WA 6156 (REC) (ATTACHMENT)**Waste Management

Waste collection is proposed to occur from Winnacott Street. No concerns are raised in this respect from the City's Waste Services Team. A total of eight bins will be collected each week in accordance with the standard residential waste collection regime operated by the City.

**CONCLUSION**

The application for four grouped dwellings has been assessed and is considered to comply with the relevant planning framework, including the design principles of the R-Codes. It is therefore recommended that the development be approved subject to the imposition of conditions.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3907)                      APPROVAL**

At 8:41pm Cr Fitzgerald moved, seconded Cr Barton –

**That the Council approve the development DA-2020-673 for four grouped dwellings at Lot 31 (No. 161) Leach Highway, Willagee, subject to the following conditions:**

- 1. The development the subject of this approval at 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. A Construction Management Plan is to be prepared by the Applicant and submitted to the City for approval at least 30 days prior to the commencement of works. The Construction Management Plan shall detail how the construction of the development will be managed including the following:**
  - public safety and site security;**
  - hours of operation,**
  - noise and vibration controls;**
  - air and dust management;**
  - stormwater, groundwater and sediment control;**
  - waste and material disposal;**
  - Traffic Management Plans prepared by an accredited personnel for the various phases of the construction, including any proposed road closures;**
  - the parking arrangements for contractors and sub-contractors;**
  - on-site delivery times and access arrangements;**
  - the storage of materials and equipment on site (no storage of materials on the verge will be permitted without an approval) ; and**
  - any other matters likely to impact upon the surrounding properties or road reserve.**

**Once approved, the development is to be constructed in accordance with the Construction Management Plan to the satisfaction of the City.**

**P21/3907 - FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY,  
WILLAGEE WA 6156 (REC) (ATTACHMENT)**

4. Prior to the initial occupation of the development, all unused crossover(s) shall be removed and the kerbing and road verge reinstated at the owners cost to the satisfaction of the City.
5. The proposed development shall be constructed in accordance with the recommendations of the approved Noise Assessment undertaken by Lloyd George Acoustics dated 24 November 2020.
6. A notification, pursuant to Section 70A of the *Transfer of Land Act 1893* is to be placed on the Certificate(s) of Title of the proposed development. The notification is to state:

*“The lots are situated in the vicinity of a transport corridor and are currently affected, or may in the future be affected by transport noise”.*

7. No earth works shall encroach onto the Leach Highway road reserve.
8. No stormwater drainage is to be discharged onto the Leach Highway road reserve.
9. No waste Collection is permitted from the Leach Highway road reserve.
10. 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 4.5m;
  - located a minimum of 2m away from the outside of the trunk of any retained 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.

11. 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.
12. Any street walls and fences (including the height of any retaining walls) constructed within the primary street setback area shall meet the requirements contained under clause 4 of Local Planning Policy *LPP3.1 Residential Development*, to the satisfaction of the City.
13. 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.
14. Prior to the initial occupation of the development, the external surface of the retaining wall/s which are visible from the adjoining properties shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the City.

**P21/3907 - FOUR GROUPED DWELLINGS – LOT 31 (NO. 161) LEACH HIGHWAY, WILLAGEE WA 6156 (REC) (ATTACHMENT)**

- 15. All retained trees on the City’s verge to be managed in accordance with Tree Policy (CP-029) unless otherwise approved in writing by the City, all street tree/s shall be protected throughout construction via the installation of a Tree Protection Zone (TPZ). Each TPZ shall be installed prior to commencement of development, in accordance with the following criteria to the satisfaction of the City:**
- **A free-standing mesh fence erected around each street tree with a minimum height of 1.8m and a 2m minimum radius measured from the outside of the trunk of each tree.**
  - **If an approved crossover, front fence, footpath, road or similar is located within the 2m radius, the TPZ fencing shall be amended to be the minimum distance necessary to allow the works to be completed.**
  - **Fixed signs are to be provided on all visible sides of the TPZ fencing clearly stating ‘Tree Protection Zone – No Entry’.**
  - **The following actions shall not be undertaken within any TPZ:**
    - **Storage of materials, equipment fuel, oil dumps or chemicals**
    - **Servicing and refuelling of equipment and vehicles**
    - **Attachment of any device to any tree (including signage, temporary service wires, nails, screws, winches or any other fixing device)**
    - **Open-cut trenching or excavation works (whether or not for laying of services)**
    - **Changes to the natural ground level of the verge**
    - **Location of any temporary buildings including portable toilets**
    - **The unauthorised entry by any person, vehicle or machinery**
  - **No unauthorised pruning of the canopy or roots of any Street Tree is permissible under the City of Melville’s Tree Policy CP-029. Pruning may only be undertaken by the City’s approved contractors following a written submission to and approval by the City.**
- 16. 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.**

At 8:52pm the Mayor declared the motion

**CARRIED (8/3)**

<b>Yes</b>	<b>8</b>	Cr Robartson, Cr Macphail, Cr Barber, Cr Mair, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	<b>3</b>	Cr Wheatland, Cr Sandford, Cr Barton

**P21/3908 – 6 GROUPED DWELLINGS – LOT 12 (4) TWEEDDALE ROAD, APPLECROSS  
WA 6153 (REC) (ATTACHMENT)**

Item brought forward.  
See page 10.

**15. EN BLOC ITEMS**

Item brought forward.  
See page 42.

The Mayor advised that the following Motions with Notice, were submitted by Cr Kepert who was an apology for this meeting and these items will be held over to the April 2021 Ordinary Meeting of Council.

- 16.1 Complaints Management CEO
- 16.4 Motion with Notice - Organisational Cultural Change
- 16.5 Review of Policy CP-017 - Legal Representation Policy Elected Members and Employees

## **16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN**

### **16.1 Motion with Notice - Complaints Management - CEO**

An Officer Advice Note has been provided for this Motion [Advice Note Motion 16 1](#)

#### **Motion**

**The Council moves that all Elected Members receive a copy of any complaint made against the CEO once received by any party.**

#### **Reasons for the Motion with Notice as provided by Cr Kepert**

At present the City of Melville has no clear process for dealing with complaints made against the CEO. The only reference is made under section 8.3 of the Code of Conduct (Employees):

*“Where an employee or Elected Member believes that the Chief Executive Officer has failed to comply with the Code of Conduct, they should report the matter to the Mayor who will report the matter to the Governance Committee. The Council’s Governance Committee will be responsible for the investigation of allegations of breaches of the Code of Conduct by the Chief Executive Officer and must either:*

- *investigate the alleged breach; or*
- *engage an independent person to investigate the allegation.”*

A number of complaints have recently been made against the CEO but Councillors have not been informed of their content. It is vital that all Councillors receive this information promptly so that they can carry out their duties in accordance with section 2.7(1) of the *Local Government Act 1995*:

#### **2.7. Role of council**

(1) The council —

- (a) governs the local government’s affairs; and
- (b) is responsible for the performance of the local government’s functions.

**16.2 Motion with Notice - Review of Land Use Restrictions at 71 – 77 Leach Highway / 2 – 6 Webber Road Willagee****COUNCIL RESOLUTION**

At 8:53pm Cr Wheatland moved, seconded Cr Fitzgerald –

**The Council request the CEO to investigate review of land use restrictions at 71-77 Leach Highway and 2-6 Webber Road, Willagee with a view to modifying Local Planning Scheme 6 to provide greater flexibility in land use permissibility.**

At 8:58pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

**Reasons for the Motion with Notice as provided by Cr Wheatland**

Land use at this C4 centre zone is not subject to the standard land use permissibility of other centre zones within LPS6. Instead land uses are restricted to a limited number of uses identified as “restricted uses” in the Scheme.

Historically these restrictions on land use were imposed in recognition that much of the available parking for this centre will ultimately be removed when the Stock Road/Leach Highway interchange is constructed. Accordingly, a limited range of uses (which were considered to have lower parking demands) have been identified for this site.

The recent refusal of an application for a yoga studio on site (which didn't meet the restrictive use requirements of LPS6) was an example of this.

These current controls are restricting opportunities for the centre to thrive and provide uses and services for the community.

An opportunity exists to explore different land use controls which still recognise the parking constraints on the site but provide greater flexibility to consider suitable land uses.

This location was previously tenanted by a TAB and the DOT Licensing Centre. The DOT Licensing Centre vacated this commercial property in December 2019, and it has left a big void. Additionally, the TAB has since shut, due to the COVID-19 pandemic. As a consequence, the existing deli that was a long-term tenant of this centre also shut down, and it has left the zone almost deserted. There is a new business in the old deli site, yet the large commercial premises where the TAB and licensing Centre were once is still empty. Without this change of use I fear for the future of the tenants, and property owners of this Activity Centre.

**16.3 Motion with Notice - Investigation/Development of a Policy into the Phasing Out of Single Use Plastics at Events in the City of Melville.**

An Officer Advice Note has been provided for this Motion [Advice Note Motion 16 3](#)

**COUNCIL RESOLUTION**

At 8:58pm Cr Wheatland moved, seconded Cr Fitzgerald –

**Directs the CEO to investigate and develop a policy framework to phase out single use plastics at events, markets and any other activities, where these would be potentially used, on council owned/managed land and council sponsored events by 30 December 2021. This could also include schools within the City, which may require further lobbying to the State Government to also commence the same approach.**

At 9:11pm the Mayor declared the motion

**CARRIED (10/1)**

<b>Yes</b>	<b>10</b>	Cr Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Pazolli, Cr Fitzgerald, Mayor Gear
<b>No</b>	<b>1</b>	Cr Robins

**Reasons for the Motion with Notice as provided by Cr Wheatland**

Plastic is inescapable in our daily lives. It is used to make everything from food packaging to toiletries, clothing, furniture, computers and cars. The same characteristics that drive mass production and use of plastic render it an environmental menace. Depending on the type, plastic can take between a few decades to potentially millions of years to disintegrate in landfill (Lau et al., 2020). Although plastic readily deteriorates, breaking up into ever smaller pieces, it is not biodegradable and reductions in size increase its ability to damage ecosystems and cause ill effects to the environment and human health. Unless burned, which itself causes pollution, nearly every piece of plastic ever manufactured still exists today, .

It is estimated between 8-12 tonnes of plastic enters the ocean annually from land sources (Jambeck et al., 2015), its ill effects will be felt for centuries. Globally, we produce more than 300 million tons of plastic waste each year, and that number is rising. Yet of all the plastic waste ever created, only 9% has been recycled, while the rest has been incinerated or discarded, mainly ending up in landfills. A big reason for this is that 50% of the plastic we produce is single use, meaning it's intended to be thrown away immediately after it has served its purpose – like straws, plastic carrier bags and water bottles.

The CSIRO states within Australia most plastic marine debris is from Australian sources and associated with the food and beverage industry. Further, production of so called biodegradable single-use solutions impinge on arable lands and are a cause of land clearing in order to produce a perceived product of guilt-free convenience. These products must be specially treated in order to fulfil their promise of an eco-solution. They have the potential to damage recycling systems if entered into the wrong waste stream, and in a conventional landfill system are no different to conventional plastics.

*16.3 Motion with Notice - Investigation/Development of a Policy into the Phasing Out of Single Use Plastics at Events in the City of Melville, continued*

The vast majority of waste enters the water from land (80%). It is estimated under a business as usual scenario that by 2040 the amount of plastic litter entering our oceans will be 80 million tonnes annually (Lau et al., 2020). With a “reduce and substitute” scenario, this becomes 30 million tonnes. However, only with systems change, such as is proposed here, plastic litter in 2040 can be less than today. As our City is along some of the most pristine and fragile waterways of the Swan and Canning Rivers we need to be mindful of what plastic pollutants, enter our waterways. Additionally, the ocean is also the endpoint for our rivers, which carry tonnes of loose litter and waste from landfills, ultimately depositing it into the sea.

Once broken down further plastics form particles of less than 5mm in diameter, called microplastics which sends this pollutant further and wider, invading more habitats and affecting more species. Less visible is the devastation that occurs through the ingestion of plastic: seabirds, turtles, fish, and whales commonly mistake plastic waste for food, because some has a similar colour and shape to their prey. Floating plastic also accumulates microbes and algae on the surface that gives it an odour appetising to marine animals. Once animals consume it, ingested plastic can pierce internal organs or cause fatal intestinal blockages; it also leads to starvation, because a stomach crammed with plastic gives an animal the illusion of being full.

In March of 2020 just on the cusp of the COVID pandemic, I participated in a Nurdle hunt at Pt Walter with Claire O’Loughlin, Regional Coordinator for AUSMAP, who conducts citizen science surveys of microplastic to empower and educate the community regarding the large amount of this pollution and dangerous plastic on our very doorstep. I was shocked at the amount of microplastics that we discovered and saw the evidence that these were coming from further upstream getting washed out of our waterways and into the sea.

There is a tremendous opportunity to be a world leading Council in reduction of single use plastics for our community. In a survey by DWER it was found “98% of respondents support further actions to reduce single-use plastics in WA”. There are existing examples of markets in the Perth metro area attracting participants and winning nation-wide awards as a result of their stance on reducing waste and single use plastic. This is good for business. As a leading Council in the FOGO strategy I believe that this is needed and would put the COM at the forefront of being serious about reducing plastic pollution from landfill, from damaging our waterways and also our fragile animal habitats.

#### **16.4 Motion with Notice - Organisational Cultural Change**

An Officer Advice Note has been provided for this Motion [Advice Note Motion 16 4](#)

##### **Motion**

**The Council directs the CEO to provide a shortlist of consultants specialising in organisational culture, organisational change & development for the selection by the Council at the March 2021 Ordinary Meeting of Council.**

**The consultants are required to possess suitable postgraduate qualifications from a major Western Australian university.**

**The consultant will be tasked with assisting the Council in overseeing cultural change in the City's administration with terms of reference to be determined by the Council.**

**The administration is precluded from issuing the consultant(s) any brief or term of reference.**

##### **Reasons for the Motion with Notice as provided by Cr Kepert**

The Council has previously agreed to undergo organisational culture change but has not set clear directions for doing so. In recent months the Council has been engaging with a consultant selected by the administration that has been dealing with peripheral matters.

**16.5 Review of Policy CP-017 - Legal Representation Policy Elected Members and Employees**

An Officer Advice Note has been provided for this Motion [Advice Note Motion 16 5](#)

**Motion**

**The Council will review CP-017 Legal Representation Policy Elected Members and Employees**

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

There has been much confusion as to the intended purpose of this policy and inconsistencies in its application.

## 16.6 Parent Parking Reserved Bays at Melville Aquatic Centre, Booragoon

### Motion

At 9:11pm Cr Sandford moved, seconded Cr Barber –

**That the Council directs the CEO to investigate and arrange for the designation of adequate numbers of reserved parking bays for parents with young children close to the entrance of Melville Aquatic Centre.**

### Amendment

#### **COUNCIL RESOLUTION**

At 9:25pm Cr Pazolli moved, seconded Cr Mair –

**That a point 2 be included, as follows:**

**“That the Council request the CEO to investigate and prepare a draft policy for Council consideration regarding the provision of reserved parking bays for parents with young children at City of Melville facilities.”**

At 9:32pm the Mayor declared the motion

**CARRIED (6/5)**

<b>Yes</b>	6	Cr Macphail, Cr Barton, Cr Wheatland, Cr Sandford, Cr Pazolli, Mayor Gear
<b>No</b>	5	Cr Robartson, Cr Barber, Cr Mair, Cr Fitzgerald, Cr Robins

### Substantive Motion as Amended

#### **COUNCIL RESOLUTION**

At 9:11pm Cr Sandford moved, seconded Cr Barber –

**That the Council:**

- 1. directs the CEO to investigate and arrange for the designation of adequate numbers of reserved parking bays for parents with young children close to the entrance of Melville Aquatic Centre.**
- 2. request the CEO to investigate and prepare a draft policy for Council consideration regarding the provision of reserved parking bays for parents with young children at City of Melville facilities**

At 9:35pm the Mayor declared the motion

**CARRIED (9/2)**

<b>Yes</b>	9	Cr Robartson, Cr Macphail, Cr Barton, Cr Mair, Cr Sandford, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	2	Cr Wheatland, Cr Barber

16.6 *Parent Parking Reserved Bays at Melville Aquatic Centre, Booragoon, continued*

**Reasons for the motion as provided by Cr Sandford**

1. The Melville Aquatic Centre and gym is frequented by many parents with babies & young children, but there are no reserved parking bays for parents with prams, etc.
2. Parents often need to struggle with prams, baby capsules, swimming/gym bags, while managing babies and toddlers, and sometimes need to walk large distances to get to the entrance in busy periods, through all kinds of weather.
3. Westfield Booragoon has made an allowance for parents with babies with dedicated parking bays near the entrance to the shopping centre where the post office used to be.
4. There are two dedicated to motorcycle parking bays in the shade at the Aquatic Centre which are very infrequently used. It is frustrating, when the car park is full and cars are circling trying to find a spot, to have two vacant bays sitting there.
5. As most of the motor bike riders are young men, who could easily park and walk further away from the entrance, these motor cycle bays could be freed up to accommodate parent parking. The site is also shady, which would make it more comfortable when they return with their babies.
6. While there are reserved disabled parking bays and motorcycle parking bays close to the entrance, it would be of great assistance to many parents, and be much safer for families, if they could park in as many designated parent bays as possible close to the entrance.

Disclosures of Interest

Member	Cr Barber
Type of Interest	Interest under the Code of Conduct
Nature of Interest	Lives 5 houses away from the entrance to Troy Park
Request	Stay, discuss and vote
Decision	Stay, discuss and vote

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

**17.1 Request Policy Provision of Sports Club Parking and Troy Park**

**COUNCIL RESOLUTION**

At 9:35pm Cr Wheatland moved, seconded Cr Barton –

**That Cr Barber be permitted to present to the Council a Motion Without Notice relating to Policy Provision of Sports Club Parking and Troy Park**

At 9:37pm the Mayor submitted the motion, which was declared

**CARRIED BY ABSOLUTE MAJORITY (10/1)**

<b>Yes</b>	10	Cr Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	1	Cr Pazolli

Motion

At 9:37pm Cr Barber moved, seconded Cr Barton –

**That the Council directs the Chief Executive Officer to prepare a Draft Policy on the provision of parking infrastructure for Sports Club facilities provided by the City (with particular reference to its suitability in terms of extent, distance from the venue, and age of players) and in anticipation of this policy as a matter of urgency – (a) implement interim measures to address the current parking situation for Troy Park for the winter football season which commences in April, and (b) implement measures to upgrade the parking facilities at Tompkins Park.**

Amendment

At 9:50pm Cr Robartson moved, seconded Cr Pazolli -

**That all words after “...age of players)” be deleted.**

At 10:00pm the Mayor submitted the motion, which was declared

**LOST (5/6)**

<b>Yes</b>	5	Cr Robartson, Cr Macphail, Cr Wheatland, Cr Pazolli, Mayor Gear
<b>No</b>	6	Cr Barber, Cr Barton, Cr Mair, Cr Sandford, Cr Fitzgerald, Cr Robins

17.1 *Request Policy Provision of Sports Club Parking and Troy Park, continued*

**COUNCIL RESOLUTION**

At 9:37pm Cr Barber moved, seconded Cr Barton –

**That the Council directs the Chief Executive Officer to prepare a Draft Policy on the provision of parking infrastructure for Sports Club facilities provided by the City (with particular reference to its suitability in terms of extent, distance from the venue, and age of players) and in anticipation of this policy as a matter of urgency – (a) implement interim measures to address the current parking situation for Troy Park for the winter football season which commences in April, and (b) implement measures to upgrade the parking facilities at Tompkins Park.**

At 10:01pm the Mayor declared the motion

**CARRIED (9/2)**

<b>Yes</b>	9	Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	2	Cr Robartson, Cr Pazolli

**Reasons for the Motion without Notice as provided by Cr Barber**

1. Our attention has been drawn to the requirement for a specific sports facility parking infrastructure policy by the current situation at Troy Park.
2. The Active Reserve Infrastructure Strategy (ARIS) report (May 2020) found that for Troy Park “Due [to] parking issues within the immediate locality it is recommended that car parking be expanded on site to off-set concerns of local residents and users” and that “Troy Park appears to be operating at or near capacity throughout the year”
3. It appears that the area on which the Troy Park Clubs have been parking for 10 years is now known to be environmentally sensitive.
4. The alternative of verge parking on Burke Drive presents hazards particularly when unloading young children and equipment, and has prompted complaints from residents.
5. The overflow parking area proposed by the City is over ½ km from the Troy Park Club rooms.
6. Attadale Junior Football Club has players as young as 4 years
7. The sports facility parking infrastructure policy should be in place for incorporation in the Attadale-Alfred Cove Master Plan which is currently being developed.
8. There is a location for parking closer to the clubrooms which has an uneven sandy surface but which could be upgraded as an interim solution.

**M21/5824 – LATE ITEM - CHIEF EXECUTIVE OFFICER PERFORMANCE CRITERIA AND KEY PERFORMANCE INDICATORS (REC) (CONFIDENTIAL ATTACHMENT)**

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 M21/5812 – Chief Executive Officer Performance Report Review – Ordinary Meeting of Council held 16 February 2021. Item M21/5804 – Chief Executive Officer Performance Review – Governance Committee Meeting 8 February 2021 Item M20/5789 – Planning for the CEO Performance Appraisal – Ordinary Meeting of Council held 17 November 2020 Item M20/5789 - Planning for the CEO Performance Appraisal - Governance Committee meeting held 23 November 2020 Item M20/5798 – Planning for CEO Performance Appraisal – Ordinary Meeting of Council held 8 and 9 December 2020
Works Programme	: Not applicable
Funding	: Not applicable
Responsible Officer	: Dean McAuliffe Manager People Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**M21/5824 – LATE ITEM - CHIEF EXECUTIVE OFFICER PERFORMANCE CRITERIA AND  
KEY PERFORMANCE INDICATORS (REC) (CONFIDENTIAL ATTACHMENT)****KEY ISSUES / SUMMARY**

- At its meeting held 16 February 2021 the Council approved the Governance Committee recommendation in respect to the CEO performance review.
- The Council also resolved to schedule a meeting with the Performance review Consultant to review and finalise the Performance Criteria for the Chief Executive Officer
- This report presents the recommended performance criteria and key performance indicators that have been developed for the review period 17 March to 30 June 2021.

**BACKGROUND**

On the 17 March 2021 Mayor Gear, Cr Pazolli (Chair, Governance Committee) met with the consultant and the Chief Executive Officer and developed the Performance Criteria and Key Performance Indicators for the next review period being, 17 March to 30 June 2021;

The next review of the CEO's performance to be commenced by 1 August 2021 and completed by the September 2021 Ordinary Meeting of Council.

**DETAIL**

The consultant's report provides detail of the methodology and process inclusive of agreement between the CEO the Mayor and the Chair of the Governance Committee.

The Reviewer Report (Supplementary) for consideration and adoption by the Council was distributed to Elected Members on Friday 12 March 2021 under confidential cover.

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

Not applicable.

**II. OTHER AGENCIES / CONSULTANTS**

There has been no liaison with any other agencies or Consultants beyond JCP Consulting.

**M21/5824 – LATE ITEM - CHIEF EXECUTIVE OFFICER PERFORMANCE CRITERIA AND KEY PERFORMANCE INDICATORS (REC) (CONFIDENTIAL ATTACHMENT)**

**STATUTORY AND LEGAL IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

The fee for the Performance Review Consultant has been included in the 2019-2020 operational budget.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

<b>Risk Statement &amp; Consequence</b>	<b>Level of Risk</b>	<b>Risk Treatment</b>
That the performance criteria for the next twelve months are not confirmed.	<b>Low</b>	Defined process that includes this stage. If not adopted by the Council the existing criteria remains applicable.

**POLICY IMPLICATIONS**

Not applicable

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

An alternative option for the Council is to not change the CEO performance criteria. Implications resulting from no change may result in a disparity between future deliverables that are not accurately reflected and historic performance expectations and measures.

**CONCLUSION**

The purpose of the Governance Committee Meeting was to provide recommendations to the Council in relation to the Performance and Salary Review for the Chief Executive Officer.

Specifically the meeting was to provide feedback opportunities to the Council and Chief Executive Officer on performance over the past twelve months, and clarify expectations, which are to be reflected in the Chief Executive Officer Contract performance criteria as agreed by the Council and the Chief Executive Officer.

The review of current contract performance criteria is an important opportunity for the Council and the Chief Executive Officer to clarify expectations and desired outcomes to be achieved. The current performance criteria may not be reflecting current priorities and should be an important aspect of this review process.

**M21/5824 – LATE ITEM - CHIEF EXECUTIVE OFFICER PERFORMANCE CRITERIA AND  
KEY PERFORMANCE INDICATORS (REC) (CONFIDENTIAL ATTACHMENT****OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5824)                      APPROVAL**

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

**That the Council:**

- 1.     Receives the Reviewer Report (Supplementary);**
- 2.     Notes that Performance Indicators have been developed by Mayor Gear, Cr Pazolli (Chair, Governance Committee) and Mr Tieleman (Chief Executive Officer) for the review period 17 March to 30 June 2021;**
- 3.     Endorses the Performance Indicators for the review period 17 March to 30 June 2021;**
- 4.     Schedules the next review of the CEO's performance to be commenced by 1 August 2021 and completed by the September 2021 Ordinary Meeting of Council;**
- 5.     Directs that the CEO contract be varied to include the endorsed performance criteria for the reporting period 17 March – 30 June 2021.**

At 10:02pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

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

Nil.

**19.    CLOSURE**

There being no further business to discuss, Mayor Honourable George Gear declared the meeting closed at 10:02pm.