

MINUTES

ORDINARY MEETING OF THE COUNCIL

6:30pm Tuesday, 21 June 2022
Held in the Council Chambers, Melville Civic Centre
10 Almondbury Road Booragoon

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.

Minutes to be confirmed at the next Ordinary Council Meeting
These minutes are hereby confirmed as true and accurate

Mayor Gear _____

Date _____



City of
Melville

Our Vision

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

Our Mission

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

Our Values

Excellence

Striving for the best possible outcomes

Participation

Involving, collaborating and partnering

Integrity

Acting with honesty, openness and with good intent

Caring

Demonstrating empathy, kindness and genuine concern



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Any statement, comment or decision made at a Council or Committee meeting regarding any application for an approval, consent or licence, including a resolution of approval, is not effective as an approval of any application and must not be relied upon as such.

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

Any advice provided by an employee of the City on the operation of written law, or the performance of a function by the City, is provided in the capacity of an employee, and to the best of that person's knowledge and ability. It does not constitute, and should not be relied upon, as a legal advice or representation by the City. Any advice on a matter of law, or anything sought to be relied upon as representation by the City should be sought in writing and should make clear the purpose of the request.

CONTENTS

Attendance and Apologies	5
Public Question Time	7
Confirmation of Minutes	16

Petitions

12.1	Petition – Rezone 13 The Esplanade / 67 Kishorn Road, Mount Pleasant to Public Open Space	17
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REPORTS FROM COMMITTEES

Nil.

REPORTS

Items Brought Forward

UP22/3984	Consideration of Submissions: Amendment No.14 to Local Planning Scheme 6 – Rezoning No.45-47 Canning Beach Road, Applecross	19
EI22/3978	John Connell Oval Extension	32
C22/6191	Consideration and Adoption of the 2022-2023 Budget	68
UP22/3988	Proposed Two Storey Single House with Roof Terrace at Lot 90 (No.23) Carron Road, Applecross	46
UP22/3989	Three Storey Single House with Roof Terrace at Lot 6 (No. 42) Duncraig Road, Applecross	58

Management Services

M22/5914	Policy Review – CP-088 Creation, Access and Retention of Audio Recordings of Public Meetings of the Council (Carried En Bloc)	92
M22/5916	Policy Review – CP- 114 Compliance and Enforcement Policy (Carried En Bloc)	96
M22/5917	Policy Review – CP-108 Deputations to the Council (Carried En Bloc)	101
M22/5918	Policy Review – CP-014 Public Question Time at Council or Committee Meetings (Carried En Bloc)	105
M22/5000	Common Seal Register (Carried En Bloc)	110

Corporate Services

C22/6000	Investment Statements for April 2022 (Carried En Bloc)	113
C22/6001	Schedule of Accounts Paid for April 2022 (Carried En Bloc)	120
C22/6002	Statements of Financial Activity for April 2022	124

Community Development

Nil

Environment and Infrastructure

EI22/3978	John Connell Oval Extension (Item Brought Forward)	131
EI22/3985	RFT 212225 Change Room Upgrade Marmion Reserve	132

Urban Planning

UP22/3963	Petition – Fence at 44 Ardross Street Applecross WA 6153	136
UP22/3989	Consideration of Submissions: Amendment No.14 to Local Planning Scheme 6 – Rezoning No.45-47 Canning Beach Road, Applecross (Item Brought Forward)	141

CONTENTS

REPORTS

Late Items

UP22/3988	Proposed Two Storey Single House with Roof Terrace at Lot 90 (No.23) Carron Road, Applecross (Item Brought Forward)	141
UP22/3989	Three Storey Single House with Roof Terrace at Lot 6 (No. 42) Duncraig Road, Applecross (Item Brought Forward)	141
C22/6191	Consideration and Adoption of the 2022-2023 Budget (Item Brought Forward)	141

MOTIONS

With Previous Notice

Nil.

Without Previous Notice

Nil.

MATTERS FOR WHICH THE MEETING WAS CLOSED

Nil.

1 OFFICIAL OPENING

The Presiding Member welcomed those in attendance to the meeting and officially declared the meeting open at 6:30pm and invited Cr Margaret Sandford to read the Acknowledgement of Country and advised those present of the Disclaimer, the Affirmation of Civic Duty and Responsibility and the Audio Recording Advice.

The Mayor Acknowledged the attendance of Mr Yaz Mubarakai, Member for Jandakot and Dr Jags Krishnan, Member for Riverton.

2 ATTENDANCE AND APOLOGIES

In Attendance

Mayor Honourable G Gear

Councillors

Cr T Fitzgerald (Deputy Mayor)
Cr N Pazolli
Cr C Ross
Cr D Macphail
Cr N Robins
Cr G Barber
Cr J Edinger
Cr J Spanbroek
Cr M Sandford
Cr K Mair

Ward

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

Officers

Mr M Tieleman	Chief Executive Officer
Mr A Ferris	Director Corporate Services
Mr M McCarthy	Director Environment and Infrastructure
Mr P Prendergast	A/Director Urban Planning
Mr B Dawkins	A/Director Community Development
Ms D Whyte	Manager Finance (From 7:49pm)
Mr B Taylor	Manager Governance and Property
Ms C Newman	Governance Coordinator
Ms R Davis	Governance Officer

At the commencement of the meeting:

Public Gallery	31
Electronic	12
Press	0

Dr Jags Krishnan (until 7:42pm)	Member for Riverton
Mr Yaz Mubarakai (until 7:42pm)	Member for Jandakot

Apologies

Mr S Cope	Director Urban Planning
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On Approved Leave of Absence

Cr K Wheatland	Palmyra-Melville-Willagee Ward
Cr M Woodall	Bull Creek – Leeming

3 DECLARATIONS BY MEMBERS

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

Nil.

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

Nil.

4 ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION)

Approved Deputations:

Nil.

Written Submissions

- Mr P Coombs, Leeming Spartan Cricket Club
Item EI22/3978 – John Connell Reserve [Written Submission](#)
- Dr E Wajon, Friends of Ken Hurst Park
Item EI22/3978 – John Connell Reserve [Written Submission](#)

5 DISCLOSURES OF INTEREST

5.1 Financial or Proximity Interests

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

- Cr Edinger – Late Item UP22/3989 – Three Storey Single House with Roof Terrace at Lot 6 (No 42) Duncraig Road, Applecross
- Cr Edinger – Item EI22/3985 RFT 212225 Change Room Upgrade Marmion Reserve

5.2 Disclosure of Interest That May Cause a Conflict

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

Nil.

6 PUBLIC QUESTION TIME

At 6:35pm the Mayor opened Public Question Time.

6.1 Questions Received with Notice

Where a person had submitted a question with notice and was not in the public gallery to ask their question, the Presiding Member in accordance with clause 6.7(7)(d) of the *City of Melville Local Government (Meeting Procedures) Local Law 2022*, ruled that a summary of the question and the response would be provided in the minutes without being read out. This applied to questions from:

- Melville Residents for Accountable Local Government
- Mr A O'Neill, Citizen's for Building Reform (WA)
- City of Melville Residents and Ratepayers Association (Inc)

Responses to these questions can be found on page 10

6.1.1 Mr D Kenny of Applecross

Question 1

I note Conditions 19-22 of the Responsible Authority Report for Lot 118 Fiona Wood Road allows for variations from AS/NZS 2890.1:2004 Parking Facilities, as specified by the Council in LPP1.6 Parking and Access. Subsequently, JDAP on 3/06/2022, approved the development application for Lot 118 Fiona Wood Road with a non-compliant access/exit ramp. In relation to the Responsible Authority Report for Lot 118 Fiona Wood Road, under what delegated authority is the Director of Urban Planning authorised to permit deviations from AS/NZS 2890.1:2004 Parking Facilities as specified by LPP1.6 Parking and Access, for non-residential developments?

Response

As a part of the assessment process the development plans were referred to the City's Technical Services – Traffic Safety team for review and comment. The traffic safety team sought additional information regarding a range of matters including ramp gradients. This information was provided by the applicant and the proposed development is considered to meet the relevant objectives of AS/NZS 2890.1:2004 Parking Facilities which guides development outcomes. The conditional development approval issued by the Joint Development Assessment Panel requires the preparation of a Road Safety Audit (RSA) prior to the commencement of construction and a further RSA prior to opening. The RSA process is undertaken by qualified professionals and allow the details of the development to be further refined as the development progresses. The applicant has already commenced discussion with the City to minimise any work in the road reserve and maximise pedestrian safety in Wonnul Place.

City officers have delegation to prepare a Responsible Authority Report for the consideration of the JDAP under DA-020 Planning and Related Matters. Each RAR covers a range of matters aimed at assisting the JDAP in the decision-making process and may include a performance assessment of a range of policy provisions. The DAP sits in the place of Council. As part of its decision-making role the JDAP is required to give due regard to all relevant provisions of the planning framework and has the authority to apply Council policy provisions as it sees fit.

6.1.1 *Mr D Kenny of Applecross, continued*

Supplementary question

Under what delegated authority is the Director of Urban Planning authorised to permit deviations from AS/NZS 2890.1:2004 Parking Facilities as specified by LPP1.6 that lead to an installation of a non-compliant ramp?

Response

The Mayor undertook to provide a response to Mr Kenny. The response is as follows:

In response it is noted that the development referred to by this question and the access ramp approved by the Joint Development Assessment Panel (JDAP) in respect of that proposed development, does meet the requirements of Local Planning Policy LPP 1.6 in that the access ramp is designed to accord with the requirements of the Australian standard AS/NZS 2890.1:2004.

In response to the question posed in respect of delegated authority to the Director, in considering a proposal of this nature, which incorporates a vehicle access ramp and which in this case was to be determined by the JDAP, the City as Responsible Authority to the JDAP prepares a Responsible Authority Report including a recommendation on the matter to the JDAP. The RAR would not include a recommendation to approve a development that is “deficient” in respect of a Local Planning Policy on the basis that under the Planning and Development (Local Planning Schemes) Regulations 2015, the decision maker must have regard to a Local Planning Policy to the extent that it is consistent with the Local Planning Scheme. Delegation exists for an RAR to be provided to the JDAP on behalf of the Responsible Authority under DA-020. In the case of a JDAP determination, the final decision on any matter placed before the JDAP is a matter for the JDAP.

6.1.2 Mr M Burns of Applecross

Question 1

My driveway is right next to the entrance and exit for the Riviere Apartments in Moreau Mews. Is the access driveway compliant with AS/NZS 2890.1:2004 design guidelines with respect to access gradient and sight lines. If not, why has the City approved this potentially dangerous design?

Response

The design assessment is the responsibility of the private Building Surveyor, pursuant to *Section 144, Building Act 2011*.

Any alleged building compliance issues should be made aware to the City’s Building Services team for investigation.

Supplementary Question

There have been two Responsible Authority Reports regarding this development, which has gone to JDAP twice, I have tried personally to get a copy of what the driveway design is going to look like from the developer and they have refused, as a last resort I am asking the City?

6.1.2 *Mr M Burns of Applecross, continued*

Response

The Mayor undertook to provide a response to Mr Burns. The response is as follows:

The plans associated with the development applications to the JDAP were fully available for 3rd parties during the associated public consultation phases, prior to determination by the JDAP. That said it is noted that the vehicle access to the building is subject of a condition of planning approval which requires design of access to be in accordance with AS 2890. Similarly, a condition of approval is imposed to ensure sightline requirements are met.

6.2 Questions Received at the Meeting

6.2.1 Mr J Koch of Leeming

Question

Is Council aware of the financial, environmental, and reputational risks if Council prepares a clearing application prior to the John Connell Master Plan being completed? This includes the risk to Sam Lim, Member of Tangney.

Response

The CEO advise that Item EI22/3978 – John Connell Oval Extension will be considered at this meeting and the Council will make a decision on the matter.

6.2.2 Mr M Burns of Applecross

What are City of Melville's regulatory responsibilities are with regard to building works associated with BA20 forms? We have been issued with a BA20 form for permission to encroach on our land by the developers of the Riviere Apartments in Moreau Mews. The work involved is extensive, and involves digging up our driveway to provide support for the close wall on the boundary of our property next to the construction site. We engaged an independent engineer to assess the proposal. He advised us to refuse consent, as the proposed works will undermine the foundations of our home and cause cracking to our house. Does the City have any visibility of works proposed under BA20 forms or carry out any assessment of such plans? Is the City liable if any property damage is caused by such work?

Response

If proposed building works involve a building encroachment beyond the works boundary line and/or will adversely affect adjoining property, the applicant must obtain written consent with a BA20 form. This completed form of consent is required in order for a Building Permit to be granted, pursuant to Section 20 (2), Building Act 2011.

A BA20 form being a notice and request for consent to encroach or adversely affect, pursuant to Sections 76, 77 & 85, Building Act 2011 and Regulation 4, Building Regulations 2012.

The BA20 form issued to Mr Burns, should have associated plans and documents attached for his review and comment. Mr Burns is entitled to agree or not agree to offer consent. The documents should be signed and dated by Mr Burns to confirm they have been reviewed.

6.2.2 *Mr M Burns of Applecross, continued.*

The applicant has the opportunity to pursue the matter through the Magistrates Court if no consent is given or no response is provided by Mr Burns. A Court Order may be the result of this action.

The City is not liable for any damages caused due to works carried out by the nominated demolition or building contractor. The nominated Builder stated on the Demolition Permit or Building Permit is responsible for carrying out works.

6.3 Questions Taken on Notice at Previous Meeting

Nil.

6.4 Responses to Questions under clause 6.7(7)(d) of the City of Melville Local Government (Meeting Procedures) Local Law 2022

6.4.1 Melville Residents for Accountable Local Government

The Melville Residents Accountable Local Government has asked questions relating to a response provided to the Association in relation to obtaining copies of documents contained in the City's Building Register and a decision for these documents to now be obtained through the Freedom of Information process.

Question 1

Please explain; a) how long the City has provided others the types of documents we applied for?

Response

The Melville Residents for Accountable Local Government requested 6 documents relating to Materials on Verge Permits and 30 Building Permits dating back to 2012 for various properties. The City has provided access to these documents through an application process where the person requesting the information has been an interested party in accordance with the Act.

Question 2

b) which other local governments Mr Cope 'consulted' and what exactly did they say?

Response

The City liaised with a number of local governments in relation to this matter.

A range of practices are used by Local Governments including-

- not issuing copies of permits or orders, pursuant to s.129 (2), other than to the applicant, nominated Builder or owner of the property.
- allowing the permit or order to be viewed at the front counter or
- making application under the FOI process.

6.4.1 *Melville Residents for Accountable Local Government, continued*

Question 3

c) what laws Mr Cope relies on to say he won't give us the information, despite the City's form saying the City can give us the documents under the Building Act?

Response

The Building Act requires that a Permit Authority **must** have a Building Register and **must** make the register available for inspection by members of the public during normal office hours. The City also provides the register on its Website.

Section 129 (2), Building Act 2011 a permit authority **may**, on application by any person and on payment of the prescribed fee, if any, provide to the person a copy of a building permit, a demolition permit, an occupancy permit, a building approval certificate or a building order that is kept in the register.

Section 56 (1), Interpretation Act 1984.

*Where in a written law the word **may** is used in conferring a power, such word shall be interpreted to imply that the power so conferred may be exercised or not, at discretion.*

Local Governments in WA therefore have the discretion to release copies of Building Permits or Building Orders.

The City also has a responsibility for knowing who it is handing residents information to, which it does not know when responding to an unincorporated group does not identify as a "person".

Question 4

d) did Mr Cope get advice from a lawyer, if so which one and what was their advice? and

Response

The City has obtained a legal advice in relation to the interpretation and application of the Act. That advice was obtained from McLeods Barristers and Solicitors.

Question 5

e) if the BA02 building permit - material on verge information was falsely stated on the City's website, how long has this gone on for and why?

Response

The current Building Permit Register went live on 16 November 2021. Verge Permit information was removed from the register on 26 April 2022. In relation to this matter the Melville Residents for Accountable Local Government was advised in correspondence that:

"Materials on Verge Permits are required under Part 2.2, Activities in Thoroughfares, Public Places and Trading Local Law 2014 and were recently incorrectly listed in the register under BA02 Uncertified Building Permit applications. These have now been removed from the register."

6.4.2 Mr A O'Neill, Citizen's for Building Reform (WA)

Question 1

What real and tangible steps are Melville executive now taking to engage with the State's Building Regulation about getting immediate assistance in training sessions for Melville's building services staff including workshopping past failures?

Response

The Department Mines, Industry Regulation and Safety (Department) provides Guidance and Information generally to industry in the form of events, seminars and information sessions. It is however not a Registered Training Organisation. City officers attend these sessions and also meet with department staff as and when required. Due to recent staffing changes the City is in communication with the Department with regard to opportunities for professional development training and possible bespoke training on swimming pool related matters for its pool inspectors and building officers.

6.4.3 City of Melville Residents and Ratepayers Association (Inc)

The City has responded to questions asked on the 15 February, 19 April and 17 May 2022. On 14 June 2022 the City responded to a further 5 questions from the MRRA relating to 18A and 18B.

Further to Mr Tieleman's 15 February, 19 April and 17 May 2022 responses on behalf of Council to our questions to council, and the 14 June 2022 email from a nameless City governance officer in response to clarifications questions put to Mr Tieleman.

Question 1

a) Mr Tieleman previously said the City had only issued 2 warrants in the past, when we now know in fact the City had sought and used more than 2 warrants, so why wasn't Mr Tieleman's 17 May response to our questions about the City's past warrants truthful and complete?

Response

The question responded to at the 17 May 2022 Council Meeting was taken in the context of the previous two questions that related to the Building Act and Regulations.

Question 2

b) The City now says it obtained a warrant in late 2021 to enter a private Citizen's land in relation to building work on its own land, in addition to obtaining 2 other warrants for building compliance inspection work at another property, so, why has the City not obtained a warrant to access 18A & B Tweeddale Road Applecross to enable a City appointed land surveyor to complete a compliance inspection of the ground levels as the CEO was directed to do by Council in late 2021?

Response

In 2021 a warrant was obtained under the Local Government Act to access a portion of private land to undertake works on an adjoining public access way.

At the August 2021 Council Meeting the Council acknowledged by resolution that there was no outstanding planning compliance matter relating to the unauthorized fill and there is no current building application relating to development of the site.

6.4.3 *City of Melville Residents and Ratepayers Association (Inc) continued*

Question 3

c) What is the location of the City's public access way on which the building work was done in late 2021 and why did the City obtain the warrant in late 2021 under the Local Government Act to access private adjoining land for the purposes of building work on its own land instead of utilising the BA-20/BA-20A consent requirements as required by the Building Act?

Response

The public access way is the stairway leading down from Durdham Crescent to the Bicton Baths and the Melville Water Polo Club.

The warrant was obtained under Section 3.33 of the Act where a justice is satisfied that the entry is reasonably required by a local government for the purpose of performing any of its functions, which in that case was replacing public infrastructure.

A public path is not considered "building work" (as defined within, s.3 *Building Act 2011*). Therefore, a BA20/BA20A cannot be used to seek consent from a property owner for such works.

Question 4

d) The City says Council decided not to proceed with its 2021 motions directing the CEO to do a compliance level survey inspection at 18A & B Tweeddale Rd Applecross at an EMES, but is it legal and/or appropriate for Council to debate and decide to resolve to rescind publicly resolved motions at an EMES.

Response

The Council did not resolve to rescind a motion at an Elected Member Engagement Session. These sessions are a discussion not a decision-making forum.

The MRRA was advised in detail in a response of 14 June 2022 to questions in relation to the status of the October 2021 resolution.

- A scope of works based on the directions given in the Council resolution of October 2021 was developed.
- The request for quote was advertised to the suppliers on the WALGA Panel PSP002-013 Surveying on November 2021.
- The closing time and date for submissions of quotations was 2.00pm on Friday 12 November 2021.
- No quotations were received, and the Council was advised accordingly in the Elected Members Bulletin. This action in effect concluded the Council resolution.

The CEO cannot implement resolutions that cannot be fulfilled.

Elected Members were advised of the above at an Elected Member Engagement Session and the agreed status was that the requirements of the October 2021 resolution could not be fulfilled and that the matter remained unresolved until a Building Permit is applied for or unless the owner grants access to the site.

6.4.3 *City of Melville Residents and Ratepayers Association (Inc)*

Question 5

e) It is obvious from a visual inspection of the site compared to past photos that the ground level along the northern boundary of the block, particularly relative to the substantial brick dividing fences and retaining wall along that boundary, that the ground level is now higher, so please confirm when and which City officer, or officers, undertook inspections of the 18A&B Tweeddale Rd Applecross site levels to determine that the ground level has not been changed since 2008, and what are the dates and meta data for the City's records of the corresponding inspection reports.

Response

An Officer Report was presented to the Ordinary Meeting of Council of 17 August 2021 Item P21-3936– Review of Compliance and Enforcement Actions – 18A and 18B Tweeddale Road, Applecross that addresses the site levels.

Other specific information can be obtained by the MRRA through the Freedom of Information Process.

Question

f) It has been publicly reported the City of Nedlands procured a land surveyor to undertake a similar level compliance survey at 52 Jutland Parade Dalkeith, that found ground levels had been increased without approvals, so why can't the City ask the City of Nedlands for the name of that land surveyor who is obviously happy to do such work for a local government.

Response

The MRRA has previously sent an email to Elected Members on Sunday 13 March 2022 on this matter encouraging Members to undertake similar action taken by Nedlands.

The Nedlands issue was not the same. The City of Nedlands resolved to issue a Building Order to require the immediate cessation of any unapproved building works, and then to undertake relevant investigations and undertake a site survey.

In the Nedlands situation they could issue a Building Order as there was an active Building License that the Council could act upon. There is no Building Application or approval for the Tweeddale Road property and no building compliance matter for the City to access the land to undertake a survey.

There being no further public questions the Mayor closed Public Question Time at 6:46pm.

7 AWARDS AND PRESENTATIONS

- Strategic and Master Planning Award for the Attadale Alfred Cove Foreshore Master Plan at the Leisure and Parks Australia (WA) Awards of Excellence 2022.
- Australian Museums and Galleries Association Best Temporary or Travelling Exhibition under \$20,000

8 APPLICATIONS FOR NEW LEAVES OF ABSENCE

COUNCIL RESOLUTION

At 6:49pm Cr Macphail moved, seconded Cr Robins –

That the application for new leave of absences submitted by Cr Edinger and Cr Barber on 21 June 2022 be granted.

At 6:50pm the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

9 CONFIRMATION OF MINUTES

9.1 Ordinary Meeting of the Council – 17 May 2022
[OMC Minutes 17 May 2022](#)

COUNCIL RESOLUTION

At 6:50pm Cr Sandford moved, Seconded Cr Spanbroek –

That the minutes of the Ordinary Meeting of Council held on 17 May 2022 be confirmed as a true and accurate record

At 6:50pm the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

9.2 Special Meeting of the Council – 7 June 2022
[SMC Minutes 7 June 2022](#)

COUNCIL RESOLUTION

At 6:50pm Cr Sandford moved, Seconded Cr Edinger–

That the minutes of the Special Meeting of Council held on 7 June 2022 be confirmed as a true and accurate record

At 6:51pm the Mayor declared the Motion

CARRIED UNANIMOUSLY (11/0)

9.3 Governance Committee Meeting – 8 June 2022
[Governance Committee Minutes 8 June 2022](#)

COUNCIL RESOLUTION

At 6:50pm Cr Ross moved, Seconded Cr Fitzgerald –

That the minutes of the Governance Committee Meeting held on 8 June 2022 be noted.

At 6:51pm the Mayor declared the Motion

CARRIED UNANIMOUSLY (11/0)

NB: Minutes to be confirmed at next Governance Committee Meeting

9.4 Notes of Agenda Briefing Forum – 14 June 2022
[Notes ABF 14 June 2022](#)

COUNCIL RESOLUTION

At 6:51pm Cr Ross moved, Seconded Cr Robins –

That the minutes of the Agenda Briefing Forum held on 14 June 2022 be confirmed as a true and accurate record

At 6:51pm the Mayor declared the Motion

CARRIED UNANIMOUSLY (11/0)

10 NEW BUSINESS OF AN URGENT NATURE

Nil.

11 IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil.

12 PETITIONS

12.1 Petition – Rezone 13 The Esplanade/ 67 Kishorn Road, Mount Pleasant to Public Open Space

A petition signed by 773 residents and 27 non-residents of the City of Melville was received on 27 May 2022 and reads as follows:

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

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

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

OFFICER RECOMMENDATION

At 6:52pm Cr Sandford moved, seconded Cr Mair –

That the petition bearing 773 signatures of residents and 27 signatures of non-residents be acknowledged and a report be prepared.

At 6:52pm, during discussion and debate, the mover and seconder consented to the inclusion of “and presented to the July Ordinary Meeting of Council” after the word “prepared”.

COUNCIL RESOLUTION

At 6:52pm Cr Sandford moved, seconded Cr Mair –

That the petition bearing 773 signatures of residents and 27 signatures of non-residents be acknowledged and a report be prepared and presented to the July Ordinary Meeting of Council.

At 6:52pm the Mayor declared the Motion

CARRIED UNANIMOUSLY (11/0)

13 ADOPTION OF RECOMMENDATIONS EN BLOC

Item Deferred
See Page 91.

14 REPORTS

14.1 Reports from Committees

Nil.

14.2 REPORTS OF THE CHIEF EXECUTIVE OFFICER

At 6:53pm the Mayor brought forward Item UP22/3984 – Consideration of Submissions: Amendment No.14 to Local Planning Scheme 6 – Rezoning No.45-47 Canning Beach Road, Applecross for the convenience of the public gallery.

UP22/3984 – CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPECROSS (REC) (ATTACHMENT)

Ward : Applecross – Mount Pleasant
 Category : Strategic
 Application Number : DA- 2022-34
 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 : Item P21/3902: Ordinary Meeting of Council 16 March 2021 Request for Scheme Amendment – Rezoning No.45-47 Canning Beach Road, Applecross from Residential R12.5 to Residential R30.
 Item P22/3964: Ordinary Meeting of Council 15 February 2022 Request for Scheme Amendment – Rezoning No.45-47 Canning Beach Road, Applecross from Residential R12.5 to Residential R30.
 Responsible Officer : Gavin Ponton
 Manager 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"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

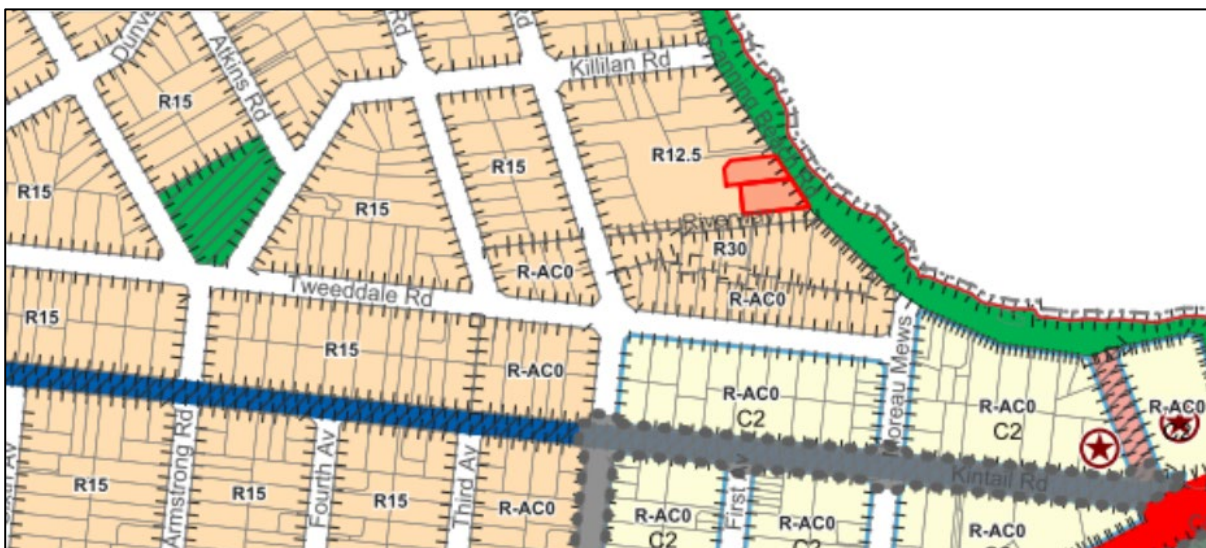
**UP22/3984 – CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS
(REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- An application for a scheme amendment was received in January 2022 to rezone Lot 52 (No.45) and Lot 166 (No.47) Canning Beach Road, Applecross (site) from Residential R12.5 to Residential R30.
- This item was previously considered at the Ordinary Meeting of the Council in March 2021 at which time Council refused the request to initiate the amendment (P21/3902). The applicant has resubmitted the application for reconsideration with additional supporting information.
- The Council initiated the current request for rezoning at its Ordinary Meeting held on 15 February 2022.
- The proposed amendment was advertised for 42 days and 28 submissions were received on the proposal, 18 supporting the proposal, nine objecting to the proposal and one neutral (in the form of advice).
- 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.
- Review of the residential density coding 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 be refused at this point in time but be re-considered as part of the current review of Local Planning Scheme 6.

BACKGROUND

An application was received in January 2022 requesting that Lot 52 (No.45) and Lot 166 (No.47) Canning Beach Road, Applecross be rezoned from Residential R12.5 to Residential R30.



LPS6 zoning map of subject site and surrounds

UP22/3984 – CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

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

- a) 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 the Perth City Centre, as demonstrated by the 2016 SNAMUTS analysis.
- b) The Amendment will facilitate an innovative housing typology to contribute to a greater diversity of housing stock, enabling opportunities for residents to age in place while maintaining continuity of lifestyle.
- c) The proposed 'apartment houses' on No. 47 Canning Beach Road will resemble a large single dwelling sympathetic in style and form to other low-density housing in the locality.
- d) The owners of No. 45 Canning Bridge Road and the HCACF facility are supportive of the proposed Amendment.
- e) The existing home on No. 47 Canning Beach Road is declining in 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 type of housing stock in the area, entirely inconsistent with the objectives of the LHS.
- f) The new HCACF facility significantly increases the built form and land-use intensity in the immediate context of the subject land. Therefore, 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. Furthermore, the development will screen the HCACF from the view of the public realm.
- g) The subject land is ideally suited to an R30 coding due to its proximity to the CBACP and the Swan River foreshore, nearby public open space, high-frequency bus services, and the passenger rail line.
- h) The proposed 'apartment houses' location and design will not adversely affect 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.
- i) There is ample capacity in existing infrastructure and services to accommodate the proposed density increase.
- j) 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.
- k) The Amendment provides a low-risk opportunity for the City to consider 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.
- l) The Amendment aligns with each of the applicable initiatives in the Local Housing Strategy and satisfies the relevant criteria for minor increases to density.

**UP22/3984 – CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS
(REC) (ATTACHMENT)**



Subject properties outlined in Red.

[3984 Attachment 1 Applicant Scheme Amendment Report](#)

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 currently under review.

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.

**UP22/3984 – CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS
(REC) (ATTACHMENT)**

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 three- four storey aged care facility 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

DETAILS

The proposed amendment was initiated by the Council at its Ordinary Meeting held on 15 February 2022.

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

In total 28 submissions were received. Eighteen submissions supported the rezoning, nine were in support and one provided comments / observations. A summary of the issues raised in the submissions is provided in the table below.

Summary of Submissions

Comment supporting the Amendment	Comments Opposing the Amendment
R30 suits this location being on the foreshore and the higher density in the surroundings.	Concerned the proposal will set precedent and give rise to further potential rezoning requests outside of current approved areas. If approval for such rezoning occurred, concerned that license for further amendments to original amenities will not be controlled sufficiently

UP22/3984 – CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

Comment supporting the Amendment	Comments Opposing the Amendment
<p>The amendments as outlined are in line with the development throughout other parts of the City of Melville. The proposal is upmarket and stylish.</p>	<p>Higher density is already allowed for within the CBAC. Allowing increased density at 45 & 47 Canning Beach Road would not be consistent with the desired character of the locality. If approved, the development would cause a further increase in traffic. We and other residents choose this area to live in because we have a preference for the larger block sizes and hence the lower density and this should not be taken away from us</p>
<p>This is a sensible amendment considering the development directly the rear of the applicant properties.</p>	<p>The amendments will further increase higher density living in an area that will have traffic congestion due to increase in high rise buildings.</p>
<p>This is a good concept for the area transitioning from the high rise nearer Raffles and the nursing home to single dwellings down our end of Canning Beach Road but I would not want to see the zoning changed any further along Canning Beach Road at this point.</p>	<p>The amendments equate to further high density living in an area where traffic congestion has already become a major issue for residents exiting onto Canning Highway via Canning Beach Road and Kintail Road due to the recent increase in high rise buildings immediately to the north-west of Canning Bridge which is a point of congestion in its own right without having to accommodate further traffic movements.</p>
<p>The existing house is an eyesore, it's deteriorating and needs to be demolished. It will be lovely to see a new development in place.</p>	<p>Fully oppose any further extension to the current area that allows a higher density in residential and commercial properties. While there is a suggestion that there is infrastructure to support increased density, what is more important to consider, is the impact of this on the local residents and their way of life – increased traffic, congestion, lack of parking, loss of river views to properties that currently have them and whose designs were set on zoning at the time.</p> <p>The City have set the precinct, please stick with your original decision. To not, will see the destruction of Applecross as a residential area. If this change is made, a precedent will be set. A suggestion – focus your attention and efforts to find occupants for the plethora of apartments that are still empty or have not been sold to date.</p>

UP22/3984 – CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

Comment supporting the Amendment	Comments Opposing the Amendment
<p>I will not be impacted at all by the amendments it will be aesthetically pleasing to the eye due to the current house (dwelling) being more than 40 years old. I cannot see any impact but a positive one. What is more worrisome is the six story apartments close by with more than 30 apartments in them. This is a lot more of an impact to our streets than the proposal being put forward.</p>	<p>Support the initial Council decision in 2021 and oppose the application for rezoning at this point in time for the following reasons.</p> <ol style="list-style-type: none"> 1. There is no demonstrated need or public benefit from the expansion of the R30 zone at this stage and 2. No planning urgency has been demonstrated and 3. Matters of local zoning would be best considered along with other current planning issues in the immediate locality and 4. Much of what the applicants have submitted in order to overturn the Council's decision of 2021 and in support of this reapplication is irrelevant from a planning perspective and; 5. Despite the apparent efforts in the application to suggest that a particular supposedly desirable development would eventuate there can be no certainty about the post rezoning outcomes and 6. The application is in conflict with the intent of the Local Planning Strategy section 3.8 regarding the river foreshore areas
<p>We support the proposed amendment on the basis that it will result in a more appropriate and better utilisation of the property site.</p>	<ol style="list-style-type: none"> 1. Our beautiful Swan River foreshore should be protected from multi story buildings along the river. The RIVIERE multi story is setting a precedent that shouldn't be allowed to continue. 2. Should lot 45 and 47 blocks be giving the rezoning go ahead ,then perhaps lot 30 Opal nursing home will apply for a rezoning to R 30 too. 3. Our Riverway is a very small road and it will be overloaded from the new Nursing Home traffic we don't want this to escalate with more traffic from future multi story planning.

UP22/3984 – CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

Comment supporting the Amendment	Comments Opposing the Amendment
<p>I support the Zoning to be changed to meet the owner's request which helps developing the area for better.</p>	<p>We support all of the points stated in: OFFICER RECOMMENDATION (3964) REFUSAL. Submitted at the ordinary Council Meeting dated 15 February 2022 We are saying no to the rezoning proposal.</p>
<p>We need some of these old homes rebuilt</p>	<p>Increased residential density resulting in the potential increased usage of the freehold 30 Carron Road access leg abutting the northern boundary of 45 Canning Beach Road. Any potential for increased usage or increased access of Applecross Shore Care Community land for private benefit is not supported.</p>
<p>I support a modest increase in density on Canning Beach Rd. An architecturally designed three storey development will enhance the aesthetic in the locality which is still populated with too many old residences on large blocks. I will not be affected overly by the development other than enjoying an improved streetscape when I'm in the area.</p>	<p>The likely amenity impacts the residents in the Care Community as a result of more intense development scenarios that are implied by an increased density coding of R30 including, but are not limited to, building size (site cover), building bulk, scale, setbacks, parking, privacy, acoustic, access and traffic implications, could negatively impact the amenity to the residents within the Care Community and on a wider view, the character of the locality.</p>
<p>The owners of properties adjacent to 45-47 Canning Beach Rd, support Scheme Amendment No.14 and request it is expanded to include: 39, 41, 43 & 43A Canning Beach Rd.</p>	<p>The removal of 6m rear setback requirements under R12.5 would have significant building bulk impact to the Applecross Shore Care Community.</p>
<p>Has minimal impact on the amenity of the local surrounds and is in keeping with canning bridge re development</p>	<p>The fundamental inability of the spot rezoning amendment to satisfy the objective of orderly and proper planning of the locality. Rezoning of a residential area should only be considered as part of a wider strategic exercise under review of a local planning scheme and / or the Canning Bridge Activity Centre. Consideration of this amendment would provide precedent and basis for further zoning creep which would further impact the character of the locality and Applecross Shore Care Community as a result of associated built form and density considerations.</p> <p>The uncertainty of the Medium Density Code and suggestion that this could imply an additional yield of two dwellings across the site, as well as modified development control imposing potentially more significant built form requirements.</p>

UP22/3984– CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

An additional submission was received requesting the entrance to Canning Beach Road on the corner of Kintail Road be re-opened. Full details of the results of advertising are available in the schedule of submissions.

[3984 Attachment 2 Schedule of Submissions](#)

STAKEHOLDER ENGAGEMENT

Advertising Required: Yes

COMMUNITY

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

Amendment 14 was publicly advertised from 31 March to 12 May 2022.
Submissions received are documented in this report.

II. OTHER AGENCIES / CONSULTANTS

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

The following relevant agencies were also consulted on the proposed amendment: WAPC, Swan River Trust, Department of Biodiversity, Conservation and Attractions, Water Corporation, Western Power, Telstra, At-co, Department of Education and Department of Communities. No comments have been received.

STATUTORY AND LEGAL IMPLICATIONS

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

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

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

**UP22/3984 – CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS
(REC) (ATTACHMENT)**

FINANCIAL IMPLICATIONS

There are no financial implications with this request.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The City's Local Planning Strategy seeks to provide for greater intensity of development within activity centres and along key transport corridors and to leave suburban residential areas relatively unchanged. The amendment to up-code two properties is inconsistent with the City's strategic goals of the Local Planning Strategy. Progressing a single scheme amendment independently of the comprehensive LPS6 review may create uncertainty and set unrealistic expectations for the community.

Risk Statement & Consequence	Level of Risk	Risk Treatment
Unsuitable modification to LPS6 as a result of the process occurring without comprehensive and wide investigation of opportunities and issues.	Moderate consequences which are likely, resulting in an High level of risk	It is recommended that applications for rezoning are resolved as part of the process to be employed as part of the current LPS6 review.
Proceeding with the rezoning may create uncertainty and set unrealistic expectations for the community given the Council decision to initiate a review of LPS6.	Moderate consequences which are possible, resulting in a Medium level of risk.	Recommendation that Council does not proceed with the amendment and that it is considered as part of the current LPS6 review

POLICY IMPLICATIONS

There are no policy implications with this proposal.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council may decide to adopt the scheme amendment. Under this option the scheme amendment would be forwarded to the WAPC with a recommendation that the amendment be approved. The WAPC and ultimately the Minister for Planning would make a final determination of the amendment. The decision reached may be an approval, a refusal, a direction to modify the amendment or a deferral of the amendment.

**UP22/3984 – CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS
(REC) (ATTACHMENT)**

COMMENT:

The Council direction to initiate the amendment and commence the statutory advertising period is noted. Advertising has resulted in a range of submissions both for and against the proposed changes.

Previous reporting to Council has noted that the sites the subject of the proposed scheme amendment have a number of unique characteristics which may warrant consideration 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.

Council has commenced a review of LPS6, and whilst the review program will take some time, this process provides a suitable opportunity to comprehensively examine housing outcomes and R-codings across the City. In particular the review process will include an engagement phase aimed at understanding the local planning needs, aspirations and concerns of stakeholders across the City. This process will include detailed consideration of a range of issues and potential responses and provides opportunity to examine matters such as those identified in this scheme amendment advertising period.

The points below have previously been identified as reasons to not proceed with the scheme amendment at this time:

- 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.
- The review of LPS6 has now commenced. The review process provides a timely opportunity to consider the proposed amendment in a comprehensive manner. Now that the review process has commenced, it is particularly important that individual requests for changes to zonings or R-Codes be noted and considered comprehensively through the review program. The commencement of the review process has and will continue to prompt proposals for changes. These proposals are best steered into the review program.

Results of the advertising period have highlighted the need to consider changes to LPS6 in a comprehensive manner. As noted above, the subject properties, and potentially others in the locality, or across the City, may be well suited to a change in R-Code. At this stage however it is recommended that the scheme amendment not be supported and that the proposals be flagged for consideration in the current review of LPS6.

**UP22/3984– CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS
(REC) (ATTACHMENT)**

OFFICER RECOMMENDATION (3984)

REFUSAL

That the Council, pursuant to Part 5 of the Planning and Development Act 2005, refuse to adopt Scheme Amendment No. 14 to Local Planning Scheme No. 6 and not support the requested change to the residential density coding from R12.5 to R30 at this time for the following reasons:

- a) A review of Local Planning Scheme 6 has commenced and the proposed amendment is best assessed as part of the comprehensive review program.
- b) The proposed rezoning represents an incremental change to portion of an existing street-block and is likely to have impacts on nearby properties which warrant further investigation.
- c) The advertising of the scheme amendment has identified concerns from nearby residents and these concerns warrant further investigation such as that available in a wider scheme review program.
- d) There is not considered to be a demonstrated short term need in the area for the requested rezoning to proceed outside of the wider review program.

Alternate Motion

COUNCIL RESOLUTION

At 6:54pm Cr Pazolli moved, seconded Cr Ross –

That the Council:

1. Pursuant to Regulation 50(2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Considers the submissions on Amendment No. 14 to Local Planning Scheme No. 6, as provided in Attachment 2;
2. Pursuant to Regulation 50(3)(a) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Supports Amendment No. 14 to Local Planning Scheme No. 6 without modifications, as provided in Attachment 1;
3. Authorises the Mayor and Chief Executive Officer to Sign and Seal Amendment No. 14 to Local Planning Scheme No. 6;
4. Pursuant to Regulation 53 of the *Planning and Development (Local Planning Schemes) Regulations 2015*, Provides Amendment No. 14 to Local Planning Scheme No. 6 to the Western Australian Planning Commission.

At 7:02pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

**UP22/3984– CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS
(REC) (ATTACHMENT)**

Reasons for the Alternate Motion as provided by Cr Pazolli

1. The original application for this proposed scheme amendment was refused at the 16 March 2021 Ordinary Meeting of Council largely on the basis that the imminent conclusion of the review of the Canning Bridge Activity Centre Plan (CBACP) might result in the CBACP boundary changes that could include these lots or that the Review of the Local Planning Scheme No. 6, scheduled to commence in July 2021, would more expediently deal with the content of this scheme amendment. Neither of these reviews have progressed in the expected time frames, with no boundary changes for this area proposed in the CBACP review and the LPS No. 6 review time frame still 12 to 18 months from finalization. As such, this proposed scheme amendment now seems likely to be progressed much more quickly than the larger LPS No. 6 review.
2. There is significant support for the proposed scheme amendment evidenced from the responses to the advertising of the proposed scheme amendment.
3. Rezoning these two lots to R30 is consistent with the existing zoning of the surrounding properties, as the residential lots to the south are already zoned R30, the large, three storey, Opal High Care Aged Care Facility to the west and the R12.5 residences to the north are separated from these lots by a driveway access to the Opal facility and adjacent residences.

At 7:02pm, the Mayor Brought Forward Item EI22/3978 – John Connell Oval Extension for the convenience of those in the public gallery.

An officer addendum is provided in relation to this Item – [Officer Addendum – Item EI22/3978](#)

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

Ward : Bull Creek - Leeming
 Category : Strategic
 Subject Index : Capital Works Program and Active Reserves Infrastructure Strategy
 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 P19/3795 – John Connell Reserve Redevelopment Project Partnering Opportunity with Landcorp – Memorandum of Understanding, Ordinary Meeting of Council held 19 February 2019.
 Item T21/3901 – John Connell Reserve Upgrade Proposals, Ordinary Meeting of Council held 16 February 2021.
 Works Programme : 2021-2022
 Funding : 2021-2022 Budget
 Responsible Officer : Jeff Bird
 Manager Natural Areas & 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"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Leeming Spartan Cricket Club and the Leeming Strikers Football Club have held a long term desire to expand the present playing fields east into an area containing remnant bushland.
- The oval extension area has long been recognised for this purpose with the previous landfilling activities specifically planned to ensure that it would not encroach into the oval extension area.
- The City has received a request from the Clubs for the City to provide written authority to the Clubs to enable them to progress with a clearing permit to extend the oval at the eastern end of the John Connell Reserve.
- A permit to clear native vegetation under the *Environmental Protection Act* is required to be submitted through an application to the Department of Water and Environmental Regulation (DWER) in order to remove the vegetation.
- Funding for the preparation of a Masterplan for the John Connell Reserve was approved as part City's 2021-2022 annual budget and is currently in the procurement stage seeking a consultant to undertake this work.
- The Federal ALP candidate for the Seat of Tangney has committed to contribute \$650,000 toward the cost of the oval extension if successful in the upcoming Election. This contribution may only be a proportion of the total cost associated with the oval extension.
- There are a range of risks associated with initiating the community consultation for the oval extension in advance of, or parallel to, a broader consultation process for the Masterplan, recognising that there may be opportunities to instigate the vegetation clearing application prior to the completion of the Masterplan should the gathering and analysis of information during the Masterplan process indicate support for this proposal.
- The Officer recommendation is to not proceed immediately with the initiation of a vegetation clearing application for the oval extension as requested by the Clubs and consider the oval extension proposal and associated vegetation clearing as part of the John Connell Master plan.
- In regards to the Clubs request to manage the vegetation clearing application and oval extension works, it is the City's preference to manage the vegetation clearing application, planning, design and construction works due to complexities and technical requirements associated with works that could impact on the contaminated landfill site.

BACKGROUND

The City has received a request from the Leeming Spartan Cricket Club and the Leeming Strikers Football Club for the City provide written authority for the clubs to initiate a vegetation clearing application to remove remnant bushland in order to extend the oval at the eastern end of the John Connell Reserve in Leeming.

The Clubs have provided the following justification as to the reasons behind the request;

“Allow for a second cricket oval with a smaller playing field and two extra football fields, which as you know will be an enormous benefit for community sport and wellness and be of great value to the more than 800 registered players and their families”.

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

To accommodate the proposed extension area there would be a requirement for a section of bushland to be cleared. This area consists mainly of degraded or completely degraded bushland, however has some areas classified as good condition requiring removal with a small section of excellent condition vegetation that could possibly be impacted.

It is relevant to note that the bushland immediately south of the proposed area to be cleared is mostly classified as Excellent & Very Good condition and qualifies as Banksia Woodland Threatened Ecological Community (TEC).

In order to clear this area of bushland, a permit to clear native vegetation under the *Environmental Protection Act* is required to be submitted through an application to the Department of Water and Environmental Regulation (DWER) for assessment to determine if the area of bushland can be cleared.

If the Clubs were to prepare the vegetation clearing permit application as requested, a Letter of Authority would be required from the City. The Clubs have also indicated a preference for them to undertake the vegetation clearing and oval extension works on behalf of the City.

This report discusses the implications of the Club's request in regards to the opportunities and risks associated with initiating the vegetation clearing process, potential impacts on the Masterplan process and issues associated with wider community consultation.

DETAIL

Leeming Spartan Cricket Club and the Leeming Strikers Football Club have held a long term desire to expand the present playing fields east into existing bushland to provide additional playing space. The City prepared the Active Reserves Infrastructure Strategy (ARIS) in 2020 to guide a strategic and long term plan for infrastructure investment for active reserve facilities.

The ARIS covers City assets associated with over 70 clubs who are all seeking renewal or upgrades to ageing infrastructure across the City. The City is progressively implementing the recommended ARIS upgrades and has accelerated programs such as the change room renewal program to address the growth and changes related to sporting demands.

The ARIS identified that an additional oval may be required at John Connell in 2028-2029 and it would have been in that financial year that investigations would take place to identify the requirements of the Clubs. The ARIS also identified that a Masterplan be prepared for John Connell Reserve in 2025-2026 to better understand active and passive recreational needs and where investment should take place to meet identified demands.

In the past year the City has received requests from the Clubs, Members of Parliament as well as election candidates in regards to funding to facility upgrades. This interest from the various stakeholders has led to the City to fast track the Master planning exercise for the entire John Connell Reserve site this financial year, which is three years ahead of what was envisaged in the ARIS.

The scope for the Masterplan has been expanded to include the old Dundee Road Landfill area (given the long term liability associated with this contaminated site), public park areas, Supa Golf and the driving range.

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

Funding for the preparation of the John Connell Masterplan was approved as part City's 2021-2022 annual budget. The City, through the public tender process, will appoint a suitably qualified and experienced consultant in the next month or so to work with the community and the City to develop the Masterplan. The master planning process is firstly intended to investigate the need for additional playing fields and secondly, assuming the need is justified, the various options for locating these fields within the John Connell Reserve site. It is anticipated that the master planning process will take 12-15 months to complete.

Further to the City fast tracking the John Connell Masterplan, the Clubs have been given an indication that the Federal ALP candidate for the Seat of Tangney (Sam Lim) will commit to contribute \$650,000 toward the Clubs for the oval extension costs if successful in the upcoming Election. This contribution may only be a proportion of the total cost of the oval extension works.

This prospective financial contribution has prompted the clubs to request that the City provide the clubs with the authority to progress the vegetation clearing application process and planned oval extension construction works.

Oval Design and Location

The Clubs have attached to their request the plan below outlining a section of bushland that they believe needs to be cleared as part of project based on the extension accommodating the requested additional cricket oval. It is estimated that clearing of vegetation between 0.6 ha. and 0.9 ha. would be required to accommodate this plan.



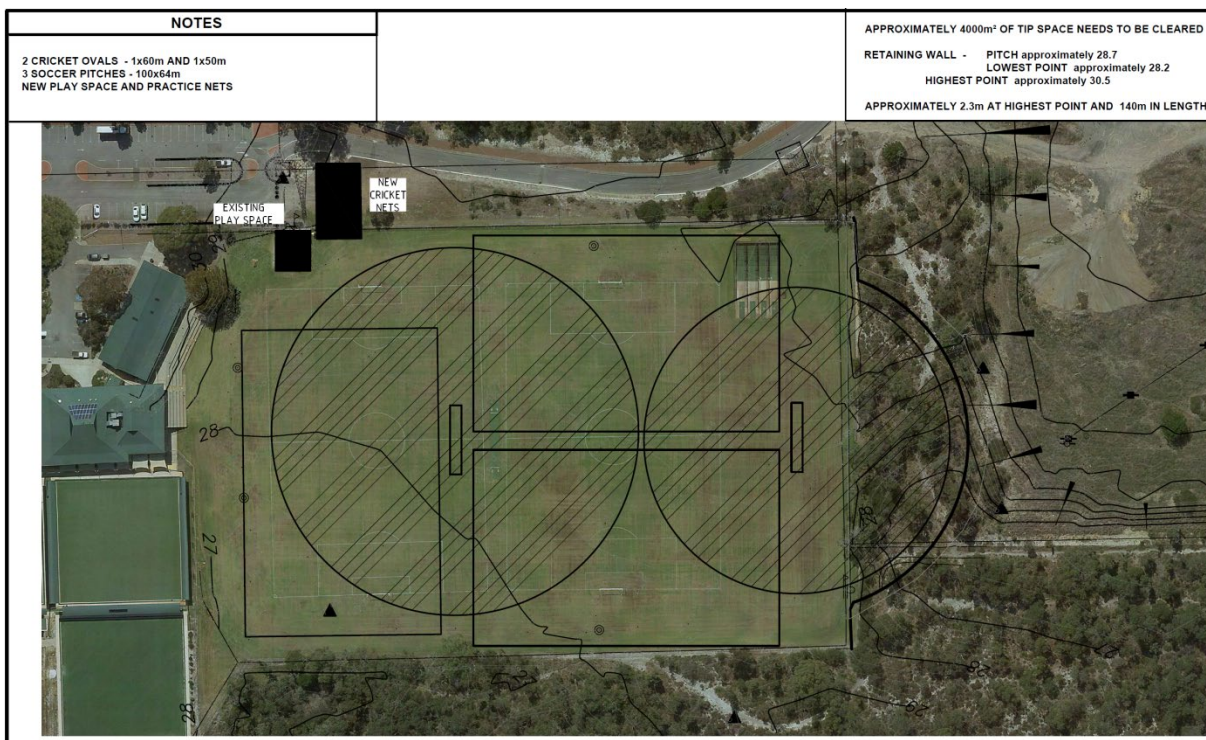
In recent correspondence the Clubs have advised that they would propose to undertake the following scope of works:

- To prepare and submit to the Department of Water and Environmental Regulation for application for New Permit or Referral to Clear Native Vegetation
- Remove and replace cyclone fencing on eastern side of John Connell Reserve
- Clear and remove vegetation in extended area
- Level and compact ground
- Extend reticulation as directed by the City of Melville

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

- Prepare and lay lawn as directed by the City of Melville
- Remove the cricket nets and replace with lawn
- Remove the partially raised uneven area on the western side of reserve and re-lay this lawn to level the playing field
- Prepare and construct second hard wicket cricket pitch as established by Cricket Australia guidelines
- Relocate current hard wicket cricket pitch in westerly direction
- Identify and clear non substantive vegetation as outlined in the “Detailed Flora, Vegetation and Fauna Assessment” conducted by Natural Area Consulting Management Services along the northern fence line
- To revegetate the area outside the extension with Banksia species and *Eucalyptus toditiana* given they are the preferred food sources for the Forrest Red-tailed Black Cockatoo.

The City has also completed concept designs of the oval extension based on the request of the Clubs. Consideration will need to be given to providing extensive retaining structures (approx. 2.3 metres maximum height and 140 metres in length) in order to establish a level playing surface for the proposed oval extension.



Initial estimates from the ARIS indicated the implementation of the John Connell Reserve Masterplan to be approximately \$2.1 million, including the additional oval. This estimate was provided in 2020 pre-COVID and without detailed site investigation, therefore further investigation and cost estimates are required to determine the current likely costs of the oval extension as a stand-alone project.

It is acknowledged that the John Connell Reserve facilities are well located to support an additional oval to capitalise on existing infrastructure and assets.

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

Without the existing constraint related to the requirement to remove remnant vegetation, the decision to extend the oval would be fairly straight forward and based on demonstrated need and cost benefit aspects. In regards to the vegetation clearing, the City also has an obligation to consult widely on proposals that are likely to raise concerns in the community and to work through issues in order to get the best outcome for our residents and ratepayers.

Flora, Vegetation and Fauna Assessment of Oval Extension Area

In November 2020, the City commissioned Natural Area Consulting Management Services to undertake a detailed flora survey and a basic fauna survey of the area being proposed for the oval extension. The Flora, Vegetation and Fauna assessment report forms an attachment to this agenda item. [3978 John Connell South Bushland Assessment](#)

The survey aimed to determine:

- flora and fauna species present within the site (native and introduced)
- the extent and boundaries of vegetation types and their condition
- the location of declared rare or priority flora, fauna and/or threatened ecological communities (if present).

The detailed flora and vegetation survey concluded the following:

- presence of a total of 98 flora species from 36 families
- a mix of 37 (37.7%) weeds and 61 (62.2%) native flora species
- no priority or threatened flora species, or ecological communities were found in the survey
- one vegetation type was present within the site, *Banksia attenuata*, *Banksia menziesii* and *Eucalyptus tottiana* Woodland
- Vegetation condition across the site ranges from Completely Degraded to Excellent.

The basic fauna survey within the site confirmed:

- a total of eight fauna species recorded, either directly or via indicators of their presence in the form of scats, tracks, diggings and burrows
- no conservation significant fauna species were recorded during the survey, although evidence of threatened black cockatoo feeding by Carnaby's Cockatoo in the form of chewed *Banksia menziesii* flower cones was noted.

The vegetation condition ranged from Completely Degraded to Good within the survey area, with majority of the site either in Good, Degraded or Completely Degraded condition as can be seen in the below graphic.

The areas classified as Completely Degraded occurred on the periphery of the site and along the road verges due to weed encroachment from the surrounding land. The area of Good condition vegetation would be required to be removed for the oval extension.

E122/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

City of Melville
John Connell Reserve - Detailed Flora, Vegetation and Fauna Assessment



Flora, Vegetation and Fauna Assessment of the Southern John Connell Bushland

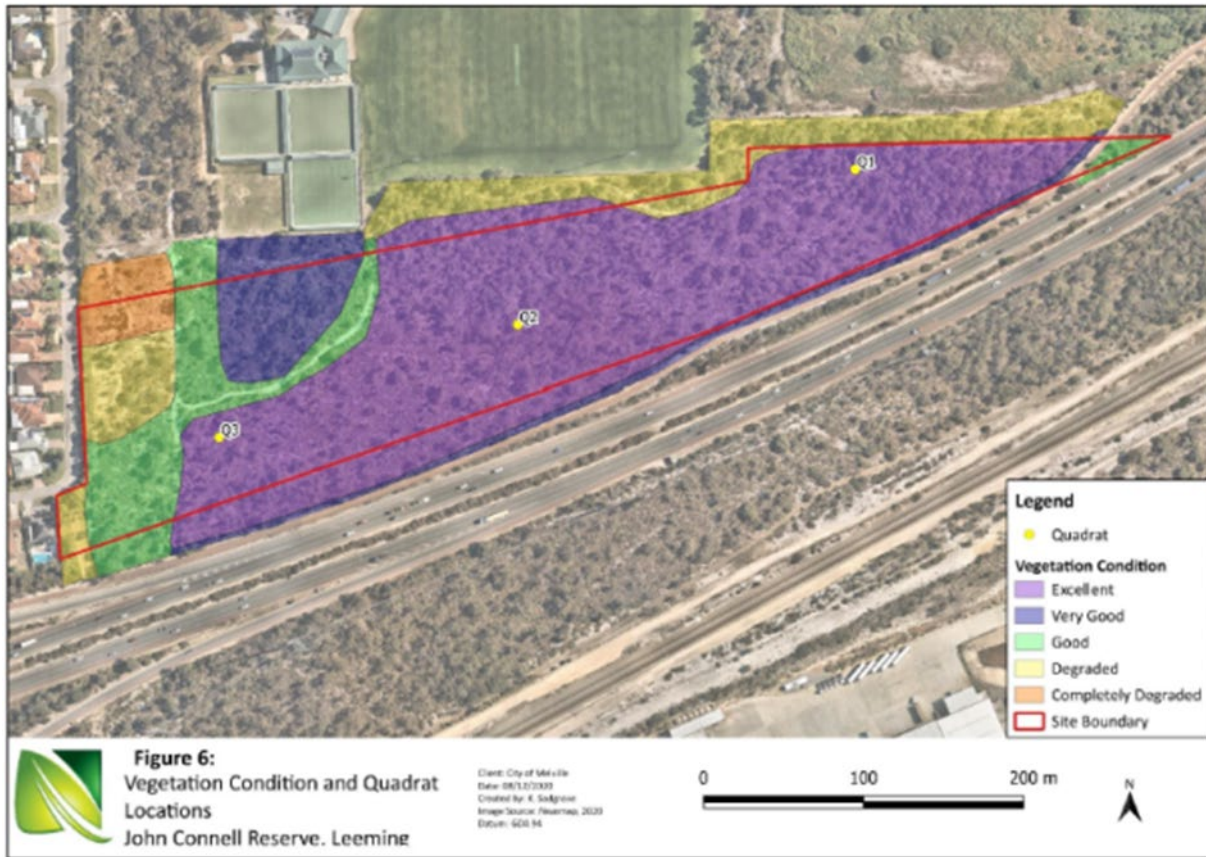
In addition to the Flora, Vegetation and Fauna Assessment of the area proposed to be cleared for the proposed oval extension, the consultants also undertook an assessment of the bushland to the south of the John Connell Reserve as shown in the below diagram.

The Flora, Vegetation and Fauna assessment report is attached for reference.

[3978 John Connell South Bushland Assessment](#)
[3978 John Connell Flora and Fauna Survey](#)

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

City of Melville
John Connell Reserve – Threatened Ecological Community Assessment



The key outcome of the assessment of this section of bushland immediately to the south is classified as part of the Banksia Woodlands of the Swan Coastal Plain Threatened Ecological Community (TEC).

Clearing Permit Process

An application for a vegetation clearing permit from the Department of Water and Environment Regulation (DWER) would be required to accommodate the oval extension. It is understood that it is likely to take between 6 to 9 months to secure a vegetation clearing permit.

As noted previously, the adjacent bushland to the south of the area to be cleared for the oval extension is classified as Banksia Woodland Threatened Ecological Community (TEC). Any proposal that may impact on the classified TEC vegetation type would require referral to the Federal Government, Department of Agriculture Water and the Environment (DAWE) as to whether this area can be cleared or not under the *Environment Protection and Biodiversity Conservation* (EPBC) Act.

Although the area proposed to be cleared for the proposed oval extension ranges from 0.6ha (minimum) to 0.9ha (maximum) and therefore may not trigger the minimum 1ha. clearing area, DWER may choose to refer the application to the Federal Department for assessment due to the proximity of the Banksia Woodland TEC immediately to the south. A referral to the Federal Department for assessment under the EPBC Act is likely to take 12 to 18 months for a decision.

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

DWER recognises that timing of surveys is important and may require additional surveys if considered necessary and at specified times to capture known declared rare flora species that may occur at the location. The initial flora survey commissioned by the City was undertaken in November 2020 (late spring) and a follow up survey in mid-spring was undertaken in October 2021, however it is possible that DWER may request that a further survey (e.g. late winter or early spring) be undertaken to ensure that no declared rare flora will be impacted.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

The preparation of the John Connell Reserve Masterplan is about to commence and will involve a comprehensive and structured stakeholder engagement plan, similar to that undertaken for the Attadale Alfred Cove Foreshore Master Plan project. Although there is support amongst sporting associations and clubs consulted to date for the vegetation clearing to facilitate the oval extension, the City has not canvassed the wider community for feedback on the proposal and there may be some community opposition from an environmental perspective.

There are a number of options available in regards to stakeholder engagement associated with the oval extension proposal.

- Option 1 – Undertake the consultation as part of the Masterplan and initiate a vegetation clearing application should the information gathered and analysis justify this for the oval extension prior to completion of the Masterplan.

This is an option that could fast track the vegetation clearing application process, prior to the finalisation of the Masterplan, should the information gathered an analysis of data during the development of the Masterplan demonstrate support for this action.

- Option 2 – Undertake a separate consultation exercise for the oval extension proposal outside of the Masterplan consultation process.

This is not preferred as separate consultation exercises undertaken at a similar time may create confusion in the community and negatively impact on the outcome of either or both stakeholder engagement activities.

- Option 3 – Do not undertake wider community consultation and progress the vegetation clearing application process based on the support expressed by stakeholders and sporting clubs that utilise the reserve

This is the least preferred option as in is not consistent with the City's values and good practice stakeholder engagement. In addition, it does not promote transparency and openness in the decision making process, which was one of the community concerns raised with respect to the Wave Park proposal.

II. OTHER AGENCIES / CONSULTANTS

The Department of Water and Environment Regulation (DWER) will need to be consulted and approve the vegetation clearing permit application.

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

STATUTORY AND LEGAL IMPLICATIONS

A Vegetation Clearing Permit will be required to enable the removal of vegetation associated with the oval extension in accordance with the *Environmental Protection (Clearing of Native Vegetation) Regulations 2004*.

FINANCIAL IMPLICATIONS

The fee for submitting a vegetation clearing application to DWER is \$600.

Initial estimates from the ARIS indicated the implementation of the John Connell Reserve Masterplan to be approximately \$2.1 million, including the additional oval. This estimate was provided in 2020 pre-COVID and without detailed site investigations. A separate cost estimate would be required to determine current costs of the oval extension works as a separate project.

The Federal ALP candidate for the Seat of Tangney (Sam Lim) has committed to contribute \$650,000 to the Clubs for the oval extension if successful in the upcoming Election.

Any remediation works of the former tip site that could possibly occur as a result of the oval extension project would be funded by the City's Refuse Facilities Reserve.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement & Consequence	Level of Risk*	Risk Treatment
Opportunity will be lost to conduct a thorough review of the entire John Connell Reserve if the process to commence with the clearing permit is given.	Moderate consequence and almost certain, resulting in a High level of risk	Follow the Master planning process which may identify other options for the provision of additional active playing grounds.
Clearing of bushland to accommodate additional sporting infrastructure may create community opposition on environmental grounds or if considered in advance of the Masterplan process.	Moderate consequence and almost certain, resulting in a High level of risk	Adequate community engagement occurs to ensure any environmental or other concerns acknowledged. Proactive revegetation program implemented as part of the oval extension project if progressed.
To not progress with the clearing permit process as any delays would impact the Clubs desire to expand the playing surfaces in the desired timeframe.	Moderate consequence and likely, resulting in a High level of risk	Submit clearing permit application to DWER.
City will lose ownership of the clearing permit application and construction process if authority given to the Clubs to manage these processes and risks.	Moderate consequence and likely, resulting in a High level of risk	City manages the process and associated risks.

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

POLICY IMPLICATIONS

The key policies related to this report include:

- Urban Forest and Green Space Policy (CP-102) – To protect, preserve and enhance aesthetic character and realise the benefits of trees and vegetation
- Physical Activity Policy (CP-028) – To increase opportunities for physical activities and improve health and wellbeing of the community
- Improving Public Spaces Policy (CP-103) – To improve liveability, quality, useability, amenity and safety of public spaces

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Alternative Option 1 – Club manages vegetation clearing permit and construction works

This alternative involves the Club managing the vegetation clearing permit process with a yet to be determined community consultation process. This option would meet the Clubs desire to progress with the vegetation clearing permit application in a suitable time frame and give them assurance the Council is committed to the oval expansion proposal.

There are potential risks associated with this option related to the quality of required documentation for various applications, approvals and plans, adequate coordination and management of work activities (design, planning, contractual, cost controls) and achievement of compliance requirements.

Alternative Option 2 – Undertake separate community consultation for the vegetation clearing application process

This alternative would involve the City progressing a separate community consultation process in regards to the vegetation clearing for oval extension prior to, or in parallel with, the Masterplan consultation process. This would allow the City to gain an understanding of broader community sentiment related to the oval extension proposal prior to the lodgement of a vegetation clearing application. The City could progress with a vegetation clearing application in a shorter timeframe compared to consideration as part of the more comprehensive Masterplan community consultation and report preparation process, which is likely to take 12 to 15 months.

Initiating a separate community consultation exercise for the vegetation clearing proposal does present some risks and may cause confusion in the community, as the outcome may potentially conflict with the broader Masterplan objectives and disenfranchise members of the community who do not support the oval extension but are keen to be involved in the Masterplan community consultation process.

CONCLUSION

The Clubs for a number of years have been seeking to extend their facilities and playing grounds to meet the needs of the increasing numbers of participants, particular in regards to woman's teams. Allowing the group to manage the clearing permit process and construction works may meet the Clubs desire for the extension project to be completed in the shortest possible timeframe, but presents a range of issues and risks that the City would need to manage.

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

Although there is support amongst sporting groups for the oval extension and associated vegetation clearing, there may be concerns raised by other stakeholders and members of the community yet to be consulted regarding environmental impacts and other issues.

The Masterplan process would investigate the entire John Connell Reserve as a whole and may present other opportunities for additional oval developments which may in fact be a better result for the club and the area in the longer term. The outcomes of the Masterplan are yet to be determined and will benefit from broader consultation and engagement with the community, key stakeholders and State agencies

Consideration also needs to be given to the fact that the outcome of the Federal election is unknown and the funding committed by the Federal ALP candidate for the Seat of Tangney may not be forthcoming if not successful in the election. If Federal funding is not available and the clearing permit is approved, it is assumed the City would be required to fund any development of the site in the coming financial years.

The officers recommendation is that the John Connell master planning process is initiated before any decision is made on the oval extension and vegetation clearing application.

There is the option to instigate the vegetation clearing application process prior to the completion of the Masterplan, should there be a demonstrated need for an additional oval at this location to justify this course of action based on the information gathered and analysis of data undertaken during the Masterplan development. Alternatively, Council could resolve to undertake a separate consultation exercise for the vegetation clearing application to fast track the oval extension proposal, noting that this is not recommended by the officers given it may create confusion in the community and potentially undermine the Masterplan stakeholder engagement process.

OFFICER RECOMMENDATION (3978)

REFUSAL

That the Council:

- 1. Not proceed immediately with the initiation of a vegetation clearing application for the oval extension as requested by the Clubs and considers the oval extension proposal and associated vegetation clearing as part of the John Connell Master Plan.**
- 2. Advise the Clubs that it is the City's preference to manage the vegetation clearing application, planning, design and construction works associated with the oval extension, should this proceed.**

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

Alternate Motion

At 7:03pm Cr Spanbroek moved, seconded Cr Sandford –

That the Council directs the CEO

- 1. to provide authorisation to the president of the Leeming Spartan Cricket Club to submit a vegetation clearing application for the oval extension to the Department of Water and Environmental Regulations.**
- 2. to advise the Clubs that it is the City's preference to work in conjunction with the clubs to manage the planning, design and construction works associated with the oval extension, should this proceed.**

Procedural Motion

COUNCIL RESOLUTION

At 7:10pm Cr Fitzgerald moved, seconded Cr Mair –

That Cr Spanbroek be granted an extension of five minutes to speak on this matter.

At 7:10pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

Alternate Motion

At 7:03pm Cr Spanbroek moved, seconded Cr Sandford –

That the Council directs the CEO

- 1. to provide authorisation to the president of the Leeming Spartan Cricket Club to submit a vegetation clearing application for the oval extension to the Department of Water and Environmental Regulations.**
- 2. to advise the Clubs that it is the City's preference to work in conjunction with the clubs to manage the planning, design and construction works associated with the oval extension, should this proceed.**

At 7:15pm Ms Davis left the meeting and returned at 7:16pm.

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

At 7:20pm, during discussion and debate, the mover and seconder consented to the inclusion/deletion of *an area of 0.65ha to the east of the existing playing fields to accommodate* after the word “For” to read *1. to provide authorisation to the president of the Leeming Spartan Cricket Club to submit a vegetation clearing application for an area of 0.65ha to the east of the existing playing fields to accommodate the oval extension to the Department of Water and Environmental Regulations.*

Alternate Motion

COUNCIL RESOLUTION

At 7:03pm Cr Spanbroek moved, seconded Cr Sandford –

That the Council directs the CEO

- 1. to provide authorisation to the president of the Leeming Spartan Cricket Club to submit a vegetation clearing application for an area of 0.65ha to the east of the existing playing fields to accommodate the oval extension to the Department of Water and Environmental Regulations.**
- 2. to advise the Clubs that it is the City's preference to work in conjunction with the clubs to manage the planning, design and construction works associated with the oval extension, should this proceed.**

At 7:43pm, the Mayor declared the motion

CARRIED (9/2)

Yes	9	Cr Ross, Cr Macphail, Cr Barber, Cr Spanbroek, Cr Mair, Cr Sandford, Cr Pazolli, Cr Robins, Mayor Gear
No	2	Cr Fitzgerald, Cr Edinger

Reasons for the Alternate Motion as provided by Cr Spanbroek

1. Clubs have lost generations of our youth, in particular females and disabled athletes wanting to participate in the sport due to lack of playing fields.
2. With over 800 members (includes playing, social and family) and an ever-increasing demand for more, the clubs have been forced to turn people away due to lack of playing fields and facilities e.g., toilets and change rooms.
3. Forced to use grounds in other local government areas causing players not to engage due to travel distance from the local area and further causing segregation.
4. Loss of revenue to the City playing in other local governments.

At 7:42pm the Mayor adjourned the meeting.

At 7:49pm the Mayor resumed the meeting.

At 7:49 Ms Whyte entered the meeting.

At 7:49pm the Mayor Brought Forward Late Item UP22/3988 – Proposed Two Storey Single House with Roof Terrace at Lot 90 (No.23) Carron Road, Applecross for the convenience the public gallery.

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

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

AUTHORITY / DISCRETION

DEFINITION

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

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

KEY ISSUES / SUMMARY

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

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



Figure 1 – Aerial Photography

BACKGROUND

Scheme Provisions

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

Site Details

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

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

DETAIL

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

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

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

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

R-Code Requirements

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

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

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

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

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

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

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

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

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

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

Should the City of Melville refuse the application for planning approval, the Applicant will have the right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

FINANCIAL IMPLICATIONS

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

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

POLICY IMPLICATIONS

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

COMMENT

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

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

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

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

Building height

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

The proposal meets the design principles for the following reasons:

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

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

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

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

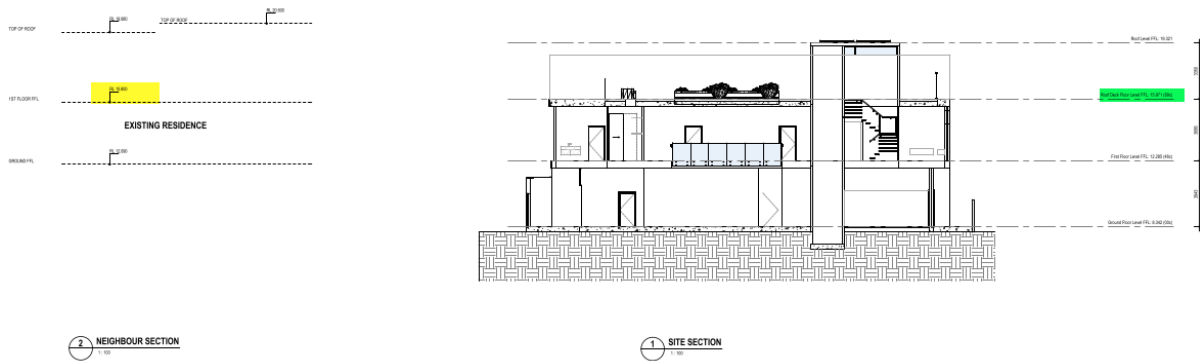


Figure 2: Cross-Section – No. 26 Strome Road (Yellow) No. 23 Carron Road (Green)

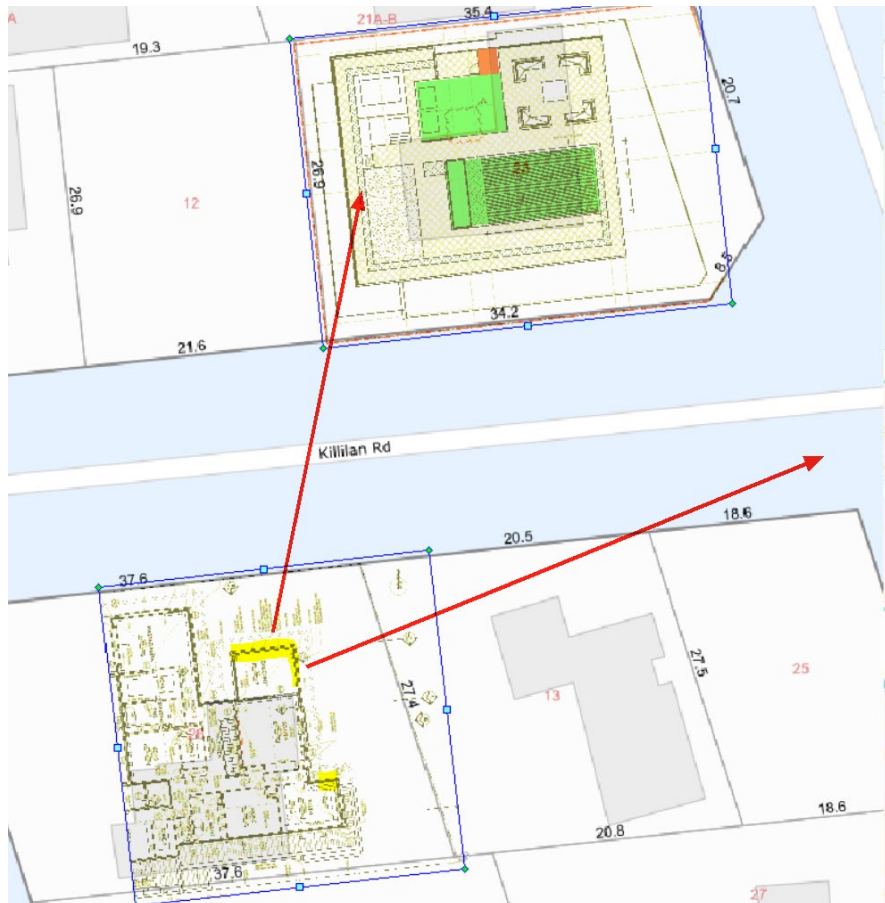


Figure 3: View Corridor

Side (western) Boundary setback

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

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

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

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



Figure 4 – Western Property

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

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

CONCLUSION

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

OFFICER RECOMMENDATION (3988)

APPROVAL

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

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

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

Procedural Motion

At 7:50pm Cr Pazolli moved, seconded Cr Ross –

That the Item be deferred to the July Ordinary Meeting of Council to be held on 19 July 2022.

At 7:55pm, during discussion and debate, the mover and seconder consented to the inclusion of wording that provided for the request for legal advice on the interpretation of the various associated matters.

Procedural Motion

COUNCIL RESOLUTION

At 7:50pm Cr Pazolli moved, seconded Cr Ross –

That the Item be deferred to the 19 July 2022 and that legal advice be obtained in relation to the interpretation of:

- **Whether views of significance are material considerations in respect of the subject DA given the objectors property does not adjoin the application site**
- **Building height considerations relative to building height definitions and the proposed building design**
- **Whether a roof top terrace contributes to the Open Space requirements of the R Codes for a R12.5 zone.**

At 7:58pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

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

KEY ISSUES / SUMMARY

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

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

BACKGROUND



Figure 1: Aerial photography of subject site

Scheme Provisions

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

Site Details

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

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

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

DETAIL

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

State Planning Policy 7.3 - Residential Design Codes Volume 1

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

Local Planning Policy 1.9 – Height of Buildings

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

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

I. COMMUNITY

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

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

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

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

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

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

Should the City of Melville refuse the application for planning approval, the Applicant will have the right to have the decision reviewed by the State Administrative Tribunal in accordance with Part 14 of the *Planning and Development Act 2005*.

FINANCIAL IMPLICATIONS

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

There are no policy implications in relation to this proposal.

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

COMMENT

Building Height

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

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

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

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

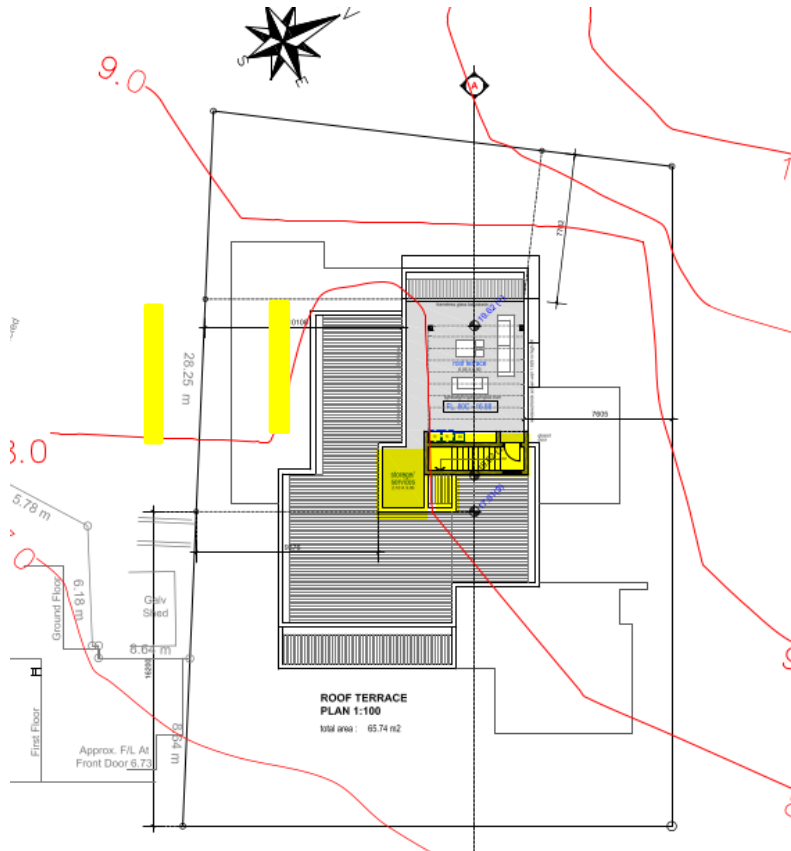


Figure 2: Yellow highlight showing enclosed area of the roof terrace above permitted height

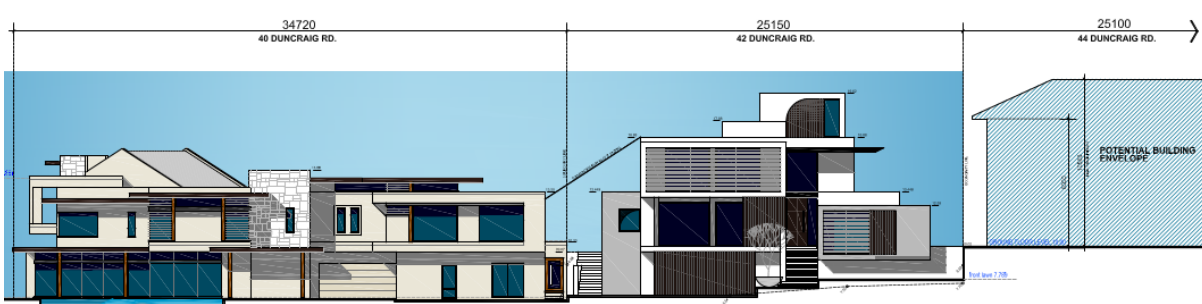


Figure 3: DunCraig Road streetscape with permitted building heights on the adjoining vacant site at 44 DunCraig Road

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

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

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

CONCLUSION

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

OFFICER RECOMMENDATION (3989)

APPROVAL

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

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

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

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

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

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

Procedural Motion

COUNCIL RESOLUTION

At 7:57pm Cr Ross moved, seconded Cr Pazolli –

That the Item be deferred to the 19 July 2022 Ordinary Meeting of Council to obtain further information in relation to Overlooking, Height and Open Space matters.

At 7:57pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (10/0)

At 8:00pm the Mayor brought forward Late Item C22/6191 - Consideration and Adoption of the 2022-2023 Budget.

At 8:00pm Cr Edinger returned to the meeting

At 8:01pm the Director Corporate Services provided an overview of the 2022-2023 Budget:

- This budget has been constructed in the context of:
 - Rising Inflation
 - Higher Cost of living
 - Supply chain issues
 - Minimum wages increases
 - The attraction and retention of employees
 - A need to transform and invest in parts of the business

- This budget does include funding to support a number of key transformational projects including:
 - The City's Digital Strategy"
 - The Net zero targets
 - Small Business and Economic Development
 - As you are aware there is no change in the methodology proposed from previous years in regard to the rates in the dollar for improved and unimproved.
 - The administration has recommended that any change to the rates be considered in the GRV revaluation year which in 2023-2024

- Extended appreciation to the Elected Members for their work and engagement in both the Long Term Financial Plan and Budget discussions, the work across the organization to support this budget and the Manager Financial Services her team for their work in coordinating, developing and analyzing all of the submissions and requests that all go into preparing the budget each year.

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

KEY ISSUES / SUMMARY

- The 2022-2023 Budget document (including the Schedule of Fees and Charges) is presented for consideration and adoption by the Council.
- A 3.5% increase has been applied to the rate in the dollar and minimum rates for all rating categories when compared to 2021-2022, resulting in \$4.4m increase in general rates yield.
- The budget contains a 7.4% increase in employment costs and 6.2% increase in materials and contracts costs.
- The Budget still contains a few elements of the Melville Community Stimulus Package to support ratepayers and the community.
- The Budget provides for a \$54.6m investment in the City's assets.
- Overall the Budget has been informed by the City's financial principles which were reviewed by Elected Members as part of a series of Long Term Financial Planning (LTFP) and budget workshops.
- Following the EMES on 14 June 2022 the income from interest has been increased by \$500,000. The additional interest has been set aside in the Infrastructure Asset Management Reserve.
- The 2022-2023 budget documents will also include the first carbon budget in line with the City's Climate Action Policy. This is a significant first step in providing science-based targets for carbon emission reductions by service area.

BACKGROUND

The City of Melville is required to prepare an Annual Budget in accordance with the Local Government Act 1995 and the Local Government (Financial Management) Regulations 1996. The purpose of an Annual Budget, in simplistic terms, is to outline the various revenue and expenditure streams and the required rating levels to achieve a balanced and sustainable financial position.

The financial principles of the City were reviewed by Elected Members and management during workshops held between October 2021 and June 2022. These workshops have guided the current review of the City's LTFP and the development and preparation of the 2022-2023 Annual Budget. In accordance with this review and relevant Council policies, the 2022-2023 Budget has been drafted with a long term view of the ongoing and potential needs of the City and its residents in mind.

Further workshops are planned, after the budget is adopted, to finalise the review of the LTFP and will be presented to Council for adoption early in the 2022-2023 financial year. The City is also working on a service catalogue and a workforce strategy which will be key inputs in finalising the LTFP.

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

DETAIL

The City of Melville commenced its formal Budget preparation in February 2022. Inputs into the budget formulation process included:

- Budget responsible officers and the Management and Executive Leadership teams;
- Feedback and direction received from the Council arising out of Elected Member Information Sessions and workshops held during 2021 and 2022 specifically on Long Term Financial Planning/Budget; and
- Specific requests arising from resolutions of the Council during the 2021-2022 financial year or prior.

Key aspects of the Budget are as follows: -

- The Total Rates income budget is \$96.2m, an increase of \$4.4m when compared to the previous year's budget mainly due to the application of a 3.5 % increase to the rate in the dollar and minimum rates for all rating categories. The composition of the rate yield remains consistent to previous years with approximately 80% relating to Residential properties and 20% relating to Commercial and Industrial properties.
- The budget for operating revenue excluding rates is \$27.3m, and is consistent with previous year. This is the net result of reduction in service charges income from underground power projects offset by higher fees and charges income from higher activity levels in recreational services and higher interest income.
- The 2022-2023 budget still contains some measures introduced in the first Covid related budget. These measures include the continued removal of both the surcharge for payment by credit card and the instalment administration fee, a reduced interest rate for instalments and late payments and the continuation of one hour free parking across the City.
- The budget for operating expenditure including non-cash amounts is \$122.8m, an increase of \$3.2m to the previous year. A \$3.9m increase in the employment cost budget is required to support retention of skilled staff, service level improvements, digital transformation and environmental sustainability initiatives. Materials and contracts costs have also increased by \$2.1m as a result of higher operating costs related to software licencing, organisational contingency funding, fleet, infrastructure and environmental maintenance and sustainability, rangers and emergency management, building maintenance, insurance and fuel. The aforementioned increases are partially offset by reductions to costs related to underground power projects and the Smart LED street lights project.
- The budget for net capital expenditure from investing activities is \$48.1m. This includes the 2022-2023 net capital works program of \$26.1m, with significant spends on buildings (\$8.5m), roads (\$6.3m), parks (\$1.2m), drainage (\$2.5m), foreshore facilities (\$2.4m), footpaths (\$1.6m) and irrigation (\$1.2m). It also includes an estimated \$16.4m in the form of carry forwards of the previous year's capital works program and purchases of furniture, plant and equipment estimated at \$5.4m.

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

- The capital budget contains projects that span multiple financial years and therefore need to be cash flowed accordingly. An extract of the capital works program is contained in attachment [6191C June 2022](#) and lists the overall net project cost and the net budget required in 2022-2023.
- The budgeted net income from financing activities is \$24.9m, an increase of \$7.4m when compared to previous year. This is due more funds being released from the Community Facilities and Infrastructure Asset Management reserves to fund the capital works program and more funds being released from the Rates Equalisation reserve to fund general operations.
- It is also noted that the City has developed its first carbon budget in line with the City's Climate Action Policy. This is a significant first step in providing science-based targets for carbon emission reductions by service area. The carbon budget is based on scope 1 and 2 emissions, with scope 3 emissions expected to be completed next year.

The Budget Book [6191A June 2022](#) outlines key information including:

- The Budget Certification
- A Budget Overview
- The Budget set out in the "Statutory" format as per legislation and regulations including: -
 - Rate Setting Statement by Nature & Type
 - Statements of Comprehensive Income by Nature & Type
 - Statement of Cash Flows
 - Statement of Financial Position
 - Statement of Changes in Equity
- Extensive notes to and forming part of the Budget including details of cash backed specific purpose reserve accounts, detailed rating information and information on other charges such as the Property Surveillance and Security Service levy, Underground Power etc.
- The Schedule of Fees and Charges for 2022-2023.

Attachment [6191B June 2022](#) provides a Ratepayer Profile for the City. There are no major changes to the Ratepayer Profile compared to last year.

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

A notice of intention to impose Differential Rates was featured on the City of Melville's noticeboard, website and in the Perth Now Melville newspaper on Thursday 26 May 2022. The notice was also advertised on e-news on Friday, 27 May 2022. The minimum rate advertised for Residential Unimproved Land in the Notice of Intention to Levy Differential Rates was \$847.28 and was based on the preliminary estimated cost of \$481.07 per property for the domestic refuse collection service. The final budget proposal indicated that the estimated cost per property of the domestic refuse collection service would be \$431 and therefore the differential minimum rate to be adopted by Council for the Residential Unimproved Land rating category is \$897.35.

The public comment period (minimum of 21 days) ends on Thursday 16 June 2022. The Council is required to consider any submissions received before imposing the proposed rate or minimum payment.

Whilst no other specific public consultation has taken place in regard to the 2022-2023 Budget, community consultation has occurred for a number of the major projects identified within the budget document.

II. OTHER AGENCIES / CONSULTANTS

Talis Consulting – with respect to asset management. As part of the 2022 revision of the Long Term Financial Model, external consultants were engaged to assess the City's asset management processes and associated reserve levels. The review determined the City has a sound and prudent approach to asset management, with reserve levels being slightly below the desired level for its asset base. The City needs to closely monitor asset management funding in relation to the age profile of its assets to ensure they can be renewed when required, particularly building assets;

Department of Fire and Emergency Services with respect to the Emergency Services Levy;

Landgate (The Valuer General) in relation to the Gross Rental Valuations used as a basis for calculation of Municipal General Rates;

Resource Recovery Group (RRG) in relation to the recycling, composting, green waste and residual waste disposal operations run by them on behalf of the City and two other local authorities.

STATUTORY AND LEGAL IMPLICATIONS

Local Government Act 1995

"1.3. Content and intent

Section 1.3 (3) In carrying out its functions a local government is to use its best endeavours to meet the needs of current and future generations through an integration of environmental protection, social advancement and economic prosperity.

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

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.*

(2) Without limiting subsection (1), the council is to —

- (a) oversee the allocation of the local government's finances and resources; and*
- (b) determine the local government's policies.*

3.1. General function

- (1) The general function of a local government is to provide for the good government of persons in its district.*

6.36 Local Government to give notice of certain rates.

- (1) Before imposing any differential general rates or a minimum payment applying to a differential rate category under section 6.35(6)(c) a local government is to give local public notice of its intention to do so.*
- (4) The local government is required to consider any submissions received before imposing the proposed rate or minimum payment with or without modification."*

Divisions 5 and 6 of the *Local Government Act 1995* refer to the setting of budgets and the raising of rates and charges and fees and charges.

The 2022-2023 Budget as presented meets these statutory obligations.

FINANCIAL IMPLICATIONS

Specific financial implications are as detailed in the attached 2022-2023 budget document. The Budget has been achieved without resorting to external loan borrowings to fund any operating or capital programs.

Implications for City of Melville ratepayers will include the following;

- 3.5% increase in the rate in the dollar and minimum rate across all rating categories;
- Minimal increases to existing user fees and charges as detailed in the 2022-2023 Fees and Charges Schedule;
- The Property Surveillance and Security Service Charge remains at \$57.00;
- The Swimming Pool Inspection Fee remains at \$49.00;
- No administration charge for payment by instalments in 2022-2023;
- Instalment interest charge remains at 2%;
- Late payment penalty interest remains at 3.5%;
- No Credit/Debit Card Surcharge Fee;

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk	Risk Mitigation Strategy
Insufficient budget funding achieved to carry out works and services and maintain the City's assets.	Major consequences which are almost certain, resulting in a High level of risk.	Ensure sound Financial policy positions are adopted by the Council and that the consequences of insufficiently funding the City's operations are well understood.
Funding is directed towards areas of expenditure that are not a priority of the Community and the Council or required to address a Technical or Statutory requirement.	Minor consequences which might occur at some stage, resulting in a Medium level of risk.	Ensure budget development process is sound and subject to independent review by all Managers, Finance and the Council to ensure funding requests are directed at meeting the Community Plan and Corporate Plan objectives.
Significant variations to budget due to the subjectivity of the underlying budget assumptions as a result of the highly dynamic domestic and global economic environment.	Major consequences which are almost certain, resulting in a High level of risk.	Ensure sound Financial policy positions are adopted by the Council and that the consequences of insufficiently funding the City's operations are well understood.

POLICY IMPLICATIONS

The budget has been developed on the principles outlined in the Council's policies

- CP-008 Financial Sustainability – Forward Financial Planning and Funding Allocation Policy,
- CP-024 Borrowings and Asset Financing Policy
- CP-031 Asset Management Policy
- CP-091 Elected Members Allowances and Expenses
- CP-092 Elected Members Professional Development
- CP-025 Accounting Policy - As per this Policy, interest earned from investing monies held in reserve accounts is to be classified as operating revenue and then transferred to the particular reserve accounts in proportion to the average balance of the particular reserves over the interest earning period. However in the 2022-2023 Budget interest has been transferred only to the asset management reserve accounts and amount to approximately 67% of the budgeted interest earned from investing monies held in reserve accounts.

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council may choose to adopt a rate increase of greater or less than the recommended amounts. However, in doing so it would need to identify which Operating Programs it wishes to see amended or what Capital Works it wishes to be added to or does not wish to proceed with. In regards to the renewal component of the Capital Works Program, reductions in the quantum of the program are likely to result in a deferment of expenditure to future years at an increased cost and a further exacerbation of the City's asset management deferred liability. In order to be sustainable in the longer term the City should maintain and improve the level of asset refurbishment and renewal funding that will enable it to refurbish and renew its assets when the need arises.

The projects presented to the Council for funding are considered to be priority projects.

Prudent financial management practices take into account the needs of current and future generations and support the need to build reasonable levels of cash backed specific purpose reserves to enable it to do so. The City is faced with many cost increases that exceed the increase in its revenue. These cost increases are absorbed by implementing cost saving measures in a manner that does not reduce service levels.

Reductions in the level of rate increase, whilst possible using short term measures such as deferment of asset maintenance or renewal, are not recommended as this simply creates a greater financial burden for future generations. Such action is also a departure from Council Policy CP-008 and the good governance provisions of the Local Government Act 1995 referred to earlier in this report.

In order to ensure that the best possible options that support the long term and ongoing needs of the City are included in the 2022-2023 budget, numerous rate increase options ranging from 0% to 5% and their implications to council policies and sustainability in the future, have been examined and discussed in detail with Elected Members.

A rate increase of 5%, was recommended by the Administration, as the preferred option as this level of increase was considered financially sustainable and required no deviation from Council Policy. The 3.5% rate increase is not sustainable and does require some temporary deviations from Council Policy. The deviations from Council Policy relate to the use of earned interest and the reduction in transfers to asset-based reserves. This is considered reasonable given the financial sustainability of the City will be addressed in the current review of the LTFP.

CONCLUSION

In accordance with the principles expressed in the Financial Sustainability Policy and other relevant Council Policies, the 2022-2023 Budget has been drafted with the long term view of the needs of the City and its residents in mind.

The Budget Papers for 2022-2023 form part of the Attachments to the Agenda, which was distributed to the Members of the Council on 17 June 2022. [6191A June 2022](#)

In accordance with Section 6.2 of the Local Government Act 1995 the 2022-2023 Budget is recommended to the Council for adoption by Absolute Majority Decision.

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

BUDGET ADOPTION AND ASSOCIATED RESOLUTIONS

COMMENT

The following matters require a decision by Absolute Majority as per the requirements of the Local Government Act 1995 in regard to the Budget process.

- Adoption of the Annual Budget
- Granting of discount or other incentives for early payment
- Granting of any concessions on rates
- Setting the penalty interest rates on outstanding debts
- Imposing any fees or charges for goods or services other than a service for which a service charge is imposed
- Imposing the General Rate and Differential Rates on rateable land in the district
- Imposing a service charge e.g. Property Surveillance and Security Services and Underground Power network and connection charges.

The *Local Government Act 1995* enables service charges to be imposed equally across assessments including non-rateable properties for the purpose of property surveillance, security service and underground electricity.

The Act also outlines procedures by which a local government can impose differential rates. Section 6.36 of the Act requires that all local governments, which impose differential rates or a differential minimum, must give prior notice of its intention and invite submissions from electors and ratepayers. The Council is required to consider these submissions received before imposing the proposed rate or minimum payment. The Act requires that information regarding differential rates be included with the Rate Notice detailing all rates imposed, together with a summary of the Objects and Reasons for those rates.

1.1 Ratepayer Profile

The Ratepayer Profile which shows rating outcomes for different property types forms part of the Attachments to the Agenda, which was distributed to the Members of the Council on 17 June 2022. Attachment [6191B June 2022](#)

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191-1)

NOTING

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

That the 2022-2023 Ratepayer Profile as detailed in Attachment [6191B June 2022](#) be noted.

At 8:05pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

1.2 Adoption of 2022-2023 Budget and Setting of 2022-2023 Rates and Charges

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191-2) NOTING

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

That the submissions received in respect of the differential rates in relation to the proposed rate and minimum payment be noted.

At 8:05pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191-3)
ABSOLUTE MAJORITY APPROVAL**

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

- 1) **That by Absolute Majority Decision of the Council the 2022-2023 Municipal Fund Budget as detailed in Attachment [6191A June 2022](#) (inclusive of the Capital Works Program listing the total cost of projects to be cash flowed over multiple financial years as detailed in Attachment [6191C June 2022](#)) be adopted.**
- 2) **That by Absolute Majority Decision of the Council the following general rates applicable to the 2022-2023 financial year i.e. for the period 1 July 2022 to 30 June 2023, be adopted:**
 - A) **All Improved Residential Land
7.604795 cents in the dollar of gross rental value applicable to each property, residence, unit, strata, location or other residential property subject to a minimum rate of \$1,328.35 per assessment;**
 - B) **All Unimproved Residential Land
6.890588 cents in the dollar of gross rental value applicable to each property, location or other piece of land subject to a minimum rate of \$897.35 per lot;**

noting that Residential Land includes general residential, duplex, multi-unit, residential strata properties and Department of Housing properties.
 - C) **All Commercial Land including Strata Storage Units 8.009442 cents in the dollar of gross rental value applicable to each assessment, lot, location, strata, or other piece of land subject to a minimum rate of \$1,030.46 per assessment;**

noting that Commercial/Industrial land includes general industrial, commercial including retail, professional and office uses, service station, hotel / tavern, strata storage units and hospitals.

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

1.2 Adoption of 2022-2023 Budget and Setting of 2022-2023 Rates and Charges (Continued)

3) That by Absolute Majority Decision of the Council the following general rates concessions for the 2022-2023 financial year, be adopted:

- a. Strata storage units - Appropriately zoned and used strata titled storage units of 18m² or smaller, granted a concession of \$515.23 each, it being noted that the value of this concession is approximately \$29,368.**
- b. Melville Glades Golf Club - 100% concession from general rates, it being noted that the value of this concession amounts to approximately \$10,537.22.**

4) That by Absolute Majority Decision of the Council the following refuse waste charges be adopted, for the 2022-2023 financial year where these services are charged via the City of Melville rates system/notice:

A) Additional Residential Waste, FOGO and Recycling Service

- a. Domestic waste 140L bin \$207.00 per annum**
- b. Domestic waste 240L bin \$352.90 per annum**
- c. Domestic recycling bin 136.30 per annum**
- d. FOGO 240L bin \$207.00 per annum**

B) Residential Non Rateable Properties Waste, FOGO and Recycling service

- One standard domestic refuse service \$470.70 per annum**

C) Commercial and Non-Rateable (Non Residential) Properties Waste Service

- a. 240L capacity bin \$639.50 per annum**
- b. 660L capacity bin (inc.GST) \$29.60 per service**
- c. 1,100L capacity bin (inc. GST) \$41.80 per service**

D) Commercial and Non Rateable (Non Residential) Recycling Services

- a. 240L capacity bin \$627.00 per annum**
- b. 660L capacity bin (inc. GST) \$26.90 per service**
- c. 1,100L capacity bin (inc. GST) \$35.40 per service**

E) Commercial Bin Services

- a. One mobile garbage bin of 240L capacity (inc. GST) \$12.30
per service**
- b. One recycling bin of 240L capacity (inc. GST) \$12.30
per service**

Note: - Additional residential services are collected during the standard collection round. A service is rendered each time a bin is emptied. Only bins provided, or approved by, the City of Melville will be collected.

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

1.2 Adoption of 2022-2023 Budget and Setting of 2022-2023 Rates and Charges (Continued)

5) Swimming Pool Inspection Fee

That by Absolute Majority Decision of the Council a Swimming Pool Inspection Fee of \$49.00 for the 2022-2023 year be adopted.

Note: - The Swimming Pool Inspection Fee is charged in each year of the four yearly inspection cycle. Should the total revenue raised exceed the actual total costs of conducting all pool inspections in any one year the surplus is transferred to a restricted reserve account and used to offset the costs of inspections in the following year's budget.

6) Property Surveillance and Security Service Charge

That by Absolute Majority Decision of the Council a Property Surveillance and Security Charge of \$57.00 for the 2022-2023 year be adopted.

At 8:14pm, the Mayor declared the motion

CARRIED (9/2)

9	Yes	Cr Robins, Cr Macphail, Cr Fitzgerald, Cr Edinger, Cr Barber, Cr Pazolli, Mayor Gear, Cr Mair, Cr Spanbroek
2	No	Cr Sandford, Cr Ross

1.3 Rates Incentives

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191-4)
ABSOLUTE MAJORITY APPROVAL**

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

That by Absolute Majority Decision of the Council the following rates incentives be offered to those ratepayers who pay their rates by the instalment dates and using BPAY.

First prize draw: Three prizes worth \$1,000 donated from Westpac for anyone who pays in full or their 1st instalment by the due date using BPAY.

Bonus Draw: \$750 cash prize for anyone who has paid in full or instalments by due date using BPAY. Drawn after the first and final instalment date.

2nd 3rd and 4th prizes: Small business credit spend of \$250 and a Leisurefit Healthy Life PLUS membership, eligible for all ratepayers who have paid in full or by the instalment date. One prize drawn after the 2nd, 3rd and 4th instalment.

At 8:17pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

1.4 Loan Capital Fund Budget

This budget includes self-supporting loans raised on behalf of other organisations that are responsible for meeting the loan repayment costs. The Council is effectively the guarantor of these loans. A new self-supporting loan for Shirley Strickland Reserve Sporting Association is included in the 2022-2023 Budget.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191 -5)
ABSOLUTE MAJORITY APPROVAL**

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

That by Absolute Majority Decision of the Council the 2022-2023 Loan Fund Budget as detailed in Attachment [6191A June 2022](#) be adopted.

At 8:17pm, the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (11/0)

1.5 Reserve Account Budgets

Reserve accounts form part of the Municipal Fund and equity of the City. Specific purpose cash backed reserve accounts have been created for various reasons such as meeting legislative requirements, replacement of assets and ensuring availability of funds for known and unknown events in order to help reduce the variability of General Rates.

In the budget for 2022-2023, the following measures have been taken in relation to reserves;

- a) As per CP- 025 Accounting Policy, interest earned from investing monies held in reserve accounts is to be classified as operating revenue and then transferred to the particular reserve accounts in proportion to the average balance of the particular reserves over the interest earning period. However in the 2022-2023 Budget interest has been transferred only to the asset management reserve accounts and amount to approximately 67% of the budgeted interest earned from investing monies held in reserve accounts.
- b) The purpose of the Refuse Bins Reserve has been amended to include the purchase and replacement of any non-commercial refuse, recycling or Food Organics Garden Organics bins or receptacles.
- c) The purpose of the Refuse Facilities Reserve has been amended to include additional costs such as decommissioning, associated liabilities arising from waste management and major pollution events.
- d) The purpose of the Parking Management - Canning Bridge Activity Centre has been amended to fund a place based grant program.

The stated purpose of each reserve is outlined in the recommendation below. As indicated above, there are proposed changes to existing Reserve purposes in the 2022-2023 Budget.

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191-6)
ABSOLUTE MAJORITY APPROVAL**

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

That by Absolute Majority Decision of the Council the 2022-2023 Reserve Accounts (Fund) Budget as detailed in Attachment [6191A June 2022](#) be adopted for the following reserve accounts and purposes:

- 1) Melville North Underground Power & Streetscape Enhancement Reserve
To be used for underground power projects and streetscape enhancements in the Melville North Underground Power project area.**
- 2) Melville South Underground Power & Streetscape Enhancement Reserve
To be used for underground power projects and streetscape enhancements in the Melville South Underground Power project area.**
- 3) Civic Centre Precinct Improvements Reserve
To be used for improvements to the buildings and associated landscaping and car parking located within the Civic Centre Precinct (Melville City Centre).**
- 4) Commercial Refuse Reserve
To be used for the acquisition and replacement of commercial refuse bins, vehicles, plant and equipment used for commercial waste operations and the development of commercial waste collection opportunities.**
- 5) Community Facilities Reserve
To be used for the provision of new, renewed or upgraded community facilities/buildings.**
- 6) Community Centre Fitout, furniture and Equipment Reserve
To be used to fund the acquisition and replacement of the fitouts, furniture and specialised equipment requirements for the Community Centres and multipurpose rooms at venues owned by the City of Melville.**
- 7) Community Surveillance and Security Service Reserve
To temporarily retain any surpluses that may arise from the Property Surveillance and Security Service Charge to be used to offset future years Property Surveillance and Security Service Charges or for the purchase of plant and equipment used for community surveillance and security services.**
- 8) Fleet Services Vehicles, Plant and Equipment Replacement Reserve
To be used to fund the purchase of replacement vehicles, plant and equipment.**
- 9) Funds in lieu of Development on Public Open Space Reserve
Maintained for the purpose of retaining and using funds in accordance with section 154 (2) of the Planning and Development Act 2005.**

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

1.5 Reserve Account Budgets (Continued)

10) Information Technology Reserve

To be used to fund the acquisition and replacement of computer software, information technology hardware and costs of utilisation of service based and emerging technologies.

11) Infrastructure Asset Management Reserve

To be used to fund infrastructure asset management projects including the construction, maintenance and renewal of the City of Melville's road, path, kerbing, street furniture, park structures, playground, irrigation/reticulation and drainage infrastructure assets.

12) Land and Property Reserve

To be used to:

- a) fund the acquisition or construction of commercial revenue earning land and/or buildings, or
- b) fund the acquisition of land and buildings in structure plan areas to help encourage of the redevelopment of those structure plan areas by assembling developable land parcels and fund with Council approval infrastructure and other developments in line with structure plan principles; or
- c) internally fund the purchase or construction of City of Melville community facilities or infrastructure assets, on the basis that those funds will be returned to the Land and Property Reserve over a predetermined period of time with interest, with the interest rate being set at what would have been charged by the Western Australian Treasury Corporation for the term of the borrowing using the Semi Annual Annuity interest rate.

13) Leave Entitlements Reserve

To be used to fund the non-current liability amount of annual, sick and long service leave entitlements accrued in previous financial years beyond the amount provided for in the Provision for Leave current liability account.

14) Libraries, Art Centres and Museums Equipment, Furniture and Specialised Fit Out Reserve

To be used to fund the acquisition and replacement of the fit outs, furniture and specialised equipment for art centres, museums and libraries.

15) New/Upgrade Works Reserve (previously Future Works Reserve)

To be used to fund the "New" and "Upgrade" components of the costs of Infrastructure Capital Works and Buildings as opposed to renewal of existing assets as per Asset Management Plans.

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

1.5 Reserve Account Budgets (Continued)

- 16) Organisational Environmental Sustainability Initiatives Reserve**
To be used to fund environmental initiatives which are intended to reduce the energy usage and/or carbon footprint of the corporation of the City of Melville or for debt servicing costs associated with any loan borrowings taken out for such purposes.
- 17) Parking Facilities Reserve**
To be used to fund the provision, refurbishment or improvement of parking facilities and equipment.
- 18) Parking Management Reserve – Canning Bridge Activity Centre**
To fund public place improvement, business improvement, place activation and encourage a safer, more active and vibrant community and business precinct, through a place based grant program at the discretion of an internal assessment committee.
- 19) Parking Management Reserve - Riseley Activity Centre**
To fund public transport, car parking, streetscape upgrades that improve opportunities for walking and cycling, footpaths and other pedestrian-related infrastructure, cycle paths and other cycling-related infrastructure, street trees, plants and landscaping that improves pedestrian amenity and/or Travelsmart programs and initiatives at the Riseley Activity Centre, or as per the discretion of the Council under the advice of a Parking Fund Advisory Committee.
- 20) Private Swimming Pool Inspection Fee Reserve**
To temporarily retain any surpluses that may arise from the Swimming Pool Inspection fees to be used to offset any deficits that may occur in future year's operations of the Private Swimming Pools Inspection Program.
- 21) Public Open Space and Urban Forest Reserve**
To be used to fund the purchase, development and re-development of public open spaces, including streetscapes, bushlands, parks and reserves and to fund initiatives to enhance and improve the urban forest or for debt servicing costs associated with any loan borrowings taken out for such purposes.
- 22) Rates Equalisation Reserve**
To temporarily retain any surplus carried forward funds as shown in the audited Annual Financial Report Rate Setting Statement in excess of the estimated surplus funds brought forward amount identified in the following years Annual Budget Rate Setting Statement to subsequently be used to reduce the need to raise rates in future years or to meet any budget shortfalls identified during budget reviews.
- 23) Recreation Centres Specialised Plant, Equipment and Structures Reserve**
To be used to fund the acquisition, repair, upgrade and replacement of Recreation Centres specialised plant, equipment and structures.

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

1.5 Reserve Account Budgets (Continued)

24) Refuse Bins Reserve

To be used for the purchase and replacement of any non-commercial refuse, recycling or Food Organics Garden Organics bins or receptacles.

25) Refuse Facilities Reserve

To be used for payments relating to the establishment, operation and decommissioning of waste management facilities, funding associated costs and liabilities, and the cost of landscaping, environmental and rehabilitation works of former refuse tip sites operated or funded by the City of Melville. The reserve is also used for any additional waste collection, management and disposal costs of waste associated with storm, disaster or major pollution events.

26) Risk Management and Insurance Equalisation Reserve

To be used to fund prior years insurance premium contingencies, the self insured element of insurance claims, risk reduction initiatives or projects, losses arising from investment activities and discretionary expenditure required as a consequence of unforeseen events beyond the control of the City.

27) Special Projects Reserve

To be used to fund costs associated with City of Melville Council Elections, infrastructure asset condition surveys, asset valuations and gross rental value revaluations and strategic planning projects.

28) Unexpended Works and Specific Purpose Grants Reserve

To be used to carry forward available funding for uncompleted projects and specific purpose grants that will be completed and expended in ensuing financial years.

At 8:22pm, the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (11/0)

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

1.6 2021-2022 Surplus Funds

The actual surplus/deficit will be finally determined following receipt of the 2021-2022 audited financial statements. Should, following receipt of the 2021-2022 audited financial statements, any budget surplus be identified, this will be reported to the Council with a recommendation that the funds be transferred into the Rates Equalisation Reserve. Should the 2021-2022 audited financial statements reveal a budget deficit amount, direction will be sought from the Council as to which projects or programs it wishes to be curtailed or to transfer funds from the Rates Equalisation Reserve.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191-7)
ABSOLUTE MAJORITY APPROVAL**

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

That the Council notes that the final actual net closing surplus/deficit will be determined following receipt of the 2021-2022 audited financial statements and approves the transfer of any net closing surplus for the completed 2021-2022 financial year to the Rates Equalisation Reserve.

At 8:22pm, the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (11/0)

1.7 Imposition of Fees and Charges

Section 6.16 of the *Local Government Act 1995* allows a Local Government to impose by absolute majority decision a fee or charge for any goods or services it provides or proposes to provide other than a service for which a service charge has been imposed.

The fees are to be imposed when adopting the annual budget but may, subject to giving local public notice, be imposed or amended from time to time during the financial year.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191-8)
ABSOLUTE MAJORITY APPROVAL**

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

That by Absolute Majority Decision of the Council, in accordance with Section 6.16 of the Local Government Act 1995, the 2022-2023 Schedule of Fees and Charges included in the attached budget papers [6191A June 2022](#) be adopted and the new fees be applicable from 1 July 2022.

At 8:23pm, the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (11/0)

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

1.8 Payment and Instalment Due Dates

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191-9)
ABSOLUTE MAJORITY APPROVAL**

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

That by Absolute Majority Decision of the Council in accordance with Section 6.45 of the Local Government Act 1995 and applicable Regulations, due dates for payment of rates and the instalment due dates be as follows:-

Full payment and 1st instalment due date	25 August 2022
2nd Instalment due date	27 October 2022
3rd Instalment due date	5 January 2023
4th and final instalment due date	7 March 2023

At 8:23pm, the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (11/0)

1.9 Administration and Interest Charge for Rates and Services Charges

Section 6.45 of the *Local Government Act* provides the opportunity for a Local Government to impose an additional charge over and above the administrative charge, where payments of rates or service charges are made by instalments. Effectively this is an interest charge which has been set at a maximum amount of 5.5% to enable a Local Government to recover some of the lost investment revenue that would have been earned had the payment of rates or service charges been made in one lump sum by the first due date.

In 2022-2023 it is proposed to not charge an instalment administration charge where a person pays their rates by the four instalment option. The instalment interest charge is recommended to be 2% so as to ensure an undue burden is not placed on ratepayers choosing to pay by instalments.

Section 6.13 of the *Local Government Act 1995* provides the opportunity for a Local Government to impose a maximum interest rate which aligns with the interest rate charged by the Australian Taxation Office, on amounts owing by those who are not considered to be in financial hardship.

An interest rate of 3.5% will be imposed in 2022-2023 on all rates and service charges, including the refuse charge, swimming pool inspection fee, property surveillance and security service charge and underground power and streetscape service charges or specified area rate debts that are not paid by the due date.

No credit card surcharge fees will be charged in 2022-2023.

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191-10)
ABSOLUTE MAJORITY APPROVAL**

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

- 1) That by Absolute Majority Decision of the Council where, a property owner has elected to, and is adhering to, paying rates and service charges through an instalment program, no instalment administration charges be charged and an instalment interest charge of 2% per annum, as provided for in Section 6.45 of the Local Government Act, be imposed.
- 2) That by Absolute Majority Decision of the Council, an interest charge of 3.5% be imposed on all rates and service charges including the refuse charge, swimming pool inspection fee, and property surveillance and security service charge, but excluding any outstanding amounts relating to underground power and streetscape service charges or specified rates, that are not paid by the due date, as provided for in Section 6.13 of the Local Government Act.
- 3) This charge applies to non payment at the completion of the first instalment or payment in full period and if the payment by instalment option is chosen, any subsequent instalment payments that are not made by the due dates.
- 4) That by Absolute Majority Decision of the Council, an interest charge of 3.5% be imposed, as provided for in Section 6.13 of the Local Government Act on all outstanding underground power and streetscape service charges or specified area rate debts that remain unpaid and this interest charge be applicable for a period of five years from 1 July in the year in which the specified area rate or service charge was first levied, after which time the standard interest charge is to be applied.

At 8:27pm, the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (11/0)

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

1.10 Interest Charge on Money Owing to Local Government

Each year a local government may resolve by absolute majority decision to require a person to pay interest at a particular rate, as set out in the annual budget, on any amount of money other than rates and service charges which is owed to the local government and has been owed for a period of not less than thirty five days.

This interest charge provides an added incentive for people to meet their obligations to the City of Melville.

In keeping with the practice of previous years it is recommended that the maximum amount permitted under the Local Government Act 1995 as an interest charge be imposed for amounts outstanding on commercial activities and for that to be applied thirty five days after the date which is stated on the account for payment. In respect of the various community clubs and organisations, it is suggested that, 50% of the maximum interest charge permitted under the Local Government Act 1995 should be applied where the amount owing to the Council has been outstanding for a period of sixty days after the payment was due.

To enable this differentiation to occur a Delegated Authority is granted to the Chief Executive Officer to determine which category a particular debt falls with the consequence that the relevant interest charge is then applied.

With respect to both of the arrangements any account under \$50.00 will not have interest applied to it due to the significant administration costs involved in the process.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191-11)
ABSOLUTE MAJORITY APPROVAL**

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

- 1) That by Absolute Majority Decision of the Council, in accordance with Section 6.13 of the Local Government Act 1995, the maximum interest charge permitted under the Local Government (Financial Management) Regulations 1996 be imposed on all outstanding accounts in respect to commercial activities with such interest commencing thirty five days after the date which is stated on the account for payment.**
- 2) That by Absolute Majority Decision of the Council, in accordance with Section 6.13 of the Local Government Act 1995, 50% of the maximum interest charge permitted under the Local Government (Financial Management) Regulations 1996 will be imposed on all outstanding accounts in respect to community clubs and organisations sixty days after the date which is stated on the account for payment.**
- 3) That by Absolute Majority Decision of the Council, the interest charges outlined in recommendations 1 and 2 will not apply where the account outstanding is \$50.00 or less.**
- 4) That by Absolute Majority Decision of the Council, the Chief Executive Officer be granted delegated authority to determine which category a particular debt falls within.**

At 8:27pm, the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (11/0)

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

1.11 Elected Members Allowances and Sitting Fees

Section 5.98 of the Act states as follows: Fees etc. for council members

“(1A). In this section — determined means determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B.

Subsection (5) states: The mayor or president of a local government is entitled, in addition to any entitlement that he or she has under subsection (1) or (2), to be paid —

(a) the annual local government allowance determined for mayors or presidents; or

(b) where the local government has set an annual local government allowance within the range determined for annual local government allowances for mayors or presidents, that allowance.

Section 5.99 of the Act states as follows:

5.99. Annual fee for council members in lieu of fees for attending meetings A local government may decide that instead of paying council members a fee referred to in section 5.98(1), it will instead pay all council members who attend council or committee meetings —*

(a) the annual fee determined by the Salaries and Allowances Tribunal under the Salaries and Allowances Act 1975 section 7B; or

(b) where the local government has set a fee within the range for annual fees determined by that Tribunal under that section, that fee.”

** Absolute majority required.*

Due to the scale, volume and complexity of the matters dealt with by the Elected Members of the City it is recommended that the fees and allowances continue be set at the top of the range determined by the Salaries and Allowances Tribunal.

In April 2022 the Salaries and Allowances Tribunal advised that they had determined that a 2.5% increase in fees, and allowance for elected members would apply from 1 July 2022. Elected Member were advised of this increase in the Elected Member Bulletin of 6 May 2022.

Sufficient funds have been provided in the 2022-2023 Budget for this to occur.

Council Policy CP-091 Elected Member Allowances and Expenses will be updated accordingly, depending on the Council resolution.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191-12)
ABSOLUTE MAJORITY APPROVAL**

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

That by Absolute Majority Decision of the Council all Elected Members allowances and sitting fees be paid at the maximum rate as determined by the Salaries and Allowances Tribunal.

At 8:27pm, the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (11/0)

**LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET
(AMREC) (ATTACHMENTS)**

1.12 Eligibility for Rate Prize

In previous years, the Council has determined that Elected Members and Staff are ineligible to be chosen as a winner of any of the rates payment incentive prizes. It is proposed to continue with that practice for 2022-2023.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191-13) APPROVAL

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

That the Council resolves that all Elected Members and staff of the City of Melville be ineligible to be chosen as a winner of the rate payment incentive prizes either as a sole or part owner of any property.

At 8:28pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

1.13 Adoption of Percentage for Reporting of Material Variances

Each financial year, a local government is to adopt a percentage or value, calculated in accordance with Australian Accounting Standards (AASB), to be used in statements of financial activity for reporting material variances. The AASB 1031 Materiality refers to the publication Framework for the Preparation and Presentation of Financial Statements in which it is stated that information is material if its omission or misstatement could influence the economic decisions of users of the financial statements

It is proposed that a level of 10.0% or \$100,000 whichever is the greater be adopted for the reporting of material variances for 2022-2023.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6191-14) APPROVAL

At 8:04pm Cr Fitzgerald moved, seconded Cr Mair –

That in accordance with Regulation 34 of the Local Government (Financial Management) Regulations 1996, the level to be used in statements of financial activity in the year 2022-2023 for reporting material variances, be 10% or \$100,000, whichever is the greater.

At 8:28pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

ADOPTION OF RECOMMENDATIONS EN BLOC

COUNCIL RESOLUTION

At 8:29pm moved Cr Barber, Seconded Cr Macphail –

That the recommendations for:

- **M22/5000 – Common Seal Register**
- **C22/6000 – Investment Statements for April 2022**
- **C22/6001 – Schedule of Accounts Paid April 2022**
- **M22/5914 – Policy Review – CP-088 Creation, Access and Retention of Audio Recordings**
- **M22/5916 – Policy Review – CP-114 Compliance and Enforcement Policy**
- **M22/5917 – Policy Review – CP-108 Deputations to the Council**
- **M22/5918 – Policy Review – CP-014 Public Question Time at Council or Committee Meetings**
- **EI22/3985 – RFT 212225 Change Room Upgrade Marmion Reserve**

be carried En Bloc.

At 8:29pm the Mayor declared the motion

CARRIED UNANIMOUSLY EN BLOC (11/0)

Management Services

M22/5914 – POLICY REVIEW – CP-088 CREATION, ACCESS AND RETENTION OF AUDIO RECORDINGS OF PUBLIC MEETINGS OF THE COUNCIL (REC) (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 : 17.2 Motion With Notice Amendments to CP-088 Creation, Access and Retention of Audio Recordings of Public Meetings of the Council, Ordinary Meeting of Council held 20 & 21 October 2020.
 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"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

M22/5914 – POLICY REVIEW – CP-014 CREATION, ACCESS AND RETENTION OF AUDIO RECORDINGS OF PUBLIC MEETINGS OF THE COUNCIL (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- At the Ordinary Meeting of Council held 19 April 2022, the Council resolved to adopt the new City of Melville Local Government (Meeting Procedures) Local Law 2022, which has required the review of policies and procedures associated with Council Meetings.
- Council Policy CP-088 Creation, Access and Retention of Audio Recordings of Public Meetings of the Council has been reviewed as required by the Council resolution, and amendments suggested.

BACKGROUND

At the Ordinary Meeting of Council held 19 April 2022 the Council resolved to adopt the new *City of Melville Local Government (Meeting Procedures) Local Law 2022*, which included

“That the Council:

5. *Directs the CEO to amend CP-088 Creation, Access and Retention of Audio Recordings of Public Meetings of the Council to address the creation, retention and timely publication of audio-visual records of public meetings of Council and committees exercising delegated powers or duties.”*

DETAIL

Council Policy CP-088 Creation, Access and Retention of Audio/Audio-Visual Recordings of Public Meetings of the Council has been in place since December 2015 and was last reviewed at the Ordinary Meeting of Council held 20 and 21 October 2020.

The objective of the Policy is to provide guidance on how recordings are created, stored, used and accessed. The retention and disposal of audio and audio-visual recordings is of in accordance with legislative requirements.

The City currently publishes audio of:

- Agenda Briefing Forums,
- Ordinary Meetings of Council,
- Special Meetings of Council; and
- General and Special Meetings of Electors.

This time, audio recordings of the public parts of Council meetings are published on the City’s website in MP3 format (which is a generally accessible format) by close of business the Friday after the meeting, or earlier where possible.

M22/5914 – POLICY REVIEW – CP-014 CREATION, ACCESS AND RETENTION OF AUDIO RECORDINGS OF PUBLIC MEETINGS OF THE COUNCIL (REC) (ATTACHMENT)

Policy [CP-088 Creation, Access and Retention of Audio Recordings of Public Meeting of the Council](#) has been reviewed and the suggested amendments shown in red text and explained below.

Amendment	Details
“audio-visual”	Inclusion of the words “audio-visual” through the policy to allow for the publishing of audio-visual recordings in the future as required.
Committees with delegated authority	The extension of this policy to include “Committees with delegated authority under s5.16 of the <i>Local Government Act 1995</i> ” as required by the Council resolution of 19 April 2022. At the time of this report, the Council does not have any Committees with delegated authority.
Deletion of superseded information	Superseded information, or information no longer required in the policy is shown in double strike through text.
Editing of audio/ audio-visual recordings	Inclusion of a paragraph to align with clause 17.(4) of the new <i>City of Melville Local Government (Meeting Procedures) Local Law 2022</i> .
Definition of audio-visual	Inclusion of a definition for the term “audio-visual”.
Updated References	The references that maybe applicable to the policy have been updated.

STAKEHOLDER ENGAGEMENT

I. Community

Submissions from the community were invited as part of the creation of the new local law, with one submission received suggestion that all meetings be recorded and made available to the public within 5 days, which informed the resolution of Council to review this policy.

II. Other Agencies / Consultants

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

STATUTORY AND LEGAL IMPLICATIONS

At this time there is no requirement under the *Local Government Act 1995* or the associated Regulations for the publishing of audio/audio-visual recordings of Council meetings. The 2020 Local Government Review Panel Report (the Report) recommends that, as a minimum, audio recordings of the public parts of Council meetings be available on the local government’s website and live-streaming be encouraged. At this stage there is no decision on, or implementation timeframe for the recommendations of the Report.

M22/5914 – POLICY REVIEW – CP-014 CREATION, ACCESS AND RETENTION OF AUDIO RECORDINGS OF PUBLIC MEETINGS OF THE COUNCIL (REC) (ATTACHMENT)

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report. Generally, audio recordings of public meetings of the Council are published on the City's website by the Friday afternoon following the meeting and there is very limited need for the community to obtain copies in alternative formats.

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, as required by resolution of the Council.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council could resolve not amend Council Policy CP-088 – Creation, Access and Retention of Audio/Audio Visual Recordings of Public Meetings of the Council and the existing policy would remain in place.

CONCLUSION

The reviewed policy addresses the creation, retention, and timely publication of audio and audio visual recordings of public meetings of the Council and Committees exercising delegated powers and duties.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5914)

APPROVAL

That the Council endorse the amended Council Policy CP-088 Creation, Access and Retention of Audio/Audio-Visual Recordings of Public Meetings and this policy be published on the City's website.

At 8:29pm the Mayor declared the motion

CARRIED UNANIMOUSLY EN BLOC (11/0)

**M22/5916 - POLICY REVIEW – CP- 114 COMPLIANCE AND ENFORCEMENT POLICY (REC)
(ATTACHMENT)**

Ward : All
 Category : Policy
 Subject Index : Policy and Policy Development
 Customer Index : City of Melville
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Item M20/5754 New Council Policy CP 114 Compliance and Enforcement Policy Ordinary Meeting of Council held 21 and 22 July 2020.
 Works Programme : 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 checked="" type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<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>

**M22/ 5916 POLICY REVIEW – CP- 114 COMPLIANCE AND ENFORCEMENT POLICY (REC)
(ATTACHMENT)**

KEY ISSUES / SUMMARY

- At the July 2020 Ordinary Meeting the Council adopted a new Policy CP-114 Compliance and Enforcement Policy.
- The Policy and Compliance and Enforcement Guidelines provide guidance for how the City performs its compliance and enforcement functions, of which prosecution is one component, under relevant legislation.
- The Weir Report recommended that the City should consider amending the policy to:
 - Include commentary on its approach to escalating enforcement actions and
 - Include communication with the complainant when enforcement action is taken or to be taken so the complainant has the opportunity to attend or initiate their own action, if they choose to do so.
- A review of the Policy and Guidelines has also been undertaken and no other changes, apart from those recommended in the Weir Report have been made.
- From this review a Compliance Action Matrix will be developed to ensure that compliance with the Policy and Guidelines has been achieved prior to the City undertaking “last resort” prosecution.

BACKGROUND

The Weir Legal and Consulting has recently completed an independent review of complaints relating to building and planning issues. The objective was to review the City’s customer interactions and make recommendations for improvements.

The final report contained 15 recommendations with Recommendation 13 relating to the City’s Compliance and Enforcement Policy CP-114. The policy has been reviewed and amended to include the recommendations and is presented for the consideration and adoption by Council.

A copy of Recommendation 13 of the Weir Report, CP-114 and the Guidelines were placed on the Elected Member Discussion Board on 22 April 2022 for a three week comment period. No comments or changes were suggested.

DETAIL

The recommendation was that the City should amend its Compliance and Enforcement Policy to include:

- (a) Commentary on its approach to escalating enforcement action. This might include a policy for escalating the enforcements response where:
 - i the conduct of an alleged offender is repetitive or ongoing and is giving rise to an unacceptable risk to health or public safety; and
 - ii the alleged offender has been educated, requested to comply, issued warnings or notices to comply and has failed to do so without reasonable excuse;

M22/5916 POLICY REVIEW – COUNCIL POLICY CP- 114 COMPLIANCE AND ENFORCEMENT POLICY (REC) (ATTACHMENT)

- (b) A policy on its communication when endorsement action is taken and where there are appeals or proceedings relating to these actions. The intention is to provide complainants with an opportunity to attend or initiate their own actions if they choose to do so and to leave it up to the relevant court of Tribunal to manage the actions of complainants.

In respect to recommendation 13 (a) i), it is considered that the suggested recommendation is already encapsulated in the current clause 10 a).

Clause 10 a) relates to the matters that the City will consider when deciding the most appropriate enforcement action within the City's authority which includes *"the seriousness of the matter having regard to the actual or potential impact on the health, safety and amenity of others or on the environment."*

In respect to recommendation 13 (a) ii), Clause 10 e). has been amended to now read;

The previous compliance history of the offender with respect to similar types of offences, and whether the alleged offender has been educated, requested to comply, issued warnings or notices to comply and has failed to do so without reasonable excuse.

A new clause 15 has been added to the policy as suggested in Recommended by 13 (b).

15. Where the City has resolved to initiate further action against an alleged offender, the City will, where practicable, and where the proposed action against the alleged offender is consequent on an initial complaint;
- (a) Advise the complainant of the nature of the initial further actions e.g. planning/building orders and/or prosecution, to be taken, and
 - (b) Advise the complainant of the first date upon which the action in (a) above results in an attendance of the matter before a Court, Tribunal or external body or agency, where applicable.

This Clause will require the City to inform a complainant of initial further action taken against an alleged offender so that the complainant is aware of, and can attend, participate or be a party to any further actions. Once advised of the initial further action it would be for the complainant to stay informed of and track continuing actions.

The amended policy [CP-114 Compliance and Enforcement Policy](#) is attached for the consideration of the Council.

The Policy and Guidelines may need further review once the review of the Urban Planning Directorate is concluded as part of Phase 2 of the Organisational Review.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

The parties involved in the review were given the opportunity by the consultant to review and provide comment on the report and the final recommendations. The City has supported the report and the recommendations contained in the report.

**M22/5916 POLICY REVIEW – CP- 114 COMPLIANCE AND ENFORCEMENT POLICY (REC)
(ATTACHMENT)**

II. OTHER AGENCIES / CONSULTANTS

No engagement has been carried out with external agencies or consultants.

STATUTORY AND LEGAL IMPLICATIONS

The Policy and Guidelines articulate the enforcement regime that is used to communicate and bring about compliance with the law by using a range of incentive measures, fairly, reasonably and proportionately applied. The City has a statutory obligation to enforce compliance with the legislation for which it has been given administrative and enforcement responsibility within its district.

FINANCIAL IMPLICATIONS

There are no financial implications in implementing changes suggested in Recommendation 13 of the Weir Report that relate to CP-114.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement & Consequence	Level of Risk*	Risk Treatment
A complainant not being aware of any further action taken against an alleged offender in relation to a future attendance before a Court, Tribunal, external body or agency, resulting in the complainant not being able to respond, participate or be a party to that further action.	Minor consequences which are likely, resulting in a Medium level of risk	Include in the Compliance and Enforcement Policy so that the complainant is informed of any initial further action against an alleged offender.
Not taking into consideration previous compliance history, education notices and warnings and responses from alleged offender when deciding the most appropriate enforcement action to be taken.	Minor consequences which are possible, resulting in a Medium level of risk	Include in the Compliance and Enforcement Policy so that previous education, notices, warnings etc be taken into consideration when deciding the most appropriate enforcement action to be taken.

**M22/5916 POLICY REVIEW – CP- 114 COMPLIANCE AND ENFORCEMENT POLICY (REC)
(ATTACHMENT)**

POLICY IMPLICATIONS

Council Policy CP-114 is scheduled for review and actions suggested in recommendation 13 of the Weir Report have been considered and the Policy amended accordingly.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The alternate option is not to support the recommendation and update the Policy.

CONCLUSION

The Compliance and Enforcement Policy CP-114 has been reviewed and amended to include the suggestions made in the Weir Report relating to recommendation 13. The amended Policy is presented for consideration and approval.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5916)

APPROVAL

That the Council endorse the amended Council Policy [Council Policy CP-114 Compliance and Enforcement Policy](#) and this be published on the City's website.

At 8:29pm the Mayor declared the motion

CARRIED UNANIMOUSLY EN BLOC (11/0)

Minor changes were made to the attachment for this item, and circulated by way of an [officer addendum](#).

M22/5917 – POLICY REVIEW – CP-108 DEPUTATIONS TO THE COUNCIL (REC) (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 : M19/5698 – New Council Policy – Deputations to the Council, Ordinary Meeting of Council held 20 and 27 August 2019
 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"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

**M22/5917 – POLICY REVIEW – CP-108 DEPUTATIONS TO THE COUNCIL (REC)
(ATTACHMENT)**

KEY ISSUES / SUMMARY

- At the Ordinary Meeting of Council held 19 April 2022, the Council resolved to adopt the new City of Melville Local Government (Meeting Procedures) Local Law 2022, which has required the review of policies and procedures associated with Council Meetings.
- Council Policy CP-108 Deputation to the Council has been reviewed to support the new Meeting Procedure local law.

BACKGROUND

At the Ordinary Meeting of Council held 19 April 2022 the Council resolved to adopt the new *City of Melville Local Government (Meeting Procedures) Local Law 2022*, which included provides for the community to make deputations to the Council and the associated assessment process.

DETAIL

Council Policy CP-108 Deputations to the Council has been in place since August 2019 and was created to provide guidance and direction on the management of Deputations to the Council.

With the recent adoption of the new *City of Melville Local Government (Meeting Procedures) Local Law 2022*, Policy [CP-108 Deputations to the Council](#) has been reviewed and the suggested amendments shown in red text are explained below.

Amendment	Details
Local Law reference	Section 6.12 of the <i>City of Melville Local Government (Meeting Procedures) Local Law</i> makes provision for deputations to the Council, the policy has been update to make reference to the new local law.
Process to present a deputation	The process to present a deputation as outlined in the policy has been updated to reflect the intent of the local law.
Deletion of “direct interest” definition.	The term “direct interest” no longer appears in the local law and the definition has been deleted from the Policy.
“Deputation”	The definition of “Deputation” has been updated to align with the local law.
Deletion of superseded information	Superseded information, or information no longer required in the policy is shown in double strike through text.
Updated References	The references that maybe applicable to the policy have been updated.

**M22/5917 – POLICY REVIEW – CP-108 DEPUTATIONS TO THE COUNCIL (REC)
(ATTACHMENT)**

STAKEHOLDER ENGAGEMENT

I. Community

Submissions from the community were invited as part of the creation of the new local law.

II. Other Agencies / Consultants

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

STATUTORY AND LEGAL IMPLICATIONS

At this time there is no requirement under the *Local Government Act 1995* or the associated Regulations for the provision of deputations, however the *City of Melville Local Government (Meeting Procedures) Local Law 2022* makes provisions for deputation for the community as part of its adopted meeting processes.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report. The management of requests for deputations is part of the administration of the City's formal decision making 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, and is required to ensure policy supports the intent of the City's local law.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council could resolve not amend Council Policy CP-108 – Deputations to the Council and the existing policy would remain in place.

**M22/5917 – POLICY REVIEW – CP-108 DEPUTATIONS TO THE COUNCIL (REC)
(ATTACHMENT)**

CONCLUSION

The reviewed policy provides additional clarity and guidance for members of the community wishes to make a deputation to the Council as part of its decision making process.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5917)

APPROVAL

That the Council endorse the amended Council Policy [CP-108 Deputations to the Council](#) and this policy be published on the City's website.

At 8:29pm the Mayor declared the motion

CARRIED UNANIMOUSLY EN BLOC (11/0)

M22/5918 – POLICY REVIEW – CP-014 PUBLIC QUESTION TIME AT COUNCIL OR COMMITTEE MEETINGS (REC) (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 Item : M18/5657 Public Question Time at Council or Committee Meetings Policy, Ordinary Meeting of Council held 11 December 2018
 Ordinary Meeting of Council held 17 March 2020 item
 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"/>	Legislative	<i>Includes adopting local laws, town planning schemes & policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

M22/5918 – POLICY REVIEW – CP-014 PUBLIC QUESTION TIME AT COUNCIL OR COMMITTEE MEETINGS (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- At the Ordinary Meeting of Council held 19 April 2022, the Council resolved to adopt the new City of Melville Local Government (Meeting Procedures) Local Law 2022, which has required the review of policies and procedures associated with Council Meetings.
- Council Policy CP-014 Public Question Time at Council or Committee Meetings has been reviewed as a supporting policy to this new local law, and amendments suggested.

BACKGROUND

At the Ordinary Meeting of Council held 17 March 2020 the Council resolved:

“That the Council review Council Policy CP104 – Public Question Time at Council or Committee meetings as request the CEO to prepare amendments to the policy to achieve this and present a report to the May 2020 meeting of the Council, to include a process for questions to be asked from the floor for a minimum of 15 minutes, with any extensions to be determined by the Presiding Member.”

At the Ordinary Meeting of Council held 19 April 2022 the Council resolved to adopt the new *City of Melville Local Government (Meeting Procedures) Local Law 2022*, which provides for the community to ask questions, in person, at meetings of the Council that are open to the public, which is a change to the current practices.

DETAIL

Council Policy CP-014 Public Question Time at Council or Committee Meetings was first implemented in 2006 and has been through a number of revisions, with the last review being in December 2018.

The processes associated with Public Question Time were included in the previous *City of Melville Meeting Procedures Local Law 2017*, which included the requirement for questions to be submitted in writing. The Meeting Procedures Local Law has recently undergone a comprehensive review and the new local law provides opportunity for members of the community to verbally ask questions at Council meetings as resolved by the Council in December 2020.

The objective of the Policy is to provide guidance for the efficient management of public question time, and to ensure all members of the community have equal opportunity to ask questions of the Council.

M22/5918 – POLICY REVIEW – CP-014 PUBLIC QUESTION TIME AT COUNCIL OR COMMITTEE MEETINGS (REC) (ATTACHMENT)

Policy [CP-014 Public Question Time at Council or Committee Meetings](#) has been reviewed to align with the new Meeting Procedures Local Law and the suggested amendments shown in red text and explained below.

Amendment	Details
Local Law reference	Sections 6.3 – 6.10 of the <i>City of Melville Local Government (Meeting Procedures) Local Law 2022</i> makes provision for public question time, the policy has been update to reference to the new local law and the requirements therein.
Allocation of Time	The Local Government Act requires that a minimum of 15 minutes be provided for public question time. The new local law provides for public question time to be extended, in 5 minute increments, to a maximum of 30 minutes, by resolution of the Council. Questioners may ask one (1) question and one supplementary question and have a limit of two minutes to ask their question/s.
Presenting a question	This section has been updated to reflect the new process outlined in the Meeting Procedures Local Law for the community to ask questions in person at the Council meetings.
New Definitions	The local law makes reference to ‘Questions on Notice’ and ‘Supplementary Question’ but does not provide definitions for these. The policy has been updated to include these definitions.
Updated References	The references that may be applicable to the policy have been updated.
Deletion of superseded information	Superseded information, or information no longer required in the policy is shown in double strike through text.

STAKEHOLDER ENGAGEMENT

I. Community

Submissions from the community were invited as part of the creation of the new local law, no submissions in relation to public question time received.

II. Other Agencies / Consultants

No consultation with external agencies or consultants has been undertaken in relation to this policy.

M22/5918 – POLICY REVIEW – CP-014 PUBLIC QUESTION TIME AT COUNCIL OR COMMITTEE MEETINGS (REC) (ATTACHMENT)

STATUTORY AND LEGAL IMPLICATIONS

The *Local Government Act 1995* and the *Local Government (Administration) Regulations 1996* provide for the provision of time for the public to ask questions at meetings of the Council and at Committees that have delegated decision making powers.

The *City of Melville Local Government (Meeting Procedures) Local Law 2022* outlines the general process endorsed by the Council for members of the community to ask questions at meetings of the Council open to the public.

It should be noted that currently, the City does not have any Committees with delegated duties, and therefore Committee meetings are not open to the public and do not have public question time. The policy makes provision for this should the Council delegate authority to Committees in the future.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report and the proposed changes to the Public Question Time policy.

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, to support the processes in the recently adopted new Meeting Procedures Local Law.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council could resolve not amend Council Policy CP-014 – Public Question Time at Council or Committee Meetings and the existing policy would remain in place. It should be noted that the current policy does not provide for questions to be asked in person at Council meetings and does not align with the requirements of the new Meeting Procedures Local Law.

M22/5918 – POLICY REVIEW – CP-014 PUBLIC QUESTION TIME AT COUNCIL OR COMMITTEE MEETINGS (REC) (ATTACHMENT)

CONCLUSION

The reviewed policy provides guidance and clarity around the process for the community to ask questions at Council meetings that are open to the public and supports the intention of the local law.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5918)

APPROVAL

That the Council endorse the amended Council Policy [CP-014 Public Question Time at Council or Committee Meetings](#) and this policy be published on the City's website.

At 8:29pm the Mayor declared the motion

CARRIED UNANIMOUSLY EN BLOC (11/0)

M22/5000 – 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>
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<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	<i>For the Council/Committee to note.</i>

KEY ISSUES / SUMMARY

This report details the documents to which the City of Melville Common Seal has been applied for the period from 19 April 2022 up to and including 24 May 2022 for the Council's noting.

M22/5000 – 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

Register Reference	Parties	Description	ECM Reference
CS2199	City of Melville	City of Melville Local Government Meeting Procedures Local Law 2022	6891961

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not applicable.

II. OTHER AGENCIES / CONSULTANTS

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

Section 2.5(2) of the *Local Government Act 1995* states:

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

Section 9.49A (3) of the *Local Government Act 1995* states:

(3) *The common seal of the local government is to be affixed to a document in the presence of —*

(a) *the mayor or president; and*

(b) *the chief executive officer or a senior employee authorised by the chief executive officer, each of whom is to sign the document to attest that the common seal was so affixed.*

M22/5000 – COMMON SEAL REGISTER (REC)

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' that details the documents to which the City of Melville Common Seal has been applied for the period from 19 April 2022 up to and including 24 May 2022 for the Council's noting.

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 19 April 2022 up to and including 24 May 2022 for the Council's noting.

At 8:29pm the Mayor declared the motion

CARRIED UNANIMOUSLY EN BLOC (11/0)

Corporate Services

C22/6000 - INVESTMENT STATEMENTS FOR APRIL 2022 (REC)

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

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
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<input checked="" type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

KEY ISSUES / SUMMARY

This report presents the investment statements for the period ending 30 April 2022 for the Council's information and noting.

C22/6000 - INVESTMENT STATEMENTS FOR 30 APRIL 2022 (REC)

BACKGROUND

The City has cash holdings as a result of timing differences between the collection of revenue and its expenditure. The City also holds funds in reserve which are required for future asset renewal/asset replacement or required for a future liability.

Whilst these funds are held by the City they are invested in appropriately rated and liquid investments.

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

DETAIL

The following statement details the investments held by the City as at 30 April 2022.

CITY OF MELVILLE STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 30 APRIL 2022		
SUMMARY BY FUND		
Municipal		\$39,291,001
Reserve		\$151,564,893
Trust		\$-
Citizen Relief		\$224,057
TOTAL		\$191,079,951
SUMMARY BY INVESTMENT TYPE		
11AM		\$8,757,428
31Days at Call		\$6,000,000
60Days at Call		\$2,000,000
90Days at Call		\$16,600,000
Term Deposit		\$157,722,523
TOTAL		\$191,079,951
SUMMARY BY CREDIT RATING		
AAA Category	AAA	
AA Category (AA+ to AA-)	AA-	\$136,079,235
	A+	\$11,500,716
A Category (A+ to A-)	A	
	A-	
BBB+ Category	BBB+	\$43,500,000
TOTAL		\$191,079,951

C22/6000 - INVESTMENT STATEMENTS FOR 30 April 2022 (REC)

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

Investment with financial institutions						
Institution	Credit Rating	Credit Rating Category	Funds held at period end	Actual %	Limit Per Policy	
ANZ	AA-	AA Category	\$ 33,700,000	17.64%	30.00%	✓
AMP	BBB+	BBB+ Category	\$ -	0.00%	15.00%	✓
Bankwest	AA-	AA Category	\$ -	0.00%	30.00%	✓
Bank of Queensland	BBB+	BBB+ Category	\$ 22,500,000	11.78%	15.00%	✓
ING Bank	A-	A Category	\$ -	0.00%	25.00%	✓
Bendigo & Adelaide	BBB+	BBB+ Category	\$ 21,000,000	10.99%	15.00%	✓
CBA	AA-	AA Category	\$ 21,000,000	10.99%	30.00%	✓
Macquarie	A+	A Category	\$ 3,000,716	1.57%	25.00%	✓
NAB	AA-	AA Category	\$ 50,537,676	26.45%	30.00%	✓
St George	AA-	AA Category	\$ -	0.00%	30.00%	✓
Suncorp	A+	A Category	\$ 8,500,000	4.45%	25.00%	✓
Westpac	AA-	AA Category	\$ 30,841,560	16.14%	30.00%	✓
TOTAL			\$ 191,079,951	100%		

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

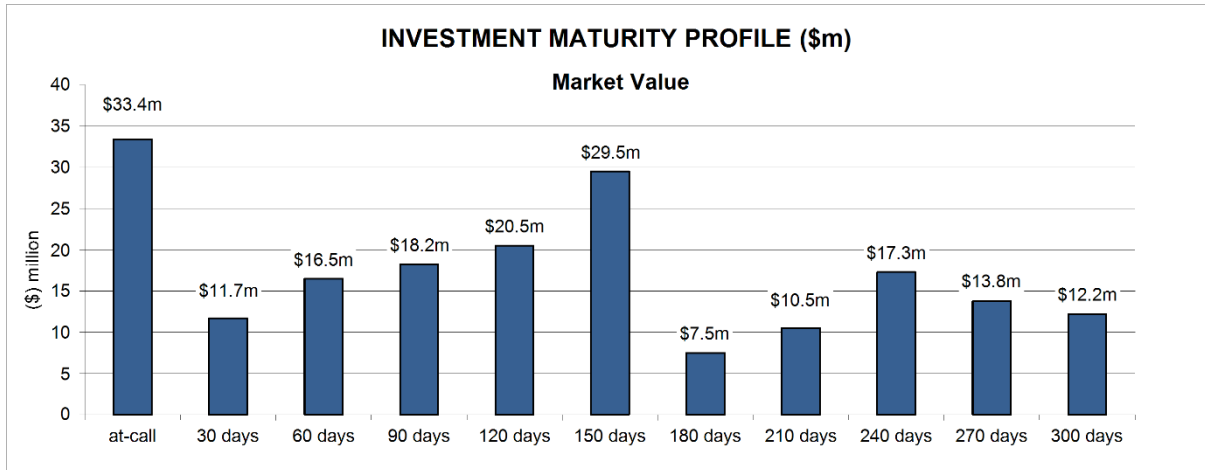
The City's investments were invested within the limits allowed within each category rating for April 2022.

Maximum Percentage of Average Investment Portfolio Balance				
Long Term Rating	Funds held at period end \$	Actual %	Limit Per Policy	
AAA Category	\$ -	0%	100%	✓
AA Category (AA+ to AA-)	\$ 136,079,235	71%	80%	✓
A Category (A+ to A-)	\$ 11,500,716	6%	50%	✓
BBB+ Category	\$ 43,500,000	23%	25%	✓
TOTAL		\$ 191,079,951	100%	

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

C22/6000 - INVESTMENT STATEMENTS FOR 30 APRIL 2022 (REC)

The graph below summarises the maturity profile of the City’s investments at market value as at 30 April 2022. The immediacy of the demand for funds depends on the particular Fund or Reserve Account(s) of the City. The maturity profile provided in the table above meets the liquidity requirements of the Council policy.

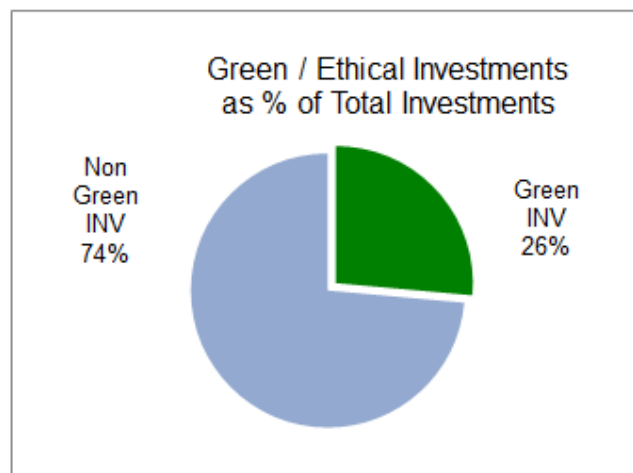


The City exercises a deliberative preference in favour of green/ethical investments. This preference will however only be exercised after the foremost investment considerations of credit rating, comparable rate and risk diversification are fully satisfied.

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

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

The total investment in green/ethical investments as at 30 April 2022 was \$50,500,000 or 26% of total investment holdings, compared to \$54,500,000 (28%) in March 2022. The total investments holding for April and March were \$191,079,951 and \$197,079,951 respectively.



C22/6000 - INVESTMENT STATEMENTS FOR 30 APRIL 2022 (REC)

Green / Ethical Investment with financial institutions			
Institution	Credit Rating	Credit Rating Category	Funds held at period end
Bendigo & Adelaide	BBB+	BBB+ Category	\$ 21,000,000
CBA	AA-	AA Category	\$ 21,000,000
Suncorp	A+	A Category	\$ 8,500,000
TOTAL			\$ 50,500,000

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

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

II. OTHER AGENCIES / CONSULTANTS

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

STATUTORY AND LEGAL IMPLICATIONS

The following legislation is relevant to this report:

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

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

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

FINANCIAL IMPLICATIONS

For the period ending 30 April 2022:

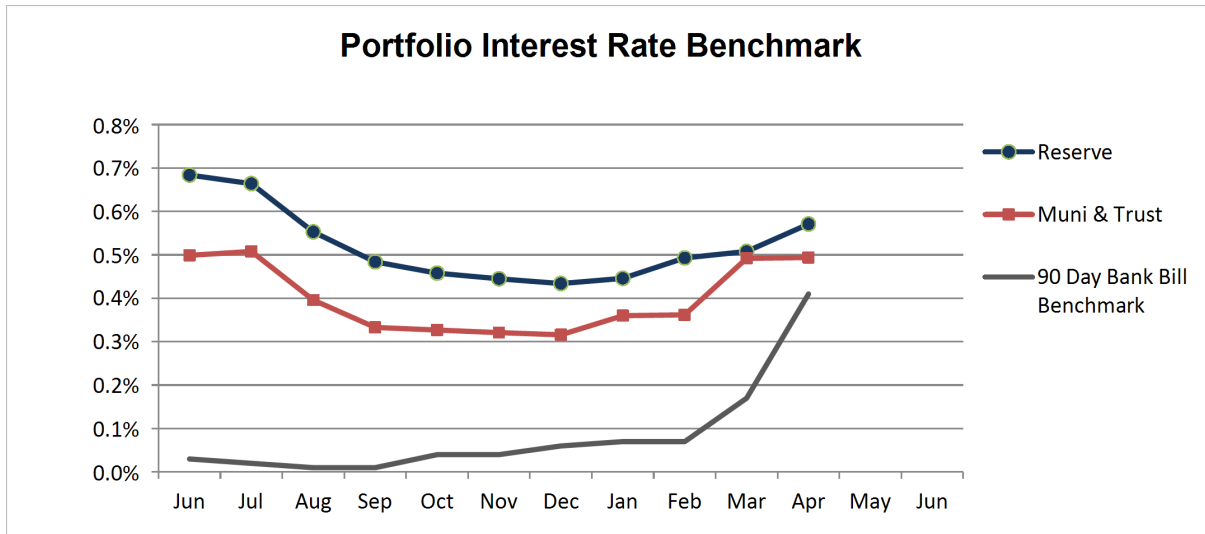
- Investment earnings on Municipal and Trust Funds were \$101,024 against a year to date budget of \$131,727 representing a negative variance of \$30,703.

The weighted average interest rate for Municipal and Trust Fund investments as at 30 April 2022 was 0.49% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.41%.

- Investment earnings on Reserve accounts were \$595,589 against a year to date budget of \$601,667 representing a negative variance of \$6,077.

The weighted average interest rate for Reserve account investments as at 30 April 2022 was 0.57% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.41%.

C22/6000 - INVESTMENT STATEMENTS FOR 30 APRIL 2022 (REC)



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.

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*.

C22/6000 - INVESTMENT STATEMENTS FOR 30 APRIL 2022 (REC)

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 0.49% to 0.57% which exceeds the benchmark three month bank bill swap (BBSW) reference rate of 0.41%.

26% 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 28% in March 2022.

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 30 April 2022.

At 8:29pm the Mayor declared the motion

CARRIED UNANIMOUSLY EN BLOC (11/0)

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

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

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
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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 (eg under Health Act, Dog Act or Local Laws) and other decisions that September be appealable to the State Administrative Tribunal.</i>
<input checked="" type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

KEY ISSUES / SUMMARY

This report presents the details of payments made under delegated authority to suppliers for the period of April 2022 and recommends that the Schedule of Accounts Paid be noted.

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

BACKGROUND

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

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

DETAIL

The Schedule of Accounts Paid for April including Payment Register numbers, Cheques: 817-818, Electronic Funds Transfers batches: 761-766, Trust Payments, Card Payments and Payroll was distributed to the Elected Members of the Council on 3 June 2022.

A total of \$9,175,524 direct creditor payments were paid during the month, of which, 19% of payments were paid to suppliers located within the City of Melville and 30% to suppliers within the South West Group, compared to 23% and 34% of total of \$9,855,845 direct creditor payments made over March 2022 respectively. The largest payment of \$1,432,501 during the month was paid to Fulton Holding Ltd for the laying of asphalt at Murdoch Drive and Riseley Street. 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:

SCHEDULE OF PAYMENTS MADE APRIL 2022		
<i>Payments made under Delegated Authority DA-035</i>		
MUNICIPAL FUNDS - DIRECT CREDITOR PAYMENTS		
Cheques	Chq Payment Register No. 817 and 818	\$786.90
	Chq Payment on Restricted Funds Register No.	\$0.00
	Less Cancelled Chqs	-
Electronic Funds Transfers	EFT Payment Register No. 761,762,764 and 766	\$8,622,354.62
	EFT Payment on Restricted Funds Register No. 763,765 and 119	\$238,171.65
	Less Cancelled EFTs	(\$6,518.50)
		\$8,854,794.67
Direct Debits	Bank Fees	\$11,457.11
	Ampol Fuel	\$107,412.19
Direct Payments		\$201,860.08
	Total Direct Creditor Payments	\$9,175,524.05
Payroll	Total Pay 21 and 22	\$3,823,946.38
		Total Payroll
Cards	Westpac Corporate Cards	\$15,905.69
	Westpac Purchase Cards	\$50,702.92
	American Express	\$11,299.19
		Total Card Payments
Total Direct Creditor Payments from Municipal Account		\$13,077,378.23

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

Schedule of Payments Made continued.

INTERFUND & INVESTMENT TRANSACTIONS			
<i>Interfund Transfers</i>			
Loan			\$0.00
Citizen Relief Trust			\$0.00
Citizen Relief Operating			\$0.00
Municipal			(\$6,000,000.00)
Reserve			\$6,000,000.00
Trust			\$0.00
<i>Total Interfund Transfers</i>			\$0.00
<i>New Municipal Investments</i>			
Westpac Bank	8/04/2022		\$2,700,000.00
Westpac Bank	8/04/2022		\$2,000,000.00
Westpac Bank	22/04/2022		\$1,000,000.00
<i>Total New Investments</i>			\$5,700,000.00
Grand Total			\$18,777,378.23

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

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

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not applicable.

II. OTHER AGENCIES / CONSULTANTS

STATUTORY AND LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable as this report presents information for noting only.

CONCLUSION

The Schedule of Payments for the month totals \$18,777,378.23.

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 April 2022 as approved by the Director Corporate Services in accordance with delegated authority DA-035, and detailed in attachment [6001 Payment Details April 2022](#).

At 8:29pm the Mayor declared the motion

CARRIED UNANIMOUSLY EN BLOC (11/0)

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

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

AUTHORITY / DISCRETION

DEFINITION

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

KEY ISSUES / SUMMARY

<p>This report presents:</p> <ul style="list-style-type: none"> • The Statements of Financial Activity by Nature or Type and Rate Setting Statement by Program and Nature or Type, for the period ending 30 April 2022 and recommends that they be noted by the Council. • The variances for the month of 30 April 2022 and recommends that they be noted by the Council. • The Budget amendments required for the month of 30 April 2022 and recommends that they be adopted by Absolute Majority decision of the Council.
--

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

BACKGROUND

The Statements of Financial Activity for the period ending 30 April 2022 have been prepared and tabled in accordance with the *Local Government (Financial Management) Regulations 1996*.

OVERALL SUMMARY OF THE CITY'S FINANCIAL POSITION

- The overall financial position for the City remains sound. Year to date revenue is \$4.2m over the year to date budget. This is largely due to increased grant income of \$2.9m from the Federal Assistance grants for roads and general. Expenditure is under budget year to date by \$3.7m. This is largely the result of savings in employment costs and materials and contracts.
- The City's total investments holding for April were \$191.0m of which the Municipal cash balance at the end of the month was \$39.3m and \$151.6m was held in reserve accounts, which are restricted to the defined purpose for which the reserve account was established.
- The Green investment in authorised banking institutions as at 30 April was \$50.5m or 26% of total investment holdings, compared to \$54.5m (28%) in March 2022.
- Rates raised as at April 2022 were \$92.1m with a positive variance of \$0.36m compared to the approved budget of \$91.7m. This increase is mainly due to interim rate adjustments processed on various residential improved properties.
- Total debtor collections for April 2022 equalled \$1.6m. The Rates collection target is 93.1% and the actual collection is tracking slightly higher at 94.9%. The year to date total outstanding debtors (including all rates and sundry debtors) is \$8.99m.

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 Nature or Type
 - Provides details on the Nature or Type classifications.

Variations

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

[6002B Statement Nature Type April 2022](#): Rate Setting Statement by Nature or Type

[6002H Statement of Variations April 2022](#): Statement of Variations in Excess of \$100,000

**C22/6002 – STATEMENTS OF FINANCIAL ACTIVITY for April 2022 (AMREC)
(ATTACHMENTS)**

Revenue

Rates raised as at April were \$92,106,428, compared to a year to date budget of \$91,742,024. The positive variance of \$364,404 is due to interim rate adjustments processed on various residential improved properties.

Rates Collection

SUMMARY OF RATE DEBTOR MOVEMENT					
Detail	Actuals Current Month YTD	Actuals Previous Month YTD	% Diff Current Mth to Previous Mth	Actuals This Month Last Year YTD	% Diff Current Mth to Current Mth Last Yr
Opening Balance - 1 July	6,491,862	6,491,862	0%	9,142,487	-29%
Debtors Raised	118,572,902	118,508,431	0%	102,186,992	16%
Payments Received	(116,825,436)	(115,633,187)	1%	(102,670,621)	14%
Closing Balance	8,239,329	9,367,106	-12%	8,658,857	-5%

Total rate debtor collections for the month equalled \$1,192,248.

Sundry Debtor Movement

SUMMARY OF SUNDRY DEBTOR MOVEMENT					
Detail	Actuals Current Month YTD	Actuals Previous Month YTD	% Diff Current Mth to Previous Mth	Actuals This Month Last Year YTD	% Diff Current Mth to Current Mth Last Yr
Opening Balance - 1 July	882,151	882,151	0%	1,238,865	-29%
Invoices Raised	5,350,828	4,733,152	13%	5,295,544	1%
Receipts	(5,442,927)	(5,000,617)	9%	(5,628,782)	-3%
Prepayments	(31,468)	3,755	-938%	19,193	-264%
Closing Balance	758,583	618,440	23%	924,821	-18%

Sundry debtor balances increased by \$140,143 over the course of April from \$618,440 to \$758,583 of which total 90 day sundry debtors over \$1,000 for the month is \$659,069, representing 51% of total sundry debtors.

Money Expended in an Emergency and Unbudgeted Expenditure

Not applicable for April 2022.

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

Budget Amendments

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

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

Granting of concession or writing off debts owed to the City

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

The City is recommending (subject to Council approval) a rent reduction for Belgravia Health and & Leisure Group, the operator of Point Walter Golf Course, valued at \$50,000. The rent reduction relates to the work conducted by the City on the irrigation at the Point Walter Golf Course which impacted on the revenue collected.

In June to September 2021, the number of holes playable reduced from 9 to 7 and for a short period this reduced further to 6 holes. As a result, Belgravia Leisure reduced the cost of a round of golf from \$16.00 to as low as \$12.00 per round. Consequently, with reduced players, there was an impact on a range of other operational areas including reduced function room, golf club and buggy hire, pro shop sales, kitchen and bar sales. The City has reviewed the impact and is satisfied that the business did have reduced income as a result of the time taken to complete this work.

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

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

**C22/6002 –STATEMENTS OF FINANCIAL ACTIVITY FOR APRIL 2022 (AMREC)
(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:

34. Financial activity statement report — s. 6.4

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

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

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

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

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

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

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

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

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

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

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

Local Government Act 1995 Division 4 – General Financial Provisions Section 6.12; Power to defer, grant discounts, waive or write off debts.

FINANCIAL IMPLICATIONS

Variances

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

CONCLUSION

The attached financial reports reflect a positive financial position of the City of Melville as at 30 April 2022.

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

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6002)
NOTING and ABSOLUTE MAJORITY**

At 8:32pm Cr Pazolli moved, Seconded Cr Mair –

That the Council:

- Notes the Rate Setting Statement and Statements of Financial Activity for the month ending 30 April 2022 as detailed in the following attachments:**

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

- By Absolute Majority Decision adopts the budget amendments, as detailed in the attached Budget Amendment Reports for April 2022 [6002J Budget Amendments April 2022](#)**
- By Absolute Majority Decision approves the write off of \$50,000 for rent owed by the Belgravia Health & Leisure Group due to an adverse impact on income as a result of the City undertaking irrigation work**

At 8:32pm the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (11/0)

Community Development

Nil.

Environment and Infrastructure

EI22/3978 – JOHN CONNELL OVAL EXTENSION (REC) (ATTACHMENT)

Item Brought Forward.

See Page 32

Disclosure of Interest

Member : Cr Edinger
 Type of Interest : Financial Interest
 Nature of Interest : One of the respondents is a client of the company I work for.
 Request : Leave
 Decision Leave : Leave

At 8:32pm having declared an interest, Cr Edinger left the meeting.

EI22/3985 – RFT 212225 CHANGE ROOM UPGRADE MARMION RESERVE (REC)
(CONFIDENTIAL ATTACHMENT)

Ward : Central
 Category : Operational
 Subject Index : Tender
 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 : Capital Works Budget
 Responsible Officer : Mario Murphy
 Manager City Buildings

AUTHORITY / DISCRETION

DEFINITION

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

EI22/3985 - RFT 212225 CHANGE ROOM UPGRADE MARMION RESERVE (REC)
(CONFIDENTIAL ATTACHMENT)

KEY ISSUES / SUMMARY

To recommend the acceptance of a tender submitted for the change room upgrades at Marmion Reserve.

BACKGROUND

The City of Melville (“City”), is seeking a suitably qualified and experienced Contractor to undertake the refurbishment of the existing change room at Marmion Reserve.

DETAIL

Qualitative scores were achieved by joint agreement of the evaluation panel members at the evaluation meeting after each panel member had scored the submission individually. The City set five qualitative criteria for this Request, being:

- Demonstrated Experience;
- Key Personnel;
- Environmental Sustainability;
- Aboriginal Business or Disability Enterprise;
- Methodology.

The Evaluation Panel reviewed all Respondents’ offers and prepared an Evaluation Report, identifying recommended Respondents.

The recommendation was supported by the Contract and Tender Advisory Unit (CTAU) and is put forward as part of the recommendation to the Council.

The Evaluation Report and associated confidential attachments were distributed to Elected Members under confidential cover.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

No stakeholder engagement has been required or undertaken for this tender.

II. OTHER AGENCIES / CONSULTANTS

No external agencies or consultants were required or engaged for this tender.

**EI22/3985 – RFT 212225 CHANGE ROOM UPGRADE MARMION RESERVE (REC)
(CONFIDENTIAL ATTACHMENT)**

STATUTORY AND LEGAL IMPLICATIONS

Local Government (Functions and General) Regulations 1996 Section 3.57 11 (1)

"A Local Government is required to invite tenders before it enters into a contract for another person to supply goods or services".

Delegated Authority – DA-117 Authority to Sign Documents will be exercised to execute the Contract.

FINANCIAL IMPLICATIONS

As detailed in confidential attachment, the total estimated cost of the upgrade project includes a contingency and should this be required to be fully drawn upon, a future budget amendment will be required.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Strategic Implications of these works relate only to the consequences of not procuring the Services through a tender, the WALGA Preferred Supplier Program or another Local Government, which would result in the City being in breach of the *Local Government (Functions and General) Regulations 1996*.

There are no residual risk implications following the invitation and evaluation process conducted for this item.

POLICY IMPLICATIONS

CP-023 Procurement of Products or Services.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

No alternate options have been identified.

CONCLUSION

The CTAU is satisfied that the recommended respondent has demonstrated that they have relevant experience, necessary key personnel and follows a methodology in line with the City's expectations.

**EI22/3985 - RFT 212225 CHANGE ROOM UPGRADE MARMION RESERVE (REC)
(CONFIDENTIAL ATTACHMENT)**

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3985)

APPROVAL

At 8:32pm Cr Mair moved, Seconded Cr Sandford –

That the Council:

- 1. Accept the recommendation as contained in the Confidential Attachment –RFT212225 Contract and Tender Advisory Unit Minutes, and**
- 2. Upon resolution the recommendation, directs that the successful respondents' names be inserted below this point 2, awarded;**

**Solution 4 Building Pty Ltd
ABN 21 151 188 859**

- 3. Note that should the contingency sum be fully required, a future budget amendment will be presented to the Council, with funding to come from the Community Facilities Reserve.**

At 8:34pm the Mayor declared the motion

CARRIED UNANIMOUSLY (10/0)

Urban Planning

UP22/3963 – PETITION – FENCE AT 44 ARDROSS STREET APPLECROSS WA 6153 (REC)

Ward : Applecross – Mount Pleasant
 Category : Operational
 Application Number : Not applicable
 Property : 44 Ardross Street, Applecross WA 6153
 Proposal : Consideration of petition.
 Applicant : Not applicable
 Owner : M A Dillon and J Dillon
 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 : [Item 13.1 Petition Fence 44 Ardross Street Applecross – Ordinary Meeting of Council held 14 December 2021 pg 21](#)

AUTHORITY / DISCRETION

DEFINITION

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

UP22/3963 – PETITION – FENCE AT 44 ARDROSS STREET APPLECROSS WA 6153 (REC)

KEY ISSUES / SUMMARY

- At the Ordinary Meeting of Council, December 14 2021, a petition signed by 454 residents and 73 non-residents was presented.
- The petition relates to the unauthorised construction of a front fence at 44 Ardross Street. The fence in question was constructed contrary to the conditional requirements of DA-2015-1317 and as such a compliance investigation was initiated.
- As a result of the compliance investigation, a Development Application (DA) to retain the front fence as constructed was received.
- This DA was refused, after which a second amended DA was received to retain the front fence with modifications. This was also refused consent, resulting in an appeal to the State Administrative Tribunal (SAT).
- The appeal to the SAT resulted in a mediated outcome and a Section 31 reconsideration to retain the fence subject to certain conditions which require an increase in the levels of visual permeability provided for by the fence.
- These changes were the subject of agreement with the applicant and owner, and formed the basis of the development approval issued by the City at the conclusion of the SAT appeal process in November 2021.
- After the conclusion of the SAT process, the petition was received. This requests that the unauthorised front fence be allowed to be retained, and that Council exercise its discretion to approve the fence as constructed without further modification.
- The petition was the subject of consideration at the Ordinary Meeting of Council held 14 December 2021, at which the officer recommendation was to acknowledge the petition.
- Council resolved that *the petition bearing 454 signatures of residents and 73 signatures of non-residents be acknowledged, and a report presented to the Ordinary Meeting of Council in February.*

OTHER AGENCIES / CONSULTANTS

Not Applicable

STATUTORY AND LEGAL IMPLICATIONS

Not Applicable.

FINANCIAL IMPLICATIONS

Not Applicable.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Not Applicable.

UP22/3963 – PETITION – FENCE AT 44 ARDROSS STREET APPLECROSS WA 6153 (REC)

COMMENT

The City received the petition regarding the front fence at 44 Ardross Street, Applecross on 10 December 2021. The petition was submitted by the owner of 44 Ardross Street, and was accompanied by a letter to the Chief Executive Officer (CEO) which in summary suggests that acceptance of the mediated outcome agreed by the owner as part of the SAT appeal process, was in fact not accepted and was made under duress.

The accompanying petition seeks that the Council (City)

“exercise its discretion to approve the retrospective application for the fence as constructed. It cites the following as justification to support the desired outcome:

Removing or lowering the fence would eliminate all the privacy that the owners have from the busy street traffic and from the neighbouring cafes which get extremely busy. As the house is also located on a roundabout, the fence acts as a safety precaution and also stops any bright headlights beaming into the house at night-time. If holes or slits were cut into the wall, it would weaken its structure, which could become a potential safety hazard. There are also numerous homes in the surrounding streets with walls that are higher and less permeable than these walls. The house and fence, along with the newly installed artwork provide distinction and character to the street corner and forcing the owners to tear down the wall simply in order to enforce a one size fits all rule destroys individualism and freedom.”

Whilst the purpose and intent of the petition and accompanying letter are acknowledged, in the absence of a current DA for the approval of the fence as constructed, there is no discretion to be applied, and the justification offered by the petition for such discretion to be applied does not exist.

It is noted that the requirement for the City to consider and determine a Section 31 application for the fence as directed by the SAT was duly completed on 26 November 2021. The direction of the SAT to the City to reconsider the planning application represented the culmination of the SAT facilitated mediation process, and was made possible after the mediation process facilitated by the SAT and involving the City’s Officers, the owner of the property, and his professional consultants including planning consultants and his architect, reached an agreement as to how the fence could be modified to meet the requirements of the City whilst satisfying the domestic requirements of the property owner. The development approval issued on 26 November 2021 requires that the fence be amended in accordance with the agreed and approved details within 90 days of the date of the decision, i.e. by 24 February 2022. The decision issued also informed the owner/applicant that there is a right of review to the SAT within 28 days of the approval issue date, i.e. on or before 24 December 2021. No such application for review was lodged by the applicant/owner within the prescribed time, in which case it is the City’s expectation that the works to modify the fence will be completed within the prescribed 90 day period.

The issues that surfaced in respect of the front fence as constructed at the property are essentially that it fails to meet both the deemed to comply provisions and the design principles of the R Codes Volume 1, Part 5, Clause 5.2.4 Street walls and fences, as amended by Local Planning Policy LPP 3.1 Residential Development Part 4, Fences and Street Walls. The requirement that the front fence at the subject property meet with the R Codes and Local planning policy was imposed at the time of the initial approval of the two storey dwelling at 44 Ardross Street, wherein it stated at Condition 2 that:

UP22/3963 – PETITION – FENCE AT 44 ARDROSS STREET APPLECROSS WA 6153 (REC)

Any street walls and fences (including the height of any retaining walls) constructed within the front setback area shall be visually permeable 1.2m above natural ground level and are to satisfy Clause 5.2.4 C4 of the Residential Development policy to the satisfaction of the Manager Statutory Planning.

In practice upon construction the front fence at the property was built as an effectively solid structure with no such visual permeability, contrary to the City's Local Planning Policy, and inconsistent with the associated design principles of the R Codes. This breach of the City's Local Planning Policy was responded to in the same way as numerous other such breaches in an effort to ensure that the requirements of the City's Local Planning Policy are met.

In that respect it is noted that the City applies a consistent approach to ensuring planning compliance, and it was important in this case that the same objective of compliance be achieved given numerous other non-compliant front fences throughout the City have been brought into compliance. In working through a mediation process at the SAT with the property owner and his professional representatives, compliance with the design principles of the R Codes is however now seen to be achieved.

It is noted that when the matter of this petition was considered by Council in December 2021, an advice note prepared by officers provided Council with the background to the matters raised by the petition, and included specific advice that there is no matter with the exception of this petition before the City or Council for consideration. On that basis it was recommended that the details of the petition simply be acknowledged.

Concern was however expressed at the Council meeting that no detailed report was presented to Council, and that the residents (owners of 44 Ardross Street) should be offered the opportunity to have the details of their retrospective application presented to Council for debate and decision.

In this case however, as was advised by the Advice note from officers, there is no DA under consideration, hence the petition has no specific rationale. In addition, without a current DA, there is neither need nor opportunity for the matter to be presented to Council for debate and decision, there being no decision at stake.

Advice Note

The petition received in respect of the front fence at 44 Ardross Street was deferred by Council pending the outcome of the review into Local Planning Policy 3.1 Residential Development. The review of the policy is now complete, and there were no changes introduced that would affect the position of the City in respect of the unauthorised front fence at 44 Ardross Street, and the requirements to amend the front fence in accordance with the planning approval granted after the matter was considered by a mediation process facilitated through the State Administrative Tribunal.

In view of this, it is recommended that the Council note the petition, and advise the lead petitioner that the issues raised by the petition have been considered through the SAT mediation, and via the approval by the City of an amended application lodged to the City under the provisions of Section 31 of the SAT Act which requires that the front fence be made more visually permeable in accordance with the requirements of the Residential Design Codes and Local Planning Policy.

UP22/3963 – PETITION – FENCE AT 44 ARDROSS STREET APPLECROSS WA 6153 (REC)

CONCLUSION

The petition in question requests action from the City and/or Council in respect of a development application for which the assessment and decision making process has reached its conclusion. Given this, such action cannot be taken, and as such it is recommended that the petition be acknowledged, and a letter provided to the lead petitioner (property owner) explaining the inability for the City or Council to consider the matter further in the absence of a current DA.

OFFICER RECOMMENDATION (3963)

REFUSAL

At 8:34pm Cr Robins moved, Seconded Cr Fitzgerald –

That the Council endorse the following actions:

- a) Acknowledge the receipt of the petition, and
- b) Provide an explanation in writing to the lead petitioner of the reasons why the petition requests cannot be satisfied.

At 8:44pm, the Mayor declared the motion

LOST (6/5)

Yes	5	Cr Macphail, Cr Fitzgerald, Cr Pazolli, Cr Robins, Mayor Gear
No	6	Cr Ross, Cr Barber, Cr Edinger, Cr Spanbroek, Cr Mair, Cr Sandford

At 8:35pm Cr Edinger returned to the meeting.

UP22/3984 – CONSIDERATION OF SUBMISSIONS: AMENDMENT NO.14 TO LOCAL PLANNING SCHEME 6 – REZONING NO.45-47 CANNING BEACH ROAD, APPLECROSS (REC) (ATTACHMENT)

Item Brought Forward
See Page 19

Late Items

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

Item Brought Forward.
See Page 46

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

Item Brought Forward
See Page 58

LATE ITEM C22/6191 - CONSIDERATION AND ADOPTION OF THE 2022-2023 BUDGET (AMREC) (ATTACHMENTS)

Item Brought Forward
See Page 68

15 MOTIONS WITH PREVIOUS NOTICE

Nil.

16 MOTIONS WITHOUT PREVIOUS NOTICE (approval by absolute majority)

Nil.

17 MATTERS FOR WHICH MEETING WAS CLOSED TO THE PUBLIC

Nil.

18 DECISIONS MADE WHILE MEETING WAS CLOSED TO THE PUBLIC

Nil.

19 CLOSURE

There being no further business to be discussed, the Mayor declared the meeting closed at 8:45pm.