

**M19/5705 – SPECIAL MEETING OF ELECTORS HELD 12 AUGUST 2019 – MOTIONS
(REC)**

Ward : All
 Category : Meetings
 Subject Index : Special Meeting of Electors
 Customer Index : City of Melville
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Not Applicable
 Works Programme : Not Applicable
 Funding : Not Applicable
 Responsible Officer : Louis Hitchcock
 Executive Manager Governance and Legal 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>

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(REC)****KEY ISSUES / SUMMARY**

- A Special Meeting of Electors was held on Monday 12 August 2019.
- The Agenda for the August Ordinary meeting of Council was prepared and distributed on Friday 2 August 2019, prior to when the Special Meeting was held.
- The Minutes of the Special Electors meeting were presented to the Council to be confirmed at its Ordinary Meeting held on 20 August 2019.
- The period of time between the Special Meeting of Electors and the August Ordinary Council Meeting did not enable the preparation of an Officer response report with recommendations for consideration by the Council at its meeting held on 20 August 2019 and, in accordance with Section 5.33 (1)(a) of the *Local Government Act 1995* is now being presented to the first Ordinary Council Meeting thereafter, being the 19 September 2019.
- This report has been prepared to present the resolutions from the Special Meeting of Electors and to provide information deemed relevant, in order for the Council to consider and vote on the resolutions and/or any actions relating to the resolutions.

BACKGROUND

On 9 July 2019, the City received a request to hold a Special Meeting of Electors signed by 137 electors. The holding of Special Meetings of Electors is covered in the *Local Government Act 1995* as follows:

“5.28. Electors’ special meetings

- (1) *A special meeting of the electors of a district is to be held on the request of not less than—*
 - (a) *100 electors or 5% of the number of electors —whichever is the lesser number; or*
 - (b) *1/3 of the number of council members.*
- (2) *The request is to specify the matters to be discussed at the meeting and the form or content of the request is to be in accordance with regulations.*
- (3) *The request is to be sent to the mayor or president.*
- (4) *A special meeting is to be held on a day selected by the mayor or president but not more than 35 days after the day on which he or she received the request.”*

In accordance with the requirements of the Act, a Special Meeting of Electors was advertised to be held at the Mount Pleasant Baptist Community College, 497 Marmion Street, Booragoon on Monday 12 August 2019, commencing at 6.30pm. The Notice of Meeting was advertised in the West Australian Newspaper on Saturday, 27 July 2019 in addition to being displayed on public notice boards at all the City of Melville libraries and the Civic Centre and on the City of Melville website.

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The purpose of the meeting, as contained in the request, was to discuss:

1. The Authorised Inquiry into the City of Melville, the report recommendations, community feedback, community involvement to ensure transparent review of actions taken by the City to address the recommendations: and
2. Issues relating to Tompkins Park, Bert Jeffery Park and the Melville Bowling Club lease; and
3. Issues relating to the Canning Bridge precinct plan including but not limited to, the proposed planning policy, the City's disregard of majority community submissions and the City's continued support for building applications that are inconsistent with community objectives.

DETAIL

Prior to the commencement of the meeting, the requestor of the meeting requested that the matters to be discussed be in the following order:

1. Canning Bridge
2. Authorised Inquiry
3. Tompkins Park

The Special Meeting of Electors was attended by 419 electors and 7 non-electors.

The meeting requestor advised that there were eight speakers to the matters before the meeting:

Order	Presenter	Issue
1.	Mr C Ross, Applecross	Introduction of all presentations
2.	Mr P Cuttone, Applecross	Issues relating to the Canning Bridge precinct plan including but not limited to, the proposed planning policy, the City's disregard of majority community submissions and the City's continued support for building applications that are inconsistent with community objectives.
3.	Mr D Kenny, Applecross	
4.	Mr C Shepherd, Pricewaterhouse Coopers	
5.	Mr T Fitzgerald, Palmyra	
6.	Mr D Maynier, Attadale	The Authorised Inquiry into the City of Melville, the report recommendations, community feedback, community involvement to ensure transparent review of actions taken by the City to address the recommendations.
7.	Ms M Sandford, Applecross	Issues relating to Tompkins Park, Bert Jeffery Park and the Melville Bowling Club lease
8.	Mr G Gear, Alfred Cove	

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This report addresses the motions passed at the Special Meeting of Electors. A subsequent Officer Report addressing the content of the presentations made at the Special Meeting will be provided to a future Meeting of the Council.

Three motions were presented to the meeting with all three motions being carried at the meeting and these are now for the Council to consider as follows:

MOTION 1

That the City of Melville Council:

- 1. Rejects the proposed Draft Local Planning Policy 1.18: Canning Bridge Activity Centre Plan (CBACP), due to its failure to properly address the Community's and Council's expressed concerns with the height limits being approved within the CBACP.**
- 2. Requires the CEO to immediately initiate a comprehensive review of the CBACP, commencing with presentation of a detailed Project Plan prepared with Community consultation and which includes the appointment of external experts to assist the City in conducting and completing the review.**
- 3. Immediately withdraws the delegated authority that authorises the City's planners to submit Responsible Authority Reports (RARs) to the JDAP (without Council approval) and instructs the CEO to present all RARs to Council for final approval before being submitted to JDAP.**

OFFICER COMMENTMotion 1, Part 1

The issue of building heights and the process for assessing applications for bonus height within the Canning Bridge Activity Centre Plan area has been the subject of a number of recent Council reports and resolutions. At the Ordinary Meeting of Council held on 20 and 27 August 2019 Council considered items relevant to the specific content of Parts 1 and 2 of Motion 1.

In relation to Part 1, at the Ordinary Meeting of Council held 20 and 27 August 2019 the Council considered Item P19/3810 – Adoption of Local Planning Policy – Canning Bridge Activity Centre – Bonus Building Height Provisions. Council resolved not to proceed with the Draft Local Planning Policy as follows:

“That the Council resolves not to proceed with Draft Local Planning Policy LPP1.18 Canning Bridge Activity Centre Plan – Bonus Building Heights Provisions and instead opts to immediately initiate a review of the Canning Bridge Structure Plan.”

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(REC)**Officer Recommendation 1

That the Council notes that at the Ordinary Meeting of Council held 20 and 27 August 2019 (Item P19/3810 – Adoption of Local Planning Policy – Canning Bridge Activity Centre – Bonus Building Height Provisions) the Council resolved to not proceed with the Draft Local Planning Policy LPP 1.18 Canning Bridge Activity Centre Plan – Bonus Building Heights Provision and to initiate a review of the Canning Bridge Structure Plan.

Motion 1, Part 2

In relation to Part 2, at the Ordinary Meeting of Council held 20 and 27 August 2019, the Council considered Item P19/3817 – Review of Canning Bridged Activity Centre Plan – Project Scope, and resolved as follows:

“That the Council:

- 1. in accordance with Part 6 of the Planning and Development (Local Planning Schemes) Regulations 2015, the Council resolves to accept and initiate the following amendment to the Canning Bridge Activity Centre Plan for the purposes of advertising:***

Modification to paragraph one of the pre-requisites to the Bonus Provision associated with Elements 21 and 22 of the Canning Bridge Activity Centre Plan by adding an additional sentence, “In the M10 and M15 quarters of Kintail and Ogilvie (those quarters within the City of Melville), the maximum bonus height is 5 additional stories.”

- 2. directs the Chief Executive Officer to progress the following actions in relation to the Canning Bridge Activity Centre Plan:***
 - a. a review, including scope items as outlined in Option B “Review/Clarification of Existing CBACP Building Height and Bonus Provisions” (3817 Scope Summary Option B) be progressed having regard to the outcomes of stage one.***
 - b. a review of the remaining scope items under Option C “Comprehensive Review of Building Height and Bonus Provisions” (3817 Scope Summary Option C) particularly in relation to re-defining optimal built form and preparation of related planning controls, not be commenced until there is sufficient certainty that such measures are achievable.***
 - c. investigations to support completion of scope items under Options B and C being outsourced.***
 - d. to fund the completion of scope items under Options B and C (if applicable) through the reallocation of Strategic Urban Planning project funds and/or Council approval of budget amendments.***
- 3. notes that a further report will be presented to Council at the conclusion of the advertising period to enable consideration of submissions and recommendations to the Western Australian Planning Commission.”***

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The City has commenced work on the amendment relating to the five story limit on bonus height and advertising of this proposal is planned to commence late September 2019. The process of any subsequent Canning Bridge Activity Centre Plan Review would incorporate thorough stakeholder and community engagement.

Officer Recommendation 2

That the Council notes and confirms the resolution of the Council of the Ordinary Meeting of Council held 20 and 27 August 2019 Item P19/3817 – Review of Canning Bridged Activity Centre Plan – Project Scope.

Motion 1, Part 3

At the Ordinary Meeting of Council held 18 June 2019, the Council considered Item M19/5691 – Review of City of Melville Delegated Authority Manual which is the annual review of the City’s Delegations of Authority. The Delegated Authority Manual, as attached to the Council Item, is reviewed on an annual basis and specific to this motion, contains Delegation DA-020 Planning and Related Matters, which includes the following extract:

“make recommendations to the Western Australian Planning Commission, Department of Planning, Lands and Heritage Department of Parks and Wildlife (for Swan River Trust), Heritage Council, State Heritage Office, Joint Metro Central Development Assessment Panel and other government departments and instrumentalities on matters associated with the subdivision and/or development of land;”

At the Ordinary Meeting of Council, the delegations as contained in the Delegated Authority Manual where adopted by the Council by unanimous resolutions, as follows:

“That the Council by Absolute Majority decision adopts the amended City of Melville Delegated Authority Manual as attached 5691 Delegated Authority Manual.”

Regulation 12 of the Development Assessment Panel Regulations 2011 states that a responsible authority to which a DAP application is made must give the presiding member of the DAP that will determine the application, a report on the application in a form approved by the Director General.

The State Development Assessment Panel Practice Notes 2018 states:

“Regulation 12 Responsible Authority Reports

1. *Regulation 12 of the DAP Regulations require each responsible authority, being the relevant local government and/or the Western Australian Planning Commission (‘WAPC’), to provide a responsible authority report (‘RAR’). The RAR is to include an assessment and provide a recommendation, with sufficient information to enable the DAP to determine the application...”*

“The RAR is to be provided by the responsible authority’s planning officer...”

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“The RAR is not a resolution of the relevant local government’s council, it is the professional opinion of the local government’s planning officer who assessed the application. It is improper for Councillors of a local government to influence the planning officer’s report in any way.

If the local government council wishes to make a statement regarding an application before a DAP, it should do so by making a submission either by including a copy of the Council Resolution as an attachment to the RAR or via an approved deputation at the DAP meeting.”

The State Development Assessment Panel Frequently Asked Questions under the Planning and Development (Development Assessment Panels) Regulations 2011, December 2018 states:

22. *Can a local government in Council alter the responsible authority report (RAR) as prepared by the relevant professional planner?*

“...The RAR is primarily concerned with providing the DAP with technical data. The views of a Council may also be relevant, especially in providing information of a public interest nature and community concern. However, the DAP is best assisted if both sets of information are submitted separately, otherwise there is the real danger of confusing the DAP members.

Finally, it is worth remembering that clause 2.10 of the DAP Standing Orders 2017 (Standing Orders) require:

“A DAP is to invite the responsible authority officer preparing a responsible authority’s report for a development application to attend, or to send a representative to, a DAP meeting at which the application is to be determined.”

Therefore, it is likely that the author of the report or responsible authority representative will attend the DAP meeting and be required to explain the regulation 12 report, including if any alterations are made by Council”.

In undertaking assessment of development applications, local government planning officers are guided by the applicable planning framework adopted by state and local government (including Metropolitan Region Scheme, State Planning Policies, Residential Design Codes, local planning scheme, local planning strategy, structure plans, and local planning policies).

Local Planning Policy 1.1: Planning Process and Decision Making provides for Council involvement in the DAP process, in that Elected Members can request that an RAR be referred to the Council for information and consideration, where:

- (a) The DAP application has been the subject of public consultation and submissions in opposition have been received; and/or
- (b) The DAP application relates to a site within the Canning Bridge or Melville City Centre Structure Plan areas, and requires consideration of proposed ‘community benefits’ in lieu of proposed building height.

Where an RAR is referred to a meeting of the Council prior to its formal consideration by the JDAP, the minutes of the Council meeting are submitted to the JDAP as an attachment to the RAR.

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Based on the above it is considered that the recommendation in Motion 1, Part 3 for withdrawal of the delegated authority to officers would not be consistent with DAP Regulations as further explained in the guidance provided by the DAP Practice Notes.

It is noted that under current Local Planning Policy 1.1 Elected Members can request that a RAR be referred to the Council for consideration prior to consideration of the RAR by the JDAP.

Officer Recommendation 3

That the Council supports that the delegated authority that authorises the City's planners to submit Responsible Authority Reports (RARs) to the JDAP (without Council approval) not be withdrawn as this would be inconsistent with the provisions of the Planning and Development (Development Assessment Panels) Regulations 2011, as explained in the guidance provided by the State Development Assessment Panel Practice Notes 2018 (relating to Regulation 12).

MOTION 2

The City of Melville to prepare and submit to the Minister for Local Government an Addendum to the City's recent response to the Minister. The Addendum to:

- 1. acknowledge and accept that Minister Templeman's call for cultural change is appropriate and fully supported by the City;**
- 2. contain a list of the City's Local Laws and Council Policies that the City will immediately review (with community consultation) with a focus on ensuring the rights of residents and ratepayers - the list to include the Local Law on Deputations and as a minimum the following Council Policies: Dealing with Unreasonable individuals, Legal representation, Question Time and on what constitutes a "direct interest";**
- 3. acknowledge that the recent Authorised Inquiry has not addressed the underlying cause of ratepayer complaints, of which there are 719 service complaints in the three year period, and therefore the City is still required to address those underlying complaints;**
- 4. acknowledge the City's failures to comply with the requirements of the Local Government Act 1995 and Local Government (Administration) Regulations 1996 and to commit to inquiring into why such failures occurred, identifying the parties/processes responsible and reporting back to Council on actions taken.**

OFFICER COMMENT

At the Ordinary Meeting of the Council held 16 July 2019, a report was presented to the Council on the Inquiry outcomes and recommendations, with all seven recommendations being supported by the Council as recommended by the Officer Recommendation, as follows:

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“That the Council:

1. *receives The Report (5697_COM_Inquiry_Report) of the Inquiry into the City of Melville, produced by the Department of Local Government, Sport and Cultural Industries, and tabled in State Parliament on 27 June 2019.*
2. *notes and supports the Recommendations 1,3,4,5,6 and 7 of The Report of the Inquiry into the City of Melville*
3. *supports Recommendation 2 and directs the Chief Executive Officer to expedite the engagement of an independent person to review and act on complaints about the City’s processes and decisions for a period of 3 months from the date of engagement.*
4. *by Absolute Majority Decision approves a budget amendment to debit account 100.29105.7126.000 (Inquiry) and credit the Rates Equalisation Reserve Account (Funds to be used) 277.28129.7888.000 for the amount of \$150,000 to cover the costs of implementing the recommendations of The Report of the Inquiry into the City of Melville.*
5. *authorises the Chief Executive Officer to forward the minutes (this report and resolution of the Council) to the Minister for Local Government, Sport and Cultural Industries to meet the statutory obligation contained in Section 8.14(3) of the Local Government Act 1995.”*

In accordance with point 5, the Minister for Local Government was advised of the Council resolutions, and provided with an extract of the Minutes of the 16 July 2019 Meeting which included a copy of the Officer report and the resolutions of the Council on this matter.

In the report presented to the Council at the July 2019 Meeting, the City detailed and responded to the all findings and opportunities for improvement highlighted in the Inquiry Report. The report also addressed noted shortcoming of the City as identified in the Inquiry Report, including the circumstance in which they occurred and any actions taken to rectify those matters, including the unauthorised purchase of the property at 50-52 Kishorn Road, Applecross, which was addressed with the Council at the time the incident occurred and fully disclosed to the Authorised Inquiry investigative team.

In the Officer report, the City recognised that there are a number of opportunities for it to better engage with the community, provide more transparency and better access to information, with outcomes and strategies including, but are not limited to:

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- providing the community with better information around the legislation associated with the Local Government and its decision making processes.
- communicating the effect on the wider community and alignment with the City's community developed strategies.
- updating information available to the community on processes that are open for the community to participate in.
- consideration of alternative avenues to provide information to enable easier community access to the information listed in section 5.94 of the Act.
- continuously improving processes to respond to matters that are of community interest.
- increasing awareness of the City's complaint management processes.
- improving awareness of the extent of the City's functions, roles and responsibilities.
- improving awareness of the City's processes and procedures.
- continuing to review and improve the information accessible by the public including, on-line information, in relation to the legislation associated with Local Government and its decision making process.

These represent a desire for the City to meaningfully engage with its community, and work is progressing in this direction.

Upon the Council receiving the Inquiry Report, the City has implemented a project team to action the recommendations contained in the Report, in line with the resolutions of the Council, with the City currently in the final stages of appointing the Consultant to undertake the Governance Review as required in Recommendation 4 and 5 of the Report. The team has also progressed the appointment of an independent person to review and action on complaints as required in Recommendation 2.

The first priority of the project team is the achievement of the recommendations contained in the Inquiry Report, with many of these requiring completion prior to December 2019 and scheduling through to 2020.

As a secondary priority the team is also working with the content of the report in relation to the findings to identify improvements to existing processes and procedures.

It is recognised that there is a measure of dissatisfaction with the Inquiry process or the outcomes as contained within the Inquiry Report. However, the City had no influence over the scope of the Inquiry, how the Inquiry was conducted or the findings, outcomes and recommendations of the Inquiry. The City, in the first instance is obligated to address the recommendations from the Inquiry Report, as resolved by the Council.

In relation to the motions passed at the Special Meeting of Electors the following comments are provided:

**M19/5705 – SPECIAL MEETING OF ELECTORS HELD 12 AUGUST 2019 - MOTIONS
(REC)**Motion 2, Part 1

The City of Melville to prepare and submit to the Minister for Local Government an Addendum to the City's response to the Minister. The Addendum to:

- 1. Acknowledge and accept that Minister Templeman's call for cultural change is appropriate and fully supported by the City;**

In terms of Section 8.14 of the Local Government Act 1995 the City provided a response to the Director General, Department of Local Government, Sport and Cultural Industries dated 28 July 2019. Attached to that letter was a copy of the Agenda and Minutes of the 16 July Meeting. In the letter and report it was stated that the Council supports the full compliance with the findings and recommendations.

The Council report provided acknowledgement and listed improvement opportunities on a number of comments made in the report, including paragraph 171, which stated that:

“A number of the recommendations will be the catalyst the organisation needs to drive a culture change which will ensure all parties are better informed, have a better understanding and ultimately more effective and positive governance. “

The Administration noted in the report to the Council that the opportunity for this change was to comply with the report's recommendations fully and other opportunities listed in the said report. The City also acknowledged and accepts the need to work towards more meaningful and mutually respectful community engagement, prior to commencing projects, and when reviewing existing projects and processes.

Officer Recommendation 4

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

Motion 2, Part 2

- 2. Contain a list of the City's Local Laws and Council Policies that the City will immediately review (with community consultation) with a focus on ensuring the rights of residents and ratepayers - the list to include the Local Law on Deputations and as a minimum the following Council Policies: Dealing with Unreasonable individuals, Legal representation, Question Time and on what constitutes a “direct interest”;**

It should be noted that there is no Local Law on Deputations. The Local Government Act does not provide for Deputations. Deputations are a Council consultation mechanism provided under the *City of Melville Meeting Procedures Local Law 2017*. Council at its meeting held on 27 August considered and adopted a Policy on the *Deputations to the Council* and for this to be implemented after 1 October 2019.

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There is also no policy on Dealing with Unreasonable Individuals (sic) the policy is CP-0107 Managing Unreasonable Conduct by Customers.

The Legal Representation policy referred to is CP-017 *Legal Representation Policy Elected Members and Employees* and the Question Time policy is CP-014 *Public Question Time at Council and Committee Meetings*.

The City works through its Council Policies and Local Laws on a continuous basis, with these being reviewed and refined to meet the changing needs of the organisation, the community and to align with current legislation. Local Laws are governed by a legislative process which has a mandatory community consultation requirement and this is undertaken in every instance a Local Law is reviewed.

The policies mentioned have been dealt with by the Council after input by community groups by way of deputations, and approaches made to Councillors by interested groups.

In the 16 July 2019 report to Council (Item M19/5697, pages 26 of the minutes) it was stated that –

“The following four Council Policies are specifically mentioned in The Report and will continue to be monitored and reviewed within the established policy review cycle or as required, to ensure that they accurately reflect the position of the Council and provide transparency into any associated processes:

- *CP-014 - Public Question Time at Council or Committee Meetings*
- *CP-107 - Managing Unreasonable Conduct by Customers*
- *CP-017 – Legal Representation Policy Elected Members and Employees*
- *CP-101 – Complaints Management Policy.”*

Officer Recommendation 5

That the Council directs the CEO to review the following Policies and Local Laws within the established Policy and Local Law review cycles, with consideration to community consultation.

- Meeting Procedure Local Law relating to Deputations
- CP-014 Public Question Time at Council and Committee Meetings.
- CP-017 Legal representation Policy Elected Members and Employees
- CP-0107 Managing Unreasonable Conduct by Customers.

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Motion 2, Part 3

3. **acknowledge that the recent Authorised Inquiry has not addressed the underlying cause of ratepayer complaints, of which there are 719 service complaints in the three year period, and therefore the City is still required to address those underlying complaints;**

The resolution relates to the “underlying cause of ratepayer complaints.” In the Minister’s media statement of 27 June 2019 has stated that:

‘In accordance with the principles of natural justice, all named and affected parties were provided relevant sections of the report and offered the opportunity to comment prior to release.’

The City is mindful that continuous meaningful, mutually respectful engagement is necessary to address ongoing concerns of all ratepayers.

Officer Recommendation 6

That the Council directs the CEO to continue to work with residents and customers to address ongoing concerns of all ratepayers,

Motion 2, Part 4

4. **acknowledge the City’s failures to comply with the requirements of the Local Government Act 1995 and Local Government (Administration) Regulations 1996 and to commit to inquiring into why such failures occurred, identifying the parties/processes responsible and reporting back to Council on actions taken.**

The following findings relating to non-compliance with the Act and Regulations that were acknowledged and addressed in terms of actions to be undertaken, in the Officer report of 16 July 2019

Finding		Outcome and City’s Response
5	The Presiding Member did not comply with regulation 7(2) of the Administration Regulations.	<p>Inquiry Outcome Improvement action required.</p> <p>City’s Response Noted.</p> <p>The Mayor reopened question time to respond to a question that had been submitted at the meeting that was unrelated to any item on the Council Agenda.</p> <p>As the member of the public, that submitted the question, was in attendance, the Mayor’s action was, at the time, seen to be in their best interest and was recorded in the minutes of that meeting.</p>

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Finding		Outcome and City's Response
9	There was no legislative basis for the City to request the identity of Complainant A office bearers prior to the processing of the request for information, and more professional and reasonable efforts should have been made by the City to facilitate this request through more effective means of communication.	<p>Inquiry Outcome Improvement action required.</p> <p>City's Response The City acknowledges the comment provided by the Authorised Persons at paragraph 70-72 of The Report in relation to this matter. The City will engage with an applicant with regards to an applicant's specific needs, in line with the Finding</p>
13	That the Mayor and/or the City of Melville failed to respond to requests from individuals or organisations based on the status of the organisation or individual until such time legal advice had been provided to them therefore breaching s5.96 of the LG Act.	<p>Inquiry Outcome Improvement action required.</p> <p>City's Response The finding relating to the status of the organisation or individual is noted.</p> <p>It is not clear how the Mayor is potentially in breach of s5.96 of the LG Act, this being an operational provision under Part 5 of the LG Act (Administration), Division 7 (Access to Information). The City will seek this clarity from the Department.</p>
15	The CEO did not have Council's approval to purchase 50-52 Kishorn Road, Applecross which in turn caused the administration to seek retrospective approval from council.	<p>Inquiry Outcome Improvement action required.</p> <p>City's Response The Finding 15 is accepted and the City notes that at item 134 and 135 of The Report, the Council had approved the purchase of 50-52 Kishorn Road, Applecross prior to settlement on 20 April 2017.</p> <p>With respect to this matter, prior to seeking the Council's approval to proceed to settlement, advice was sought from the Department on this unusual occurrence and was advised verbally that the proposed course of rectification action was the proper one to adopt.</p>

Officer Recommendation 7

That the Council acknowledges the City's failures to comply with the requirements of the Local Government Act 1995 and Local Government (Administration) Regulations 1996 in relation to the Inquiry Report Findings 5, 9, 13, and 15 and its undertaking to implement the required improvements to the City's processes, procedures and systems.

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(REC)****MOTION 3**

The City of Melville to

1. Include Bert Jeffrey Park in the Active Reserve Infrastructure Strategy (ARIS) process and stop all changes to Bert Jeffrey Park and rescind previous decisions;
2. Renew the long-term lease with the Melville Bowling Club immediately;
3. Confirm that the proposed review of Tompkins Park will include community and stakeholder engagement

OFFICER COMMENTMotion 3, Part 1

Bert Jeffrey Park (BJP) is included in the Active Reserve Infrastructure Strategy. It appears the media statement may have been misunderstood. BJP is included in the work associated with the Strategy and will be considered along side all other Active Reserves in the development of the Strategy which will highlight infrastructure requirements over the next 20 years. The media statement regarding BJP was in specific reference to the project (development of an amenities building) and not the Park as a whole.

The media statement said the following:

*“It is important to note that the development of the ARIS will not impact **current projects** such as Tompkins Park, Shirley Strickland Reserve and Bert Jeffrey Park as previous Council decisions have been made in relation to these **projects.**”*

All of these Reserves will be considered in the development of the ARIS.

Any specific work/projects currently planned/approved, such as the construction of a small amenity block at BJP, would continue to be implemented. The media statement included the BJP project, plus Tompkins Park and Shirley Strickland projects that would continue to be implemented as per resolutions from the Council.

The draft Active Reserve Infrastructure Strategy report will also be available for public comment and feedback, prior to being presented to Council for adoption.

Officer Recommendation 8

The Council confirms that Bert Jeffrey Park is included in the Active Reserve Infrastructure Strategy (ARIS) process.

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(REC)**Motion 3, Part 2

The Melville Bowling Club is currently on a monthly periodic lease under 'hold over' provisions in their existing lease. It would not be prudent to enter into different lease arrangements until the Review of Tompkins Park redevelopment (Council motion Item 16.2 of the 21 May 2019 Ordinary Meeting of Council, below) project is completed and reported to the Council. The Melville Bowling Club was formally advised of this in June 2019.

Item 16.2 - Review of Redevelopment of Tompkins Park Facility, 21 May 2019 Ordinary Meeting of Council.

"That Council requests the Chief Executive Officer to:

1. *Put on hold the further implementation of the redevelopment of the Tompkins Park facility pending a review by Council of redevelopment options and community requirements for the Tompkins Park facility.*
2. *Facilitate and arrange workshops and/or EMIS meetings for Council to consider the community requirements and redevelopment options including appropriate community consultation for the Tompkins Park facility as an input into the following review of the Tompkins Park facility.*
3. *Undertake a review of options for the redevelopment of the Tompkins Park facility taking into consideration and addressing:*
 - *the change in circumstances resulting from the Surf Wave Park Ground Lease should it not proceed;*
 - *the refusal of the Melville Bowls Club to shift to a new Tompkins Park Bowls facility;*
 - *the reduction in the numbers of Mt Pleasant Bowls Club members likely to join in a new Tompkins Park Bowls facility;*
 - *the financial status of the Mt Pleasant Bowls Club;*
 - *the financial status of the Tompkins Park Community and Recreational Association;*
 - *the financial sustainability of a re-organised Tompkins Park Community and Recreational Association with and without a Function Centre and/or café business;*
 - *the requirements for additional public open space and Dunkley Ave storm flood mitigation;*
 - *any other relevant considerations.*
4. *Provide a report to Council on the results of the review of the Tompkins Park facility for Council approval before any further work proceeds."*

Officer Recommendation 9

That the Council supports the existing lease arrangements remaining in place until the Review of the Tompkins Park Redevelopment project is completed and reported to the Council.

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(REC)**Motion 3, Part 3

The review of Tompkins Park which is currently in progress does include engagement with relevant stakeholders. All Tompkins Park sporting groups, including the Melville Bowling Club, will be involved. An initial meeting was held with the Melville Bowling Club on the 30 July 2019 and officers are waiting on feedback from the Club regarding the review. Elected Member Workshops have also commenced as part of the review process as this was a resolution made by Council on 21 May 2019 (above).

Officer Recommendation 10

That the Council confirms that the review of the options for the redevelopment of Tompkins Park will include stakeholder engagement.

STAKEHOLDER ENGAGEMENT**I. COMMUNITY**

The Special Meeting of Electors is a public meeting for purpose of the identified issues. The meeting was advertised in accordance with the requirements of the Local Government Act, which included the local paper, the City's noticeboards and the City's website.

II. OTHER AGENCIES / CONSULTANTS

Where applicable, external agencies have been engaged as outlined in reports referenced in this item.

STATUTORY AND LEGAL IMPLICATIONS

The Local Government Act requires that any decision made at an electors meeting are considered by the Council:

5.33. Decisions made at electors' meetings

- (1) *All decisions made at an electors' meeting are to be considered at the next ordinary council meeting or, if that is not practicable —*
 - (a) *at the first ordinary council meeting after that meeting; or*
 - (b) *at a special meeting called for that purpose,**whichever happens first.*

- (2) *If at a meeting of the council a local government makes a decision in response to a decision made at an electors' meeting, the reasons for the decision are to be recorded in the minutes of the council meeting.*

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FINANCIAL IMPLICATIONS

There are no additional financial implications associated with this report. Any financial implications associated with resolutions of the Council have been detailed in the reports referenced.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk	Risk Mitigation Strategy
<p>The risks relating to the matters raised at the Special Meeting of Electors are considered and reported in the various Council reports on each matter.</p> <p>This report satisfies the compliance requirements in relation to the Council considering decision made at the Special Meeting of Electors</p>	N/a	N/a

POLICY IMPLICATIONS

There are no additional policy implications associated with this report, any policy implications associated with resolutions of the Council have been detailed in the reports referenced.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council is required by the *Local Government Act 1995* to consider any motions passed at a General Meeting of Electors.

CONCLUSION

Officers have provided comments on individual motions carried at the Special Meeting of Electors held 12 August 2019. This report recommends that the associated officer comments be considered.

**M19/5705 – SPECIAL MEETING OF ELECTORS HELD 12 AUGUST 2019 - MOTIONS
(REC)****OFFICER RECOMMENDATION (5705/1)****APPROVAL**

That the Council, acknowledges Motion 1 from the Special Meeting of Electors held 12 August 2019 as being:

“That the City of Melville Council:

- 1. Rejects the proposed Draft Local Planning Policy 1.18: Canning Bridge Activity Centre Plan (CBACP), due to its failure to properly address the Community’s and Council’s expressed concerns with the height limits being approved within the CBACP.*
- 2. Requires the CEO to immediately initiate a comprehensive review of the CBACP, commencing with presentation of a detailed Project Plan prepared with Community consultation and which includes the appointment of external experts to assist the City in conducting and completing the review.*
- 3. Immediately withdraws the delegated authority that authorises the City’s planners to submit Responsible Authority Reports (RARs) to the JDAP (without Council approval) and instructs the CEO to present all RARs to Council for final approval before being submitted to JDAP.”*

In respect to Motion 1, the Council:

- 1 notes that at the Ordinary Meeting of Council held on 20 and 27 August 2019 (Item P19/3810 – Adoption of Local Planning Policy – Canning Bridge Activity Centre – Bonus Building Height Provisions) the Council resolved to not proceed with the Draft Local Planning Policy LPP 1.18 Canning Bridge Activity Centre Plan – Bonus Building Heights Provision and to initiate a review of the Canning Bridge Structure Plan.**
- 2 notes and confirms the resolution of the Council of the Ordinary Meeting of Council held on 20 and 27 August 2019 Item P19/3817 – Review of Canning Bridged Activity Centre Plan – Project Scope.**
- 3 That the Council supports that the delegated authority that authorises the City’s planners to submit Responsible Authority Reports (RARs) to the JDAP (without Council approval) not be withdrawn as this would be inconsistent with the provisions of the Planning and Development (Development Assessment Panels) Regulations 2011, as explained in the guidance provided by the State Development Assessment Panel Practice Notes 2018 (relating to Regulation 12).**

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(REC)****OFFICER RECOMMENDATION (5705/2)****APPROVAL**

That the Council, acknowledges Motion 2 from the Special Meeting of Electors held 12 August 2019 as being:

“The City of Melville to prepare and submit to the Minister for Local Government an Addendum to the City’s recent response to the Minister. The Addendum to:

- 1. acknowledge and accept that Minister Templeman’s call for cultural change is appropriate and fully supported by the City;*
- 2. contain a list of the City’s Local Laws and Council Policies that the City will immediately review (with community consultation) with a focus on ensuring the rights of residents and ratepayers - the list to include the Local Law on Deputations and as a minimum the following Council Policies: Dealing with Unreasonable individuals, Legal representation, Question Time and on what constitutes a “direct interest”;*
- 3. acknowledge that the recent Authorised Inquiry has not addressed the underlying cause of ratepayer complaints, of which there are 719 service complaints in the three year period, and therefore the City is still required to address those underlying complaints;*
- 4. acknowledge the City’s failures to comply with the requirements of the Local Government Act 1995 and Local Government (Administration) Regulations 1996 and to commit to inquiring into why such failures occurred, identifying the parties/processes responsible and reporting back to Council on actions taken”.*

In respect to Motion 2, the Council:

- 4 directs the Chief Executive Officer to prepare and submit to the Minister for Local Government an addendum to the City’s response to the Director General, Department of Local Government, Sport and Cultural Industries dated 28 July 2019, advising that the Council reiterates that it acknowledges and accepts that Ministers Templeman’s call for cultural change is appropriate and fully supported by the City;**
- 5 directs the Chief Executive Officer to review the following Policies and Local Law within the established Policy and Local Law review cycles, with consideration to community consultation;**
 - Meeting Procedure Local Law relating to Deputations**
 - CP-014 Public Question Time at Council and Committee Meetings.**
 - CP-017 Legal representation Policy Elected Members and Employees**
 - CP-0107 Managing Unreasonable Conduct by Customers**
- 6 directs the Chief Executive Officer to continue to work with residents and customers to address ongoing concerns of all ratepayers; and**

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(REC)**

- 7** acknowledges the City's failures to comply with the requirements of the *Local Government Act 1995* and *Local Government (Administration) Regulations 1996* in relation to the Inquiry Report Findings 5, 9, 13, and 15 and its undertaking to implement the required improvements to the City's processes, procedures and systems.

OFFICER RECOMMENDATION (5705/3)**APPROVAL**

That the Council, acknowledges Motion 3 from the Special Meeting of Electors held 12 August 2019 as being:

"The City of Melville to

- (1) Include Bert Jeffrey Park in the Active Reserve Infrastructure Strategy (ARIS) process and stop all changes to Bert Jeffrey Park and rescind previous decisions;***
- (2) Renew the long-term lease with the Melville Bowling Club immediately;***
- (3) Confirm that the proposed review of Tompkins Park will include community and stakeholder engagement."***

In respect to Motion 3, the Council:

- 8** confirms that Bert Jeffrey Park is included in the Active Reserve Infrastructure Strategy (ARIS) Process.
- 9** supports the existing lease arrangements remaining in place until the Review of the Tompkins Park Redevelopment project is completed and reported to the Council.
- 10** confirms that the review of the options for the redevelopment of Tompkins Park will include stakeholder engagement.
- 11** directs the Chief Executive Officer to inform the movers of the motions of the Council's decisions in writing.