

MINUTES
FOR THE
ORDINARY MEETING OF THE COUNCIL
TUESDAY, 17 AUGUST 2021
COMMENCING AT 6.30PM

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

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

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

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

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1. OFFICIAL OPENING

The Presiding Member welcomed those in attendance to the meeting and officially declared the meeting open at 6:30pm and invited Cr Nicole Robins 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.

Affirmation of Civic Duty and Responsibility

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

2. PRESENT

Mayor Honourable G Gear

COUNCILLORS WARD

Cr J Barton (Deputy Mayor)	Bicton – Attadale – Alfred Cove
Cr G Barber	Bicton – Attadale – Alfred Cove
Cr D Macphail, Cr N Robins	Bateman – Kardinya - Murdoch
Cr M Woodall	Bull Creek - Leeming
Cr N Pazolli	Applecross – Mount Pleasant
Cr S Kepert (<i>Until 7:57pm</i>)	Applecross – Mount Pleasant
Cr K Mair, Cr M Sandford	Central
Cr T Fitzgerald, Cr K Wheatland	Palmyra – Melville - Willagee

3. IN ATTENDANCE

Mr M Tieleman	Chief Executive Officer
Mr A Ferris	Director Corporate Services (<i>electronic attendance</i>)
Ms C Young	Director Community Development
Mr S Cope	Director Urban Planning
Mr M McCarthy	Director Technical Services
Mr J Rae	Strategic Land and Property Executive
Mr L Hitchcock	Executive Manager Governance and Legal Services
Mr B Taylor	Manager Governance and Property Services
Ms C Newman	Governance Coordinator
Ms R Davis	Governance Officer

At the commencement of the meeting, there were 8 members of the public in the Council Chambers, 5 members of the public and one representative from the Press in attendance electronically.

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

Cr C Robartson Bull Creek - Leeming

4.2 APPROVED LEAVE OF ABSENCE

Nil.

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

Cr Wheatland advised the meeting that she had not yet read the Alternative Motion submitted just prior to the meeting by Cr Mair on Item P21/3936 – Review of Compliance and Enforcement Actions – 18A and 18B Tweeddale Road, Applecross.

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

Nil.

6. QUESTION TIME**6.1 Questions Received with Notice****6.1.1 Ms J Edinger, Melville**

Can the Council please advise, as at 11/8/2021 and unlike many other local government areas:

Question 1

(a) why the Administration has not yet scheduled a Local Government Election Information Session for potential candidates for the upcoming Local Government Election?

Response

This event has been scheduled for 5.30pm Wednesday 1 September 2021. This information was published on the City's website on Friday 13 August 2021.

Question 2

(b) why the Administration does not appear to have a pre-prepared plan that it is implementing for the upcoming election; and

Response

The City has a plan for the 2021 Local Government Elections, details are available on the City of Melville website.

Question Time - 6.1.1 Ms J Edinger, Melville, continued.

Question 3

(c) why the officer I spoke to was unable to confirm that the administration is actively working with the WA Electoral commission to schedule a session?

Response

The City has engaged the WA Electoral Commission for the 2021 Local Government Elections and has been working with them to schedule the Candidate Information Session.

Question 4

Can the Council please advise the date, time and location of the City of Melville Local Government Election Information Session for potential candidates for the upcoming Local Government elections?

Response

This event has been scheduled for 5.30pm Wednesday 1 September 2021. Information is available on the City's website.

6.1.2 Mr M Fitzgibbon, Melville

Question 5

Q1. P21/3935 Rezoning Parks from Residential to Public Open Space. Were City Parks rezoned to Residential to increase the asset value of the City? If not, what was the reason for Parks being rezoned Residential?

Response

No, the zonings previously assigned, were to maintain flexibility in terms of future land use options for the sites.

Question 6

P21/3935 Rezoning Parks from Residential to Public Open Space. Two years ago City Parks were revalued downwards by \$20 million, reducing the asset value of the City by the same amount.

Will rezoning of the 5 City owned parks from residential to Public Open Space result in a downward revaluation of the assets, and if so, by how much in dollar terms?

Question Time - 6.1.2 Mr M Fitzgibbon, Melville, continued.

Response

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

Rezoning the sites not owned by the City 'Public Open Space' will not materially affect the financial value of these sites to the City. Rezoning the five sites that are owned in freehold by the City will impact the value of the land, however, as these sites have no significant strategic value for purposes other than public open space and there is no intention to change the future use of these sites the financial implications are unable to be considered in the same manner as sites which are zoned otherwise. Any change in value is unlikely to be significant or material in terms of the overall asset base.

6.1.3 Mr M McLerie, Bicton

The City's Administration published private and/or confidential material from mid-2020 on its public website in breach of a Council motion and legislative requirements

Question 7

a) when, how and why was this private and confidential material made available to the public?

Response

This matter relates to a confidential item and attachments that were considered by the Council at a Special meeting held 29 June 2020. The matter was considered confidential as it related to the personal affairs of a person and a contract (procurement) to be entered into. The Council motion related to the procurement/budget allocation that was to remain confidential until the procurement process had been concluded. The report and attachment were inadvertently published to the website when the procurement process was concluded in late December 2020.

Question 8

b) why did it take two complaints for all the material to be removed from public view?

Response

Two emails were sent to the Mayor, one on Sunday 1 August and the second on 3 August 2021. The material was reviewed and removed from the website when the administration was made aware of the matter by the Mayor.

Question 9

c) why has the CEO not publicly apologised for this significant administrative breach?

Question Time - 6.1.3 Mr M McLerie, Bicton, continued.

Response

A formal apology and confirmation of the removal of the material was made to the complainant in an email of 5 August 2021.

Question 10

d) what will Council do to ensure this type of failure does not reoccur?

Response

This was an administrative oversight in this instance.

Question 11

What is the total gross value of services Barry.Nilsson.Lawyers have provided for the benefit of the City and/or officers since 1 January 2020. How and when were these lawyers paid?

Response

Barry Nilsson Lawyers were appointed by the City insurers. No payments have been made direct to Barry Nilsson Lawyers by the City.

6.1.4 City of Melville Residents & Ratepayers Assoc.(Inc.),

Question 12

How many planning and building complaints/feedback has the City received from residents and ratepayers since the land associated with 18A & B Tweeddale Road Applecross was cleared?

Question 13

When were the complaints/feedback received and what was the nature of the complaints/feedback?

Response to Question 12 and 13

The site at 18A and 18B Tweeddale Road has been the subject of a number of Development Application's for redevelopment over recent years. In dealing with these various DA's, the City has engaged with members of the local community, and through that process concerns have been raised regarding the levels associated with the property, including concerns that the levels have been incrementally raised over the years .

These concerns have been taken into account each and every time that a DA has been determined. In addition, the City has one record of a formal compliance matter that was investigated after a complaint was received that a mound of sand had been brought onto the site. This compliance matter was ultimately dealt with, the mound was removed, and the site reinstated to its former condition.

6.1 Questions Received without Notice

The responses to the Questions Taken on Notice will published in the minutes of the Ordinary Meeting of Council to be held on Tuesday, 21 September 2021.

6.2.1 Mr Kenny, Ardross

Follow up to 2020 AGM Re: Application of AS-NZS2890.1:2004 under LPP1.6 - discussion with CEO regarding 8 Willcock St crossover. The line of sight is obscured by a solid wall at the property line. With a high level of development in the area, there will be much greater pedestrian traffic in the street especially since it is at one end of a Safe Active Street.

Question 1

- a) *Have CoM had professional advice regarding the safety requirements of AS-NZS2890.1 2004?*

Response

This question will be taken on notice.

Question 2

- b) *Why wasn't something done to make 8 Willcock Street crossover safe before the building was occupied?*

Response

This question will be taken on notice.

Question 3

- c) *What has CoM done to rectify pedestrian hazards at the properties raised by Mr Dayle Kenny?*

Response

This question will be taken on notice.

Question 4

- d) *Have any of these crossovers undergone a risk assessment and peer review by competent persons qualified in pedestrian safety?*

Response

This question will be taken on notice.

Question Time - 6.2.1 Mr Kenny, Ardross, continued

Follow up to 2020 AGM Regarding Application of AS-NZS2890.1:2004 under LPP1.6 - email from Cr Mair on 3/2/2020

Question 5

Cr Katy Mair asked the CEO: "What is being done to address Mr Kenny's concerns about buildings being approved with unsafe crossovers for pedestrian at car park exits?, we must provide safe access at crossovers. I understand there will be a review of crossovers so please let me know about progress of this matter." Did the CEO respond on the progress of review of crossovers?

Response

This question will be taken on notice.

6.2.2 Ms J Edinger, Melville

After viewing the untenable parking situation existing in the Tompkins Park overflow carpark on Saturday 14/8, including cars driving on the bike path, can the Council please

Question 6

(a) advise if the Administration has sought to work pro-actively with the Tompkins Park Sporting Association to ensure adequate traffic management is in place to deal with large numbers of cars using the overflow parking on the weekend?

Response

This question will be taken on notice.

Question 7

(b) advise why the Administration has not taken steps to ensure adequate traffic management is in place at this location?

Response

This question will be taken on notice.

Question 8

(c) advise what the Administration is going to do to ensure that parking in the overflow carpark has adequate traffic management in place?

Response

This question will be taken on notice.

Question Time - 6.2.2 Ms J Edinger, Melville continued

Question 9

- (d) *advise if the Administration has considered using the eastern end of Tompkins Park, which has no infrastructure (such as reticulation) in place, for use for overflow parking on the weekend?*

Response

This question will be taken on notice.

Question 10

- (e) *advise that, if the Administration has not considered using the eastern end of Tompkins Park, then when will it do so?*

At the OMC on 16 March 2021 the Council resolved to direct the CEO to “prepare a Draft Policy on the provision of parking infrastructure for Sports Club facilities” provided by the ... and ... as a matter of urgency – (a) implement interim measures to address the current parking situation for Troy Park”

Response

This question will be taken on notice.

Question 11

Can the Council please advise

- (a) *if the Administration has sought to work pro-actively with the Troy Park Sporting Association to ensure adequate traffic management is in currently place at the Troy Park location?*

Response

This question will be taken on notice.

Question 12

- (b) *what progress the CEO has made on preparation of the Draft Policy?*

Response

This question will be taken on notice.

7. AWARDS AND PRESENTATIONS

Nil.

8. CONFIRMATION OF MINUTES

**8.1 ORDINARY MEETING OF THE COUNCIL – 20 JULY 2021
Minutes 20 July 2021**

At 6:33pm Cr Barton moved, seconded Cr Pazolli –

That the Minutes of the Ordinary Meeting of the Council held on Tuesday, 20 July 2021 be confirmed as a true and accurate record.

Motion

At 6:33pm Cr Kepert moved, seconded -

That the procedural motion on page 14 of the Minutes of the Ordinary Meeting of Council 20 July 2021 be amended to include the words requested for recording at that meeting.

At 6:35pm the Mayor declared the item

LAPSED FOR WANT OF A SECONDER

COUNCIL RESOLUTION

At 6:33pm Cr Barton moved, seconded Cr Pazolli –

That the Minutes of the Ordinary Meeting of the Council held on Tuesday, 20 July 2021 be confirmed as a true and accurate record.

At 6:40pm, the Mayor declared the motion

CARRIED (11/1)

Yes	11	Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Woodall, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
No	1	Cr Kepert

**8.2 NOTES OF AGENDA BRIEFING FORUM – 10 AUGUST 2021
Minutes 10 August 2021**

COUNCIL RESOLUTION

At 6:40pm Cr Macphail moved, seconded Cr Barton –

That the Notes of Agenda Briefing Forum held on Tuesday, 10 August 2021, be received.

At 6:41pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

8.3 SPECIAL MEETING OF THE COUNCIL – 27 JULY 2021
Minutes 27 July 2021**COUNCIL RESOLUTION**

At 6:42pm Cr Barber moved, seconded Cr Barton –

That the Minutes of the Special Meeting of the Council held on Tuesday, 27 July 2021 be confirmed as a true and accurate record.

At 6:42pm, the Mayor declared the motion

CARRIED (12/0)

At 6:42pm Cr Barber left the meeting and returned at 6:50pm.

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

- Cr Mair. P21/3912 – Riseley Activity Centre Structure Plan - Alignment with State Planning Policy 7.3, Residential Design Codes. Financial Interest.

9.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

- Cr Kepert. P21/3912 – Riseley Activity Centre Structure Plan - Alignment with State Planning Policy 7.3, Residential Design Codes. Interest Under the Code of Conduct.
- Cr Kepert. P21/3935 – Scheme Amendment No.10, Rezoning Parks and Reserves from 'Residential' to 'Public Open Space' - Report on Results of Stakeholder Engagement. Interest Under the Code of Conduct.
- Cr Kepert. P21/3937 – Review of Local Planning Policy 1.12 Child Care Premise and Family Day Care. Interest Under the Code of Conduct.
- Cr Kepert. T21/3940 – RFT202126 Supply of Vegetation and Tree Watering Services for a Three Year Term with Option Period. Interest Under the Code of Conduct.
- Cr Kepert. T21/3942 - RFT202124 Construction of Karlup Ceramics Studio. Interest Under the Code of Conduct.
- Cr Kepert. M21/5849 - Policy Review, Council Policy CP-091 Elected Members Allowances and Expenses. Interest Under the Code of Conduct.
- Cr Kepert. M21/5853 - Review of Council Policy CP-017 Legal Representation Elected Members and Employees. Interest Under the Code of Conduct.
- Cr Kepert. M21/5854 - Review of Council Policy CP-105 Election Caretaker Period. Interest Under the Code of Conduct.
- Cr Kepert. M21/5000 - Common Seal Register. Interest Under the Code of Conduct.
- Cr Kepert. C21/6000 - Investment Statements June 2021. Interest Under the Code of Conduct.
- Cr Kepert. C21/6001 - Schedule of Accounts Paid June 2021. Interest Under the Code of Conduct.
- Cr Kepert. C21/6002 - Preliminary Statements of Financial Activity for June 2021. Interest Under the Code of Conduct.
- Cr Woodall. P21/3936 – Review of Compliance and Enforcement Actions – 18A and 18B Tweeddale Road, Applecross. Interest Under the Code of Conduct.

10. DEPUTATIONS

Nil.

11. APPLICATIONS FOR NEW LEAVES OF ABSENCE

Nil.

12. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

The meeting may close to members of the public, in accordance with Sections 5.23 of the *Local Government Act 1995*, to allow for an items with a confidential attachments to be discussed behind closed doors.

- T21/3942 - RFT202124 – Construction Of Karlup Ceramics Studio
- T21/3940 – RFT202126 Supply of Vegetation and Tree Watering Services for a Three Year Term with Option Period

13. PETITIONS

Nil.

14. REPORTS OF THE CHIEF EXECUTIVE OFFICER

At 6:48pm the Mayor brought forward Late Item P21/3936 - Review of Compliance and Enforcement Actions – 18A and 18B Tweeddale Road, Applecross for the convenience of the public gallery.

Disclosure of Interest

Member	Cr Woodall
Type of Interest	Interest under the Code of Conduct
Nature of Interest	Member of the JDAP Panel that considered the development application of this property.
Request	Leave
Decision Leave	Leave

At 6:48pm having declared an interest, Cr Woodall left the meeting.

P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)

Ward	: Applecross - Mt Pleasant
Category	: Operational
Application Number	: DA-2008-1557 DAP-2017-1238/C COMPLP-2020-179
Property	: 18A and 18B Tweeddale Road, Applecross
Proposal	: Review of compliance and enforcement actions.
Applicant	: Not Applicable
Owner	: Not Applicable
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Item P20/3865 – Ten (10) Multiple Dwellings Lots - 899 and 898 (No. 18a And 18b) Tweeddale Road, Applecross – 14 July 2020 Special Council Meeting Item P20/3885 - Ten (10) Multiple Dwellings Lots - 899 and 898 (No. 18a And 18b) Tweeddale Road, Applecross – 4 November Special Council Meeting Item P21/3925 - Ten (10) Multiple Dwellings – Section 31 Reconsideration Request - Lots 899 and 898 (No. 18a And 18b) Tweeddale Road, Applecross, Ordinary Council Meeting 18 May 2021. Item 13.1 Review of Compliance and Enforcement Actions – 18A and B Tweeddale Road, Applecross – June 15 Ordinary Council Meeting.
Responsible Officer	: Peter Prendergast Manager Statutory Planning

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)**

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>

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- At the Ordinary Meeting of the Council held on 15 June 2021, the receipt of a petition signed by 5 residents was considered. The petition stated
“We the undersigned, all being electors of the City of Melville respectfully request that the Council conduct an independent review of the lack of adequate compliance and enforcement actions in response to numerous complaints about the 18A & B Tweeddale Road, Applecross unauthorised soil build up, associated unauthorised building work possibly, adversely affecting the adjoining property owners.”
- At the Council Meeting it was resolved
“that the petition bearing 5 signatures be acknowledged and that a report be prepared”
- In response to the resolution of Council, a summary of the history of development applications of relevance to the issues raised by the petition is provided in the main body of this report.
- In addition a summary of the compliance action taken in respect of the unauthorised importation of fill to the site is also provided in the main body of this report.
- It is noted that if and when the site is developed in accordance with the current development approval, significant earthworks will be required in order to facilitate the development which incorporates basement level car parking.
- It is also noted that the finished floor levels associated with the development, as approved by the development approval, are required to be provided in accordance with that approval.
- In that context, it is noted that the bulk of the site will be the subject of excavation, with a small remnant of land to the northern side, particularly the north east corner, retained at the existing natural ground levels..
- A visual inspection of the site conducted by City officers in the preparation of this report indicates that the existing fill on site generally aligns with previous approved levels.
- In view of this it is not considered necessary for there to be an independent review of the levels as is sought by the petitioners.
- The onus is on the developer to ensure that development proceeds in accordance with approved plans, on the basis that failure to do so may result in prosecution.
- It is recommended that the report is noted, and no further action is required to be taken at this time.

[3936 Attachment 1 DA-2008-1557 Retaining Walls and Site Works](#)

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPLECROSS (REC) (ATTACHMENT)**



BACKGROUND

A petition signed by 5 residents of the City of Melville was received on 15 June 2021 and reads as follows:

“We the undersigned, all being electors of the City of Melville respectfully request that the Council conduct an independent review of the lack of adequate compliance and enforcement actions in response to numerous complaints about the 18A & B Tweeddale Road, Applecross unauthorised soil build up, associated unauthorised building work possibly, adversely affecting the adjoining property owners.”

The petition was presented at the Ordinary Council Meeting held on 15 June 2021 at which Council resolved:

That the petition bearing 5 signatures of residents be acknowledged and that a report be prepared for the Tuesday 17 August 2021 Ordinary Meeting of Council.

This report to Council provides the response of the Administration to the Council resolution.

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS -18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)****Scheme Provisions**

MRS Zoning	:	Urban
LPS Zoning	:	Residential – Canning Bridge Activity Centre - H4
R-Code	:	R-AC0
Use Type	:	Multiple Dwelling
Use Class	:	Preferred use

Site Details

Lot Area	:	1157m ²
Street Tree(s)	:	no
Street Furniture (drainage pits etc.)	:	no
Site Details	:	See aerial photo above

DETAIL

This report deals solely with the compliance and enforcement actions undertaken in relation to the subject site.

In response to the petition and subsequent resolution of the Council, the key issues for this report are as follows:

1. What are the approved natural ground levels for the site and when were they established.
2. Whether the actual levels on the site reflect the approved levels.
3. How the approved multiple residential development and the associated finished floor levels of that proposed development align with the approved natural ground levels.

Approved Natural Ground Levels

The property at 18 Tweeddale Road was the subject of an application for subdivision which was approved by the Western Australian Planning Commission (WAPC) on 24 July 2007. This subdivision approval was granted subject to a recommendation that levels and associated retaining walls be subject of subsequent approval by the City.

The approval to subdivide the lot into two meant that the existing single dwelling that had occupied the lot likely since the 1950's was to be demolished. This dwelling occupied a central position on the original property and was sited close to the eastern side boundary. The house was of single storey construction, and given the sloping nature of the lot with a slope from south to north, the house was built up to create a level floor level. This build up created a finished floor level at the ground floor of 8.56. This can be seen on Plan 1 below.

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)**

Actual Levels 'v' Approved Levels?

Since the construction of the retaining walls in late 2009, early 2010, questions regarding the actual levels that have been created on the site relative to the approved levels have been raised.

Throughout the period 2009 to present day, there have been a number of development applications for various types of residential development on this site. On each occasion when dealing with the assessment and determination of these development applications, the question of levels was raised and duly considered by the City as part of the associated decision making process. It has been consistently accepted by the decisions that have been taken that the actual levels on the site are consistent with the levels that were set by the subdivision approval and subsequent approval of retaining. These conclusions were reached after consideration of concerns expressed by the owners of neighbouring property that the levels were being incrementally increased via the importation of small amounts of sand/soil at various times.

Throughout the period 2009-present day, the City's records indicate there was one single example where material was brought onto the site and stored in a single mound. This occurred in late 2020, and in accordance with the City's Planning Compliance process, the matter was investigated, found to be true, associated compliance action was taken, and the material was ultimately removed by 17 February 2021. Upon removal, the compliance matter was closed. Please refer to Photographs 1, 2 3 and 4 below which provide evidence of the mound, and its subsequent removal.



Photograph 1: Unauthorised material on site, November 2020

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPLECROSS (REC) (ATTACHMENT)**



Photograph 2: Unauthorized material on site, November 2020



Photograph 3: Unauthorized material removed and site reinstated to previous condition, February 2021

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)**



Photograph 4: Unauthorised material removed and site reinstated to previous condition, February 2021.

Since the removal of the material mound, the development application for the proposed multiple dwelling development has been renewed. In considering the associated Development Assessment Panel application, concerns were once again raised regarding the levels on the site that notwithstanding the removal of the deposited sand mound by February 2021, the levels remain raised above the approved levels.

In response it is noted that the retaining walls that were constructed in early 2010 effectively establish the level to which the land on the site may be put. It can be seen from a site inspection, and is shown in Photographs 5 and 6 below, that the levels on the lot do not breach the top of the associated retaining walls, and are in fact generally consistent with the approved levels.

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)**



Photograph 5: 18 Tweeddale Road retaining walls to north and east side.



Photograph 6: 18 Tweeddale Road retaining walls in north east corner

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)**

An examination of photographic evidence extracted from Google Street View images shows the site over the period 2007-2019. These images are provided below (see Photographs 7-11).



Photograph 7: The site in November 2007



Photograph 8: The site in December 2009

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)**



Photograph 9: The site in September 2015



Photograph 10: The site in December 2016

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)**

Photograph 11: The site in August 2019

It can be seen in this series of photographs that the levels on the site between 2007 and 2019 remain consistent. It is important to recognise that this site has never been a flat site with consistent levels across it. The tiered levels that were endorsed at the time of the subdivision, enabled by the approved retaining walls, were designed to accurately reflect the traditional fall of the land on this lot from south west to north east. It is clear from these images that the levels are not raised above and beyond the approved levels. In the absence of any evidence to the contrary, it is concluded that there is no issue with the levels on this lot, and the concerns expressed in the petition the subject of this report, are not substantiated.

On that basis, and taking into account the evidence provided in this report, an independent surveyors report is not considered to be necessary. Furthermore, allegations of a lack of adequate compliance and enforcement on the part of the City are refuted on the basis that the City's records show only one single incidence of a compliance matter being initiated in respect of site levels and unauthorised fill. As stated previously, this matter was thoroughly investigated and the unauthorised material was removed by February 2021.

Proposed Multiple Dwelling Development and Impact on Approved Levels

The site benefits from development approval for the erection of a four storey multiple dwelling development. This development approval was assessed in accordance with the provisions of the Canning Bridge Activity Centre Plan, which requires that buildings in this location are designed and constructed to a maximum height of 4 storeys, with a maximum height in metres of 16m.

The proposed development was approved at 4 storeys and is less than 16m in height. The height of the building is measured from the natural ground level that applies, which in this case are the levels that were approved in 2007/8 (refer to Plan 1).

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)**

The approved plans for the redevelopment of the site depict a building with a basement level car park at a level of 6.6, and a finished floor level to the ground floor of 9.8. This finished level to the ground floor indicates that the ground floor is raised above the natural ground level of 8.55 by some 1.3m.

In order to accommodate the proposed development at the levels that are approved, there will be extensive excavation across the whole site, and the existing natural ground levels will essentially be masked by the new development for the bulk of the site area. A small portion of the lot will be retained at existing natural ground levels, this being in the northern side particularly in the north east corner where the natural ground level is at its lowest.

In effect, the development proposal was assessed against the approved natural ground levels, which provided a basis for the height measurement of the development to be taken. As the proposed development is no more than 16m in height from the existing natural ground level, it can be seen to be acceptable in the context of the CBACP, and was approved on that basis. The height of the development is dictated to by the approved plans. The onus is on the developer to construct the development in accordance with the approved plans, and at the approved finished floor levels. Failure to do so will mean that the development is not constructed in accordance with the development approval, leaving the developer open to compliance action and potential prosecution.

Given there is no reason to assume otherwise, and given there is no evidence to suggest that the levels on the site are raised above those approved, it is expected that the development will proceed in accordance with the expectations set by the development approval and associated planning policy framework.

STAKEHOLDER ENGAGEMENT

No stakeholder engagement has been undertaken as this report relates to compliance and enforcement actions only.

The previous applications for development approval for the subject site, including the extension of time request from August 2020, were the subject of public consultation.

STATUTORY AND LEGAL IMPLICATIONS

There are no statutory or legal implication in relation to this matter.

FINANCIAL IMPLICATIONS

None applicable.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)****POLICY IMPLICATIONS**

There are no policy implications in relation to this matter.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

None applicable.

CONCLUSION

The subject site has had a number of approvals over years. The most recent approval will require significant excavation to facilitate the undercroft car parking level. A visual inspection of the site indicates that the mound of soil which was placed on site in December has been removed and the levels are generally as per previous approvals. On that basis the concerns expressed by the petitioners are not substantiated.

OFFICER RECOMMENDATION (3936)**APPROVAL**

At 6:57pm Cr Sandford moved, seconded Cr Barton –

That the Council:

1. **Notes the officers advice that:**
 - a. **the response of the City to compliance matters raised in respect of the importation of unauthorised fill onto the site at 18 A and B Tweeddale Road was adequate and in accordance with the City's Planning Compliance Procedure;**
 - b. **The levels on the site are consistent with the approved levels for the site;**
 - c. **The development of the site will introduce new finished floor levels and the maximum height of the development will be less than the 16m requirement as required by the Canning Bridge Activity Centre Plan.**
2. **Directs the CEO to advise the lead petitioner that due to the circumstances described in point 1 above, no further action will be undertaken by the City at this stage.**

At 6:42pm Cr Barber left the meeting and returned at 6:50pm.

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)**

Alternative Motion

At 6:48pm Cr Mair moved, seconded Cr Kepert –

That the Council

1. **Acknowledges the response of the City to compliance matters raised in 2020 in respect of the importation of unauthorized fill onto the site at 18A and 18B Tweeddale Road was adequate and in accordance with the City's planning Compliance Procedures and finalized on 17 February 2021.**
2. **Directs the CEO to source a list of independent site surveyors to establish the natural ground level. The site surveyor is to be selected by the Council in the September Council Meeting.**
3. **Directs the CEO to advise the lead petition of the decision.**

At 6:57pm the Mayor advised that it appeared Cr Mair was moving an amendment to the Officer Recommendation and called for the Officer Recommendation to be put on the table, moved by Cr Sandford and seconded by Cr Barton. Cr Robins moved a motion of dissent, seconded by Cr Mair, as the motion proposed by Cr Mair was substantially different to the Officer Recommendation. It was clarified that Cr Mair was amending her alternate motion that had been tabled. Cr Robins and Cr Mair withdrew the motion of dissent, Cr Sandford and Cr Barton withdrew their support for the officer recommendation.

Alternative Motion

COUNCIL RESOLUTION

At 6:48pm Cr Mair moved, seconded Cr Kepert –

That the Council

1. **Acknowledges the response of the City to compliance matters raised in 2020 in respect of the importation of unauthorized fill onto the site at 18A and 18B Tweeddale Road was adequate and in accordance with the City's planning Compliance Procedures and finalized on 17 February 2021.**
2. **Directs the CEO to source a list of independent site surveyors to establish the natural ground level. The site surveyor is to be selected by the Council at the September 2021 Council Meeting.**
3. **Directs the CEO to advise the lead petition of the decision.**

At 7:16pm, the Mayor declared the motion

CARRIED (10/1)

Yes	10	Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Pazolli, Cr Robins, Cr Kepert, Cr Fitzgerald, Mayor Gear
No	1	Cr Macphail

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)****Reasons for the Alternative Motion as provided by Cr Mair:**

1. There have been numerous requests by residents that officers commission an independent survey to establish natural ground level which has not been done to date. The ground level survey approved by Council Officers in 2008 establishes 8.55 as the natural ground level. This was provided by the developer. So it appears that an independent survey was never carried out.
2. In 2007, there was a fire in the Council basement destroying all plans prior to that date. The house that was demolished on the site was built in the 1950's. Photos of the house show that it was much lower than the natural ground level stated on the developer's survey.
3. The original Landgate levels of the site in 2004 showed there was a 4 metre height difference between the southwest corner and northeast corner of the site.
4. Observations of additional land fill noted by residents prior to 2020 were reported to Officers of the Council and many letters written about the land fill issue. Reports of unauthorised land fill was also reported to CEO, Mayor and Councillors on numerous occasions after Council officers invested (sic) and acted on the compliance issue of 2020. These have been provided to Elected Members by way of email.

At 7:17pm the Mayor brought forward Late Item P21/3943 Amendment to Single House (Site Works and Screening) – Lot 802 (10D) Birdwood Circus, Bicton WA 6157 for the convenience of the public gallery.

At 7:17pm Cr Woodall returned to the meeting.

Cr Barber tabled document for referral during discussion and debate. [Document Tabled by Cr Barber – P21/3943 – 10D Birdwood Circus Bicton](#)

LATE ITEM P21/3943 AMENDMENT TO SINGLE HOUSE (SITE WORKS AND SCREENING) – LOT 802 (10D) BIRDWOOD CIRCUS, BICTON WA 6157 (REC) (ATTACHMENT)

Ward : Bicton - Attadale - Alfred Cove
 Category : Operational
 Application Number : DA-2019-1200/B
 Property : Lot 802 (10D) Birdwood Circus, Bicton WA 6157
 Proposal : Amendment to a Single House (Site Works and Screening)
 Applicant : Mr M J Tomasini
 Owner : Mr M J and Mrs A R Tomasini
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : None
 Responsible Officer : Peter Prendergast
 Manager Statutory Planning

AUTHORITY / DISCRETION

DEFINITION

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

[3943 Amendment to Single House Site Works and Screening](#)

**P21/3943 AMENDMENT TO SINGLE HOUSE (SITE WORKS AND SCREENING) – LOT 802
(10D) BIRDWOOD CIRCUS, BICTON WA 6157 (REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- The proposed development was presented to the Development Advisory Unit meeting held on 13 July 2021 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.
- Development approval is sought for site works and screening at Lot 802 (No. 10D) Birdwood Circus, Bicton.
- The details of the proposed development have been assessed against Local Planning Scheme No. 6 (LPS6), the provisions of State Planning Policy 7.3 Residential Design Codes Volume 1 (the R-Codes) and relevant local planning and Council policies.
- The proposed development requires a performance assessment in relation to building setbacks for the proposed screen wall, site works and visual privacy.
- The proposed development was advertised to the adjoining owners in accordance with Part 4 of the R-Codes and Local Planning Policy 1.1 Planning Process and Decision Making (LPP1.1).
- Three submissions, each from the same property, were received objecting to the proposed site works along the north-eastern lot boundary, building bulk and visual privacy.
- Amended plans were submitted by the applicant that partially addresses the objectors concerns; however the objection was not withdrawn.
- Notwithstanding the objection received, the proposed development as amended is acceptable when assessed against the relevant Design Principles of the R-Codes.
- It is recommended that approval be granted subject to conditions.



Figure 1: Aerial photography of subject site (No. 10D Birdwood Circus, Bicton)

**P21/3943 AMENDMENT TO SINGLE HOUSE (SITE WORKS AND SCREENING) – LOT 802
(10D) BIRDWOOD CIRCUS, BICTON WA 6157 (REC) (ATTACHMENT)****BACKGROUND**

Development Approval was previously granted for a two storey single house in 2019, with further amendments to the two storey house approved in 2020. This application is the result of a compliance matter where site works at the rear of the subject property occurred without approval which created visual privacy issues with the adjoining northern neighbour.

Scheme Provisions

MRS Zoning	:	Urban
LPS6 Zoning	:	Residential
R-Code	:	R17.5
Use Type	:	Residential
Use Class	:	Permitted

Site Details

Lot Area	:	633m ²
Retention of Existing Vegetation	:	N/A
Street Tree(s)	:	Yes
Street Furniture (drainage pits etc.)	:	No
Site Details	:	Refer to Figure 1 above

DETAIL

In March 2021, site works occurred at the subject property where additional retaining walls were constructed and fill was added to the site. In response to concerns raised with the City, compliance action was commenced against the owner of No. 10D Birdwood Circus, Bicton.

Subsequently, a development application was lodged for an amendment to the approved two storey single house at Lot 802 (10D) Birdwood Circus, Bicton. This application seeks approval for the raised ground levels and for a screening structure located adjacent to the northern boundary.

The application has been assessed against the provisions of Local Planning Scheme No. 6 (LPS6), State Planning Policy 7.3 Residential Design Codes Volume 1 (the R-Codes) and relevant local planning and council policies. A performance assessment is required in respect of the matters listed below.

**P21/3943 AMENDMENT TO SINGLE HOUSE (SITE WORKS AND SCREENING) – LOT 802
(10D) BIRDWOOD CIRCUS, BICTON WA 6157 (REC) (ATTACHMENT)**

**Local Planning Scheme and Local Policy Requirements – State Planning Policy 7.3
Residential Design Codes/LPP3.1**

Development Requirement	Deemed to Comply standard	Proposed	Comments	Delegation to approve variation
Clause 5.1.3 C3.3 Lot Boundary Setbacks CoM LPP3.1 Cl. 6 C3.4	Lot boundary wall Setback: 6m Length: 9m max height: 3m	Setback: >6m Length: 14m (overall total) Max: 3.8m	Requires assessment against the Design Principles of the R-Codes/LPP 3.1.	Development Advisory Unit (DAU)
Clause 5.3.7 C7.2 Site Works	Retaining walls, fill and excavation within the site and behind the required Street setback to comply with Table 4. Table 4 – Setback of site works and retaining walls Height of site works and/or retaining walls 2m – requires minimum setback of 2m	Retaining wall up to 1.9m in height measured above NGL TOW: 34.3m NGL: 32.37m	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)
5.4.1 C1.1 Visual Privacy	Unenclosed outdoor active habitable spaces setback 7.5m for areas coded <R50.	4.3m	Requires assessment against the Design Principles of the R-Codes.	Development Advisory Unit (DAU)

The discussion in this report relates to each design element outlined above.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

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

The submissions received object to the proposal citing concerns in relation to; building bulk, site works and visual privacy.

**P21/3943 AMENDMENT TO SINGLE HOUSE (SITE WORKS AND SCREENING) – LOT 802
(10D) BIRDWOOD CIRCUS, BICTON WA 6157 (REC) (ATTACHMENT)**

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

Summary of Issues Raised	Comments	Action (Condition/ Uphold/ Not Uphold)
Bulk and scale of screen wall	Refer to the comments section of this report.	Not Uphold
Site works as a result of additional fill added to the site	Refer to the comments section of this report.	Not Uphold
Visual privacy impacts as a result of site works	Since initial consultation, the plans have been amended to include a privacy screen (screen wall) 1.6m in height measured above the finished ground level of the subject site. This structure will reduce overlooking of sensitive areas. Refer to 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 refuse the application or impose a condition that the applicant does not agree with they 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 for the City relating to this proposal.

**P21/3943 AMENDMENT TO SINGLE HOUSE (SITE WORKS AND SCREENING) – LOT 802
(10D) BIRDWOOD CIRCUS, BICTON WA 6157 (REC) (ATTACHMENT)****COMMENT**Lot Boundary Wall (Screen Wall)

A garage with a 9 metre long boundary wall was approved as part of the original decision. The proposed privacy screen, is considered as a boundary wall as per the provisions of LPP3.1. When the proposed privacy screen wall is assessed in conjunction with the garage wall, the total length and the height of the screen wall do not meet the deemed-to-comply provisions of LPP3.1 Cl. 6 C3.4 and therefore require a performance assessment. The screen wall is considered acceptable and can be supported for the following reasons:

- The screen wall length and height are the minimum required to provide a reasonable level of privacy to the adjoining property's secondary outdoor living area. A portion of the screen is located adjacent to a wall with no major openings reducing the bulk impact. The location of the screen wall does not adversely affect the neighbour's access to northern sunlight and ventilation nor does it impact the outlook from the east facing bedroom window.
- The screen is designed to minimise the visual privacy impact on the adjoining landowner while making more effective use of the subject site. The screen wall is located towards the rear of the subject site and on the southern lot boundary of the affected neighbour. The screen wall will be visible from the adjoining property's pool area which is a secondary outdoor living area. The proposal will not overshadow the northern neighbour;
- The lot boundary wall is setback 0.4m from the northern lot boundary of the subject site to mitigate impacts of building bulk and scale on the neighbour. The screen wall is stepped behind the existing boundary fence to create a degree of separation between the fence and the screen wall.

**P21/3943 AMENDMENT TO SINGLE HOUSE (SITE WORKS AND SCREENING) – LOT 802
(10D) BIRDWOOD CIRCUS, BICTON WA 6157 (REC) (ATTACHMENT)**



Figure 2 – Proposed location of screen wall from viewed from the subject site



Figure 3 – Proposed location of screen wall viewed from northern neighbour's property

**P21/3943 AMENDMENT TO SINGLE HOUSE (SITE WORKS AND SCREENING) – LOT 802
(10D) BIRDWOOD CIRCUS, BICTON WA 6157 (REC) (ATTACHMENT)**

Site Works

As outlined in the table above, the setback of the blade wall which forms part of the retaining wall of the subject site does not meet the deemed-to-comply provisions of the R-Codes and therefore requires a performance assessment. The proposed retaining wall setback is considered to meet the Design Principles of the R-Codes for the following reasons:

- Overall, the retaining wall setbacks meet the deemed-to-comply criteria, except for a blade wall which forms part of the pool pump/storage area. The blade wall is located behind the existing fence ensuring the wall will not add excess building bulk on to the adjoining northern property, or be seen from the street. The subject blade wall is setback 1m from the northern lot boundary in lieu of 2m;
- The approved dwelling meets the R-Codes deemed-to-comply criteria for solar access and ventilation. Therefore access to direct sunlight and ventilation on the adjoining northern property is not restricted;
- The site slopes by approximately 5 metres from the street to the rear lot boundary. The site works respond to the natural contours of the site, and the fill and retaining walls allow for a level outdoor living area creating a useable space for the occupants of the dwelling.
- The blade wall is located next to the adjoining property's service access leg and swimming pool and is not located next to the primary outdoor living area. The wall will not be visible from habitable rooms of the adjoining property as the boundary fence screens the retaining wall from view. All habitable rooms of the adjoining property are oriented towards the north and east and not towards the subject site; and
- The visual privacy issues associated with the fill and retaining walls have been adequately addressed through the proposed addition of a screen wall and is discussed further below.

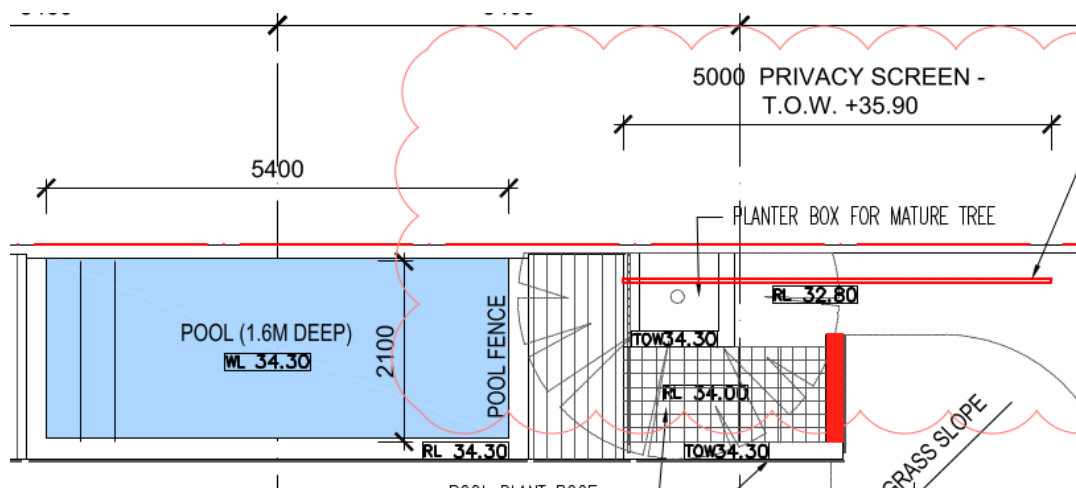


Figure 4 – Blade wall location shown in red

**P21/3943 AMENDMENT TO SINGLE HOUSE (SITE WORKS AND SCREENING) – LOT 802
(10D) BIRDWOOD CIRCUS, BICTON WA 6157 (REC) (ATTACHMENT)**

Visual Privacy

As outlined in the table above, the proposed fill associated with site works creates a ground level greater than 0.5m height above natural ground level. This does not meet the deemed-to-comply provisions of 5.4.1 C1.1 and therefore requires a performance assessment. The height and length of the proposed screen wall is considered acceptable and adequate visual privacy is maintained for the adjoining property for the following reasons:

- The proposed screening ensures minimal direct overlooking of the pool area of the adjoining property. As depicted in the Figure 5 below, views are directed to the rear corner of the lot, ensuring the secondary living area and the majority of the pool area are maintained as private space; and
- The adjoining property to the north is designed with its primary outdoor living area orientated to the northern side of the dwelling. This ensures that the outdoor living area is not impacted by the current proposal. The proposed site works do not result in any overlooking of major openings to the adjoining property as it has been designed with highlight windows facing south, and its site has major openings facing east towards the swimming pool, or north towards the alfresco.

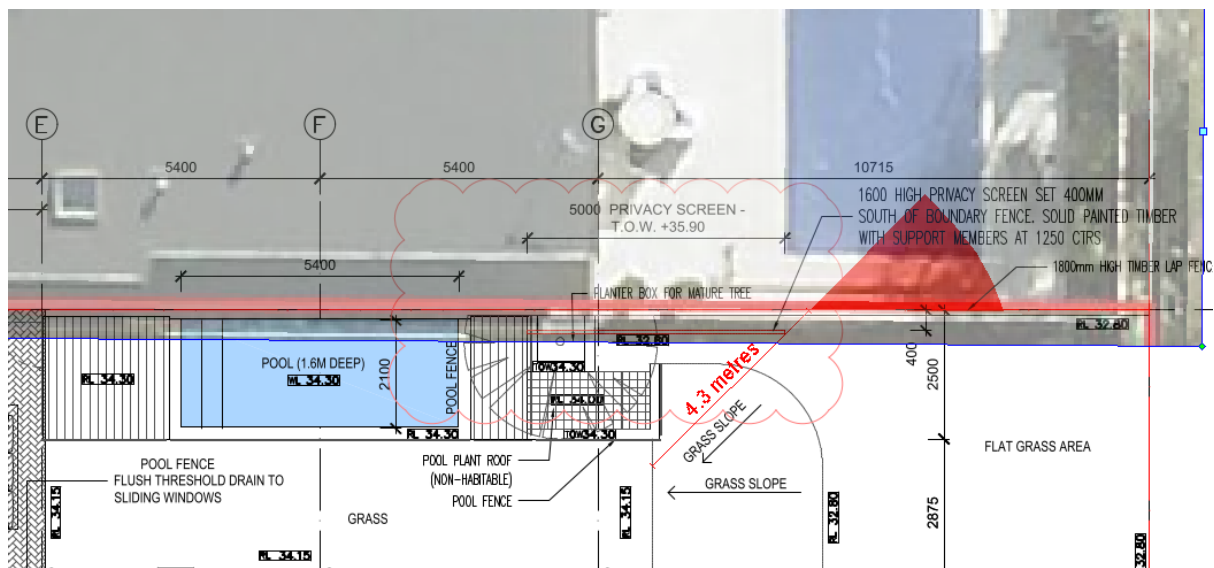


Figure 5 – Screen wall showing detail of restricted cone of vision

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

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

P21/3943 AMENDMENT TO SINGLE HOUSE (SITE WORKS AND SCREENING) – LOT 802 (10D) BIRDWOOD CIRCUS, BICTON WA 6157 (REC) (ATTACHMENT)

CONCLUSION

This application for amendments to the approved single house including site works and screening has been assessed and is considered to comply with the relevant planning framework, including the design principles of the R-Codes. Overall, the proposal has addressed the main issue of visual privacy onto the northern neighbour and the screen wall proposed is scaled down to length that is supportable by the City. Therefore these amendments proposed as part of this application are considered to provide an acceptable outcome. It is noted that the approach to deal with a breach of the planning requirements via the submission of an application such as this is a standard approach to compliance, and is in accordance with the City’s planning compliance processes. Given the design principle assessment, it is concluded that that the development is acceptable, and is recommended for approval on that basis.

OFFICER RECOMMENDATION (3943)

APPROVAL

At 7:17pm Cr Robins moved, seconded Cr Wheatland –

That the Council approves DA-2019-1200/B for amendments to a Two Storey Single House at Lot 802 (10D) Birdwood Circus, Bicton WA 6157 subject to compliance with the following:

- A) The previous planning approval DA-2019-1200/A dated 12 August 2020 (including remaining conditions);**
- B) The enclosed approved plans (referenced Site Plan, Ground Floor Plan, First Floor Plan and Elevations) stamped as approved on 26 July 2021;**
- C) Additional condition 13 be added:**
 - 13. The privacy screen shown on the approved plans (marked in red) shall meet the Deemed to Comply standards of Cl. 5.4.1 of the Residential Design Codes. The privacy screen shall be installed prior to initial occupation of the development and thereafter retained in perpetuity to the ongoing satisfaction of the City.**

At 7:31pm, the Mayor declared the motion

LOST (4/8)

Yes	4	Cr Wheatland, Cr Woodall, Cr Robins, Cr Macphail
No	8	Cr Barber, Cr Barton, Cr Mair, Cr Sandford, Cr Pazolli, Cr Kepert, Cr Fitzgerald, Mayor Gear

Reason for Rejection of Office Recommendation as provided by Cr Barber after the meeting

The development, including the need to provide a raised screen to achieve satisfactory visual privacy levels, will result in an over height and bulky structure located close to the shared rear boundary to the detriment of visual amenity levels for occupiers of the adjoining property.

Disclosure of Interest

Member	Cr Mair
Type of Interest	Financial Interest
Nature of Interest	I am the director of a company that owns property in Riseley Activity Centre
Request	Leave
Decision Leave	Leave

Member	Cr Kepert
Type of Interest	Interest under the code
Nature of Interest	I do not possess the information required to make an informed decision.
Request	Stay and Discuss
Decision Leave	Stay and Discuss

At 7:34pm having declared an interest, Cr Mair left the meeting.

P21/3912 - RISELEY ACTIVITY CENTRE STRUCTURE PLAN - ALIGNMENT WITH STATE PLANNING POLICY 7.3, RESIDENTIAL DESIGN CODES (REC) (ATTACHMENT)

Ward	:	Central Ward
Category	:	Strategic
Application Number	:	Not applicable
Property	:	Various
Proposal	:	Proposed Amendments in response to State Planning Policy 7.3, Residential Design Codes Volume 2 – Apartments (R-Codes Vol.2).
Applicant	:	City of Melville
Owner	:	Various
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item P21/3912 Riseley Activity Centre Structure Plan – Alignment with State Planning Policy 7.3, Residential Design Codes - 18 May 2021 Ordinary Meeting of Council.
Responsible Officer	:	Gavin Ponton Manager Strategic Urban Planning

P21/3912 - RISELEY ACTIVITY CENTRE STRUCTURE PLAN - ALIGNMENT WITH STATE PLANNING POLICY 7.3, RESIDENTIAL DESIGN CODES (REC) (ATTACHMENT)

AUTHORITY / DISCRETION

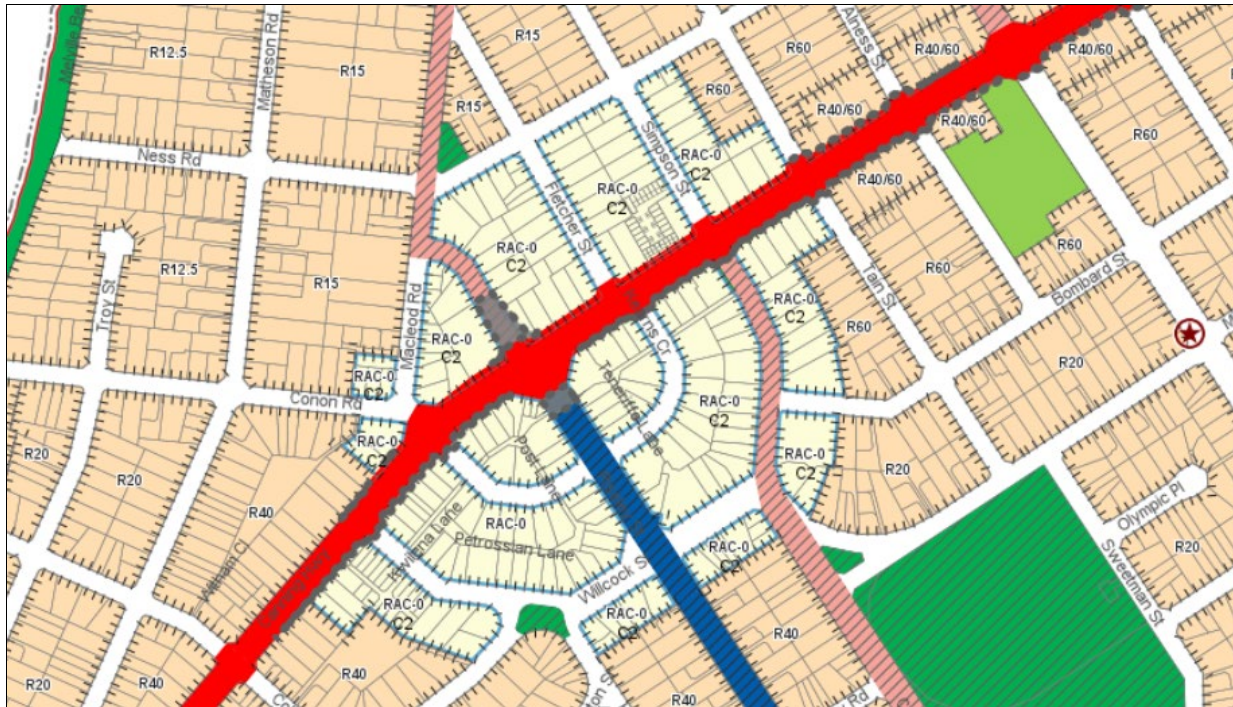
DEFINITION

<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 (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

KEY ISSUES / SUMMARY

- In May 2019, the Western Australian Planning Commission (WAPC) introduced State Planning Policy 7.3, Residential Design Codes Volume 2 – Apartments (R-Codes Vol.2).
- SPP 7.3 introduces a range of design provisions into the R-Codes to support the primary development controls (e.g. siting, façade design, landscaping, tree provision, resource conservation, parking, solar access, ventilation, dwelling design, universal access, energy efficiency, water management, waste management).
- SPP 7.3 seeks local governments to maximise consistency between Activity Centre / Structure Plans and Residential Design Codes in particular to ensure incorporation of the new design initiatives.
- In response to the state government directive, changes to the Riseley Activity Centre Structure Plan (RACSP) are proposed to replace existing content in the Plan with the design initiatives of the Design Codes.
- It is recommended that proposed changes to the RACSP be supported and that advertising of the amendments be commenced.

P21/3912 - RISELEY ACTIVITY CENTRE STRUCTURE PLAN - ALIGNMENT WITH STATE PLANNING POLICY 7.3, RESIDENTIAL DESIGN CODES (REC) (ATTACHMENT)



LPS6 zoning map showing the Riseley Activity Centre Structure Plan

BACKGROUND

In May 2019, the Western Australian Planning Commission (WAPC) introduced State Planning Policy 7.3, Residential Design Codes Volume 2 – Apartments (R-Codes Vol.2). The R-Codes Vol.2 provides planning and design standards for residential apartments in areas coded R40 or above, within mixed use development and activity centres. The R-Codes Vol.2 encourages local governments to maximise consistency between the local planning framework, including Activity Centre and Structure Plans and the policy, and in particular to provide for incorporation of the new design initiatives.

The RACSP was prepared and adopted in 2015 prior to the existence of the R-Codes Vol.2 and as a result contains inconsistencies with the content of the R-Codes Vol.2. An amendment to the RACSP would enable the design initiatives of the new R-Codes to be incorporated. Similar amendments to the City’s other Activity Centre Plans are intended to be presented to Council in the future, in keeping with the direction from State Government.

This item was presented to the Council meeting held 18 May 2021. At this meeting Council resolved as follows:

“That Item P21/3912 Riseley Activity Centre Structure Plan – Alignment with State Planning Policy 7.3, Residential Design Codes, be deferred to the 17 August 2021 Ordinary Meeting of Council.”

**P21/3912 - RISELEY ACTIVITY CENTRE STRUCTURE PLAN - ALIGNMENT WITH STATE
PLANNING POLICY 7.3, RESIDENTIAL DESIGN CODES (REC) (ATTACHMENT)****Scheme Provisions**

MRS Zoning	:	Urban
LPS Zoning	:	C2 Centre Zone
R-Code	:	RAC-0
Use Type	:	N/A
Use Class	:	N/A

Site Details

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

DETAIL

An amendment to the RACSP is proposed to incorporate the design initiatives of the new R-Codes. The amendment effectively requires development in the RACSP to be assessed against the R-Codes unless otherwise specified. The primary controls in the RACSP (such as height) would remain in accordance with the Structure Plan however under the amendment the bulk of the new design initiatives in the R-Codes would be read as part of the Structure Plan.

The new design initiatives in the R-Codes would replace existing content currently in the RACSP. The change would ensure the RACSP achieves additional consistency with the industry standard. The R-Code content to be incorporated is also noted as being more comprehensive than that currently in the RACSP.

The proposed updates apply to mixed use and residential development only. The existing provisions in the RACSP (facades and frontages, signage, landscaping, resource conservation, car parking and waste management) still apply to commercial development.

P21/3912 - RISELEY ACTIVITY CENTRE STRUCTURE PLAN - ALIGNMENT WITH STATE PLANNING POLICY 7.3, RESIDENTIAL DESIGN CODES (REC) (ATTACHMENT)

The existing RACSP is proposed to be updated as follows:

R-Codes Vol 2	City of Melville Response
Part 2: Primary Controls	<p>Part 2 of the R-Codes Vol.2 are the primary controls such as, building heights, street setbacks and side and rear setbacks. The existing primary controls in the RACSP were formed as part of a detailed Urban Form study that investigated urban form and structure, built form character, built form requirements and public spaces.</p> <p>The existing primary controls of the RACSP have been adopted in a manner that is consistent with the provisions of the R-Codes Vol.2 and reflect controls specific to the Riseley Precinct. The proposed amendment is limited to incorporating additional design initiatives from the new R-Codes into the RACSP. It is not proposed to modify the primary controls as part of this current administrative amendment. Changes to these provisions would require comprehensive review of the built form framework. It is proposed that this occur as part of the scheduled review of the RACSP in 2025.</p>
Part 3: Siting the Development	<p>Part 3 of the R-Codes Vol.2 provides guidance on the design and configuration of apartment development at a site scale.</p> <p>These elements are proposed to be incorporated into the structure plan with the exception of <i>Element 3.5 Visual Privacy</i> which is proposed to be incorporated in a modified form to reflect the existing RACSP primary controls.</p>
Part 4: Designing the Building	<p>Part 4 of the R-Codes Vol.2 provides design guidance for building layout, functionality, landscaping, environmental performance and residential amenity.</p> <p>All of these elements are proposed to be incorporated into the structure plan.</p>

P21/3912 - RISELEY ACTIVITY CENTRE STRUCTURE PLAN - ALIGNMENT WITH STATE PLANNING POLICY 7.3, RESIDENTIAL DESIGN CODES (REC) (ATTACHMENT)

An overview and description of the R-Codes provisions proposed to be incorporated into the RACSP is provided in Attachment 1

[3912 Attachment 1 Overview of Proposed R-Code Provisions](#)

The table of proposed modifications to the RACSP is detailed in Attachment 2

[3912 Attachment 2 Schedule of Modifications](#)**STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

If the Council resolved to initiate the amendments it would require the completion of a public advertising period. An amendment to the RACSP would be required to be advertised for 42 days after the day on which the notice is first published.

II. OTHER AGENCIES / CONSULTANTS

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

STATUTORY AND LEGAL IMPLICATIONS

An amendment to the structure plan requires a resolution of the Council to initiate the process, including the commencement of advertising. Procedures are specified by the *Planning and Development (Local Planning Schemes) Regulations 2015*.

FINANCIAL IMPLICATIONS

Should the Council resolve to proceed with initiation of a scheme amendment; costs will be incurred in terms of items including preparation of supporting planning reports and advertising.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Initiation of an amendment to align with the R-Codes Vol. 2 is considered to be in keeping with the Local Planning Strategy. There are no strategic, risk or environmental management implications with this request.

P21/3912 - RISELEY ACTIVITY CENTRE STRUCTURE PLAN - ALIGNMENT WITH STATE PLANNING POLICY 7.3, RESIDENTIAL DESIGN CODES (REC) (ATTACHMENT)**POLICY IMPLICATIONS**

An amendment to update the RACSP to align with the R-Codes Vol. 2 at this point in time is considered in keeping with the Local Planning Strategy.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council could resolve to not initiate or support the structure plan amendment. In this case, the structure plan will continue to apply in its current form including the inconsistencies with the R-Codes Vol. 2. This approach would prevent the opportunity to incorporate the new R-Code initiatives which would have a beneficial impact on future developments into the structure plan.

The Council may also consider a wider review of the structure plan. It is noted that a wider review of the plan is not due or scheduled until 2025 and is not budgeted. A wider review of the plan, such as an examination of built form controls (height, setbacks, floor space), would constitute a major amendment to the plan and is estimated to require in the order of \$100,000 to \$150,000 in funding in addition to the cost of staff time. There is also likelihood that any review of the structure plan will be required to be undertaken in accordance with the State Government's, State Planning Policy 7.2 Precinct Design Guidelines (SPP 7.2). Such a direction would necessitate a complete review of the structure plan to accord with the content and format of SPP 7.2. Costs and resources for preparation of a Precinct Plan are estimated at \$250,000. Any amendment to the structure plan will require assessment and determination by the Western Australian Planning Commission.

Bringing forward a review of the Riseley Structure Plan would require re-allocation of budget funds and re-prioritisation of strategic urban planning projects. Projects that would require consideration of reallocation of resources and/or reduced priority include:

- Review of Canning Bridge Activity Centre Plan (current)
- Economic Development Strategy (current)
- Review of Local Planning Scheme 6 (current)
- Murdoch Residential Opportunities Study (scheduled 2021/2022)
- Petra Street Precinct Plan (scheduled 2021/2022)
- Canning Highway Corridor Planning (scheduled 2021/22)

CONCLUSION

An administrative amendment is proposed to the RACSP to incorporate the design initiatives of the recently released R-Codes. The proposed amendment responds to State Government directions and will provide additional consistency and clarity with respect to design outcomes in the RACSP. The new design initiatives proposed to be included in the RACSP are considered to be either equally effective or more effective than the provisions that are proposed to be replaced. The proposed amendment is limited to an administrative amendment to allow timely incorporation of the new design content of the R-Codes. Examination of the primary controls in the RACSP would require a separate project involving comprehensive review of the Plan.

P21/3912 - RISELEY ACTIVITY CENTRE STRUCTURE PLAN - ALIGNMENT WITH STATE PLANNING POLICY 7.3, RESIDENTIAL DESIGN CODES (REC) (ATTACHMENT)

It is recommended that the amendment be initiated for advertising. At the conclusion of the advertising period the amendment will be presented to Council to consider submissions and to prepare a recommendation on the amendment for forwarding to the WAPC.

OFFICER RECOMMENDATION (3912)**APPROVAL**

That the Council:

1. In accordance with Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015* resolves to approve the proposed modifications to the Riseley Activity Centre Structure Plan as outlined in Attachment 1 and 2 of this item for the purpose of advertising.
[3912 Attachment 1 Overview of Proposed R-Code Provisions](#)
[3912 Attachment 2 Schedule of Modifications](#)
2. Notes that a further report will be presented to the Council at the conclusion of the advertising period to enable consideration of submissions and recommendations to the Western Australian Planning Commission on whether the proposed amendments should be approved or modified.

At 7:34pm Mr Rae left the meeting and returned at 7:37pm.

At 7:34pm Cr Wheatland left the meeting and returned at 7:41pm.

Alternative Motion

At 7:34pm Cr Pazolli moved, seconded Cr Sandford –

That the Council does not approve the proposed administrative amendments for advertising at this time, but requests that the Chief Executive Officer, before September 30, 2021, arranges for Elected Members' workshops/meetings to develop and consider options for any additional administrative amendments or broader reviews that the Council may decide is appropriate to include in an amendment of the Riseley Activity Centre Plan.

At 7:43pm Ms Davis left the meeting and returned at 7:44pm.

At 7:46pm Cr Fitzgerald foreshadowed an amendment to the Officer recommendation.

P21/3912 - RISELEY ACTIVITY CENTRE STRUCTURE PLAN - ALIGNMENT WITH STATE PLANNING POLICY 7.3, RESIDENTIAL DESIGN CODES (REC) (ATTACHMENT)

COUNCIL RESOLUTION

At 7:34pm Cr Pazolli moved, seconded Cr Sandford –

That the Council does not approve the proposed administrative amendments for advertising at this time, but requests that the Chief Executive Officer, before September 30, 2021, arranges for Elected Members' workshops/meetings to develop and consider options for any additional administrative amendments or broader reviews that the Council may decide is appropriate to include in an amendment of the Riseley Activity Centre Plan.

At 7:52pm, the Mayor declared the motion

CARRIED (6/4)

Yes	6	Cr Barber, Cr Barton, Cr Sandford, Cr Woodall, Cr Pazolli, Mayor Gear
No	4	Cr Wheatland, Cr Robins, Cr Fitzgerald, Cr Macphail

At 7:53pm Cr Kepert abstained from voting on the matter.

Reasons for the Alternate Motion as provided by Cr Pazolli

1. The Riseley Activity Centre Plan (RACP) was approved in April 2015 and has now been in place for over 6 years. Under State Planning Laws an Activity Centre or Structure plan is only in operation for 10 years at which time either the Activity Centre plan ceases to operate and reverts back to the current Local Planning Scheme or the Council requests the WAPC approve a new/revised/existing Activity Centre Plan for another 10 years. Given that it can take 12 months for Council to review & advertise a plan and that the WAPC can then take 12 to 18 months before approving the proposed plan, it would be prudent to commence the review within the next 2 years or as soon as possible.
2. However, recent experiences with the review of the Canning Bridge Activity Centre Plan and recent JDAP development applications in the Riseley Activity Centre Plan area have highlighted deficiencies in the resulting built forms that should be addressed at this time rather than waiting for a later scheduled review.
3. Specifically, the following aspects of the existing RACP are of concern:
 - Developments at 22-24 Kearns Crst and 2-4 Kearns Crst that have resulted in effective dwelling density yields in excess of 300 dwellings/HA – equivalent to the dwelling density yields in the heart of the Canning Bridge Activity Centre Plan!
 - Having nil setbacks on all 4 boundaries of a development (eg 2-4 Kearns Crst, 15 Willcock St) including zero metre rear boundary setbacks onto narrow laneways that also result in traffic sightline issues. Also results in overshadowing issues.
 - Lack of dwelling diversity (proportion of single bedroom apartments) in current designs compared to the dwelling diversity requirements in the RACP.
 - Excessive ground floor storey heights that are encouraging developers to develop multi-storey above ground private parking garages behind the commercial ground floor façade – effectively meeting the 6 floor maximum requirement but resulting in taller buildings.
4. This reject & replace motion proposes that Council actively considers and scopes what are the options and requirements to address the obvious deficiencies (from a community perspective) in the current RACP and apply the learnings from the CBACP review. It is expected that the cost of such a review, should it be required, can be mitigated by only having to address those identified deficiencies and by taking the lead provided by the CBACP Review by Hatch Roberts Day.

Disclosure of Interest

Member	Cr S Kepert
Type of Interest	Interest under the code
Nature of Interest	I do not possess the information required to make an informed decision.
Request	Stay and Discuss
Decision Leave	Stay and Discuss

At 7:53pm Ms Newman left the meeting and returned at 7:54pm.

At 7:54pm Cr Mair returned to the meeting.

P21/3935 - SCHEME AMENDMENT NO.10, REZONING PARKS AND RESERVES FROM 'RESIDENTIAL' TO 'PUBLIC OPEN SPACE' - REPORT ON RESULTS OF STAKEHOLDER ENGAGEMENT (REC) (ATTACHMENT)

Ward	: All
Category	: Strategic
Application Number	: Not Applicable
Property	: Various
Proposal	: Response to Council resolution (P20/3899). Assessment of parks and reserves zoned residential in Local Planning Scheme No.6
Applicant	: Not Applicable
Owner	: Various
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Item P21/3899 - Assessment of Parks and Reserves Zoned Residential In Local Planning Scheme No.6 Item P20/3880 – Parks and Reserves Zoned Residential in Local Planning Scheme No.6 – 17 November 2020 Ordinary Meeting of Council. Item P20/3871 – Response to petition – Phil Ward Reserve, 11 Cottrill Street, Myaree – 22 September 2020 Ordinary Meeting of Council.
Responsible Officer	: Gavin Ponton Manager Strategic Urban Planning

P21/3935 - SCHEME AMENDMENT NO.10, REZONING PARKS AND RESERVES FROM 'RESIDENTIAL' TO 'PUBLIC OPEN SPACE' - REPORT ON RESULTS OF STAKEHOLDER ENGAGEMENT (REC) (ATTACHMENT)

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 (e.g. under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

KEY ISSUES / SUMMARY

- At the Ordinary Meeting of Council held on 22 September 2020 the Council passed a resolution directing the CEO to report on what parks/reserves in Local Planning Scheme No.6 (LPS6) have been rezoned to 'Residential' for Council to consider whether any such parks/reserves should be rezoned to 'Public Open Space'.
- At its Ordinary Meeting held on 16 March 2021 the Council initiated Local Planning Scheme No.6 – Amendment No.10. The amendment proposes to rezone twenty parks/reserves from 'Residential' to 'Public Open Space'.
- The proposed amendments were advertised for 42 days and 46 submissions were received.
- Of the submissions received, 44 support and 2 oppose the proposal.
- The supporting submissions primarily state the need to preserve the sites as parks for the environmental and social value. Of the two opposing submissions one cites that rezoning the sites may hinder the City's flexibility to consider strategic public open space trade off opportunities in the future.
- The Water Corporation has requested that part of Robert Henwood Park be reserved for 'Public Purpose – Water Supply, Sewerage and Drainage' rather than 'Public Open Space'. It is recommended that the City uphold this request and modify the proposed scheme amendment.
- It is recommended that Council adopt the proposed amendment as modified and forward the amendment to the Western Australian Planning Commission.

P21/3935 - SCHEME AMENDMENT NO.10, REZONING PARKS AND RESERVES FROM 'RESIDENTIAL' TO 'PUBLIC OPEN SPACE' - REPORT ON RESULTS OF STAKEHOLDER ENGAGEMENT (REC) (ATTACHMENT)**BACKGROUND**

At the Ordinary Meeting of Council held on 22 September 2020 the Council passed a resolution (Item P20/3871) directing the CEO to report on what parks/reserves in LPS6 are zoned 'Residential' for Council to consider whether any such parks/reserves should be rezoned for 'Public Open Space'.

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

At the Ordinary Meeting of Council held on 16 March 2021 the council considered a report (Item P21/3899) that recommended that the Council initiate Local Planning Scheme 6 – Amendment No.10 to rezone the following twenty listed parks/reserves from 'Residential' to 'Public Open Space'

1. Baden Powell Reserve, Ardross;
2. Bicton Substation, Bicton;
3. Ces Deceau Reserve, Brentwood;
4. Charles Eckert Reserve, Applecross;
5. Davis Lawlor Park, Attadale;
6. Geo Thompson Park (part), Palmyra;
7. Harry Clemens Reserve, Myaree;
8. Hugh Corbett Park, Booragoon;
9. Jack Jeffery Park, Kardinya;
10. Jack Martin Reserve, Kardinya
11. Laurie Withers Reserve (part), Kardinya
12. Marguerite Smith Reserve, Attadale;
13. Norm Godfrey Reserve, Kardinya;
14. Ogilvie Road Reserve, Mount Pleasant;
15. Pitman Park, Myaree;
16. Prosser Park, Myaree.
17. Reg Seal Reserve (part), Mount Pleasant;
18. Robert Henwood Park (part), Kardinya.
19. Unnamed Park, 12 Lockwood Court, Bicton
20. Unnamed Park, McBeth Way, Kardinya

The proposed scheme amendment to rezone twenty parks/reserves from 'Residential' to Public Open Space' was initiated by the Council at its Ordinary Meeting held on 16 March 2021.

P21/3935 - SCHEME AMENDMENT NO.10, REZONING PARKS AND RESERVES FROM 'RESIDENTIAL' TO 'PUBLIC OPEN SPACE' - REPORT ON RESULTS OF STAKEHOLDER ENGAGEMENT (REC) (ATTACHMENT)**DETAIL**

The proposed amendment was advertised for 42 days. The City has engaged with the community via Melville Talks on the City of Melville website and newspaper advertisements.

A total of 46 submissions were received. Of these 44 support the proposal primarily stating the need to preserve the sites as parks for their environmental and social value. Of the two submissions that do not support the proposed scheme amendment one states in summary that rezoning the sites may hinder the City's flexibility to consider strategic public open space trade off opportunities in the future.

[3935 Table of Submissions Submitter Details Redacted](#)

A submission received from the Water Corporation requests that Robert Henwood Park (Lot 319 P12290, 12 Stamos Court, Kardinya) instead be reserved for 'Public Purpose – Water Supply, Sewerage and Drainage' (WSD). As discussed below, it is recommended that the City modify the proposed scheme amendment to uphold this request.

STAKEHOLDER ENGAGEMENT

Advertising Required: Yes

I. COMMUNITY

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

Amendment No.10 was publicly advertised from 13 May to 25 June 2021. 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.

P21/3935 - SCHEME AMENDMENT NO.10, REZONING PARKS AND RESERVES FROM 'RESIDENTIAL' TO 'PUBLIC OPEN SPACE' - REPORT ON RESULTS OF STAKEHOLDER ENGAGEMENT (REC) (ATTACHMENT)

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

Agency	Summary of Submission	Support/ Objection	Officer's Comment	Action (Condition/ Uphold/ Not Uphold)
Water Corporation	<p>The land identified at Robert Henwood Park (Lot 319 P12290, 12 Stamos Court, Kardinya) contains significant existing and planned water assets and therefore the Water Corporation do not consider it is appropriate to rezone the land to 'Public Open Space'.</p> <p>The Water Corporation would prefer the rezoning for this to go from 'Residential' to reservation for 'Public Purpose – WSD' to reflect its current and planned use.</p>	Object	<p>Unlike the other sites subject to the scheme amendment, that are either owned by or vested to the City, this portion of Robert Henwood Park is owned by the Water Corporation.</p> <p>The Water Corporation's request that the site be reserved as 'Public Purpose – WSD' will not materially affect the current or future use of the land. The reservation will also better reflect future intended land use.</p>	Uphold - Modify scheme amendment so that Lot 319 P12290, 12 Stamos Court, Kardinya (part of Robert Henwood Park) is from 'Residential' to 'Public Purpose – WSD' as demonstrated in Figure 1 below.

P21/3935 - SCHEME AMENDMENT NO.10, REZONING PARKS AND RESERVES FROM 'RESIDENTIAL' TO 'PUBLIC OPEN SPACE' - REPORT ON RESULTS OF STAKEHOLDER ENGAGEMENT (REC) (ATTACHMENT)

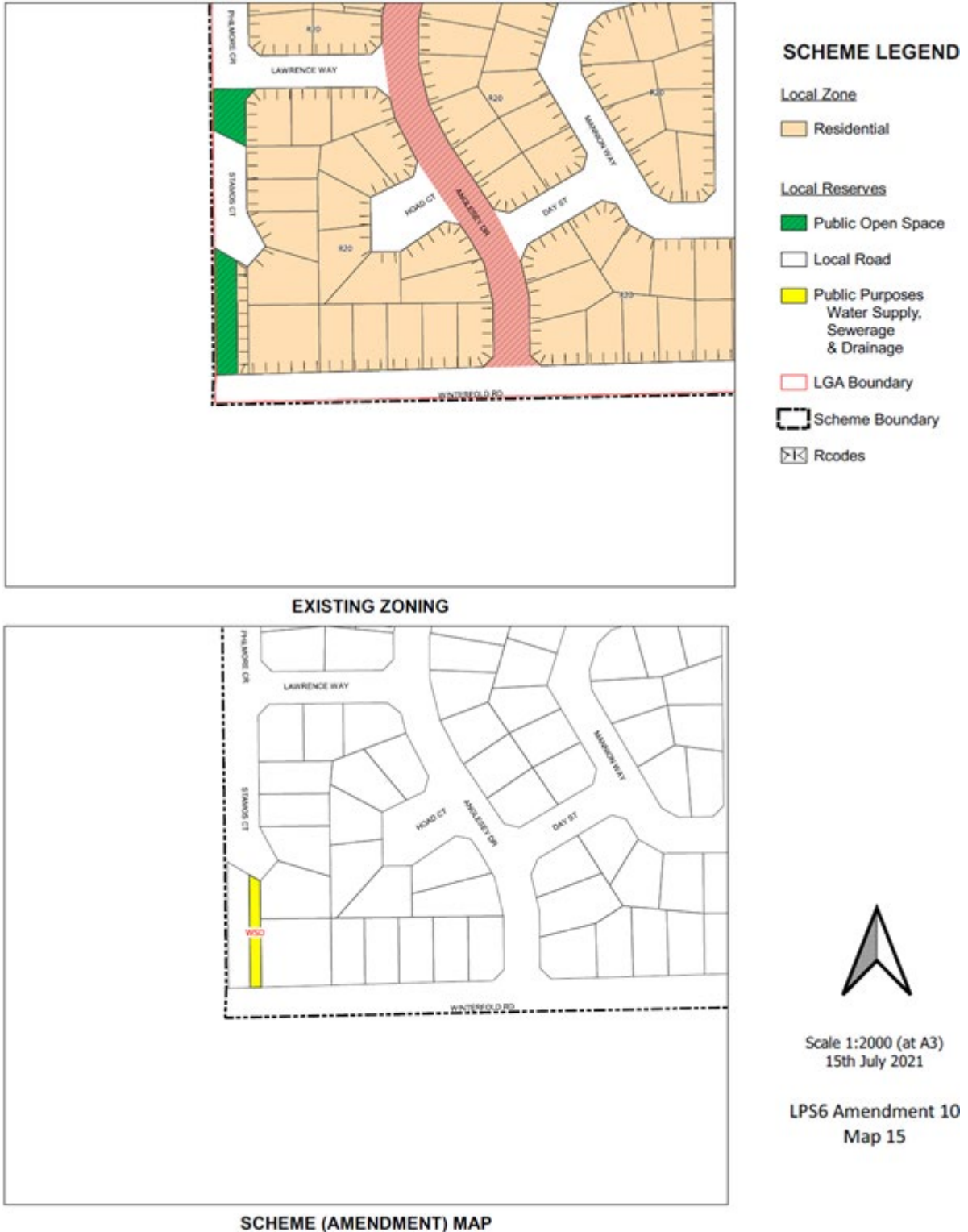


Figure 1. Robert Henwood Park. Modified amendment from 'Residential' to 'Public Purpose - WSD'

P21/3935 - SCHEME AMENDMENT NO.10, REZONING PARKS AND RESERVES FROM 'RESIDENTIAL' TO 'PUBLIC OPEN SPACE' - REPORT ON RESULTS OF STAKEHOLDER ENGAGEMENT (REC) (ATTACHMENT)**STATUTORY AND LEGAL IMPLICATIONS**

The process being followed is as per LPS6 and the *Planning and Development (Local Planning Schemes) Regulations 2015*. The Council's decision on adoption of the scheme amendment is required to be forwarded to the WAPC. The WAPC would then provide a recommendation on the scheme amendment for determination by the Minister for Planning.

FINANCIAL IMPLICATIONS

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

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

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

There are no policy implications with this proposal.

P21/3935 - SCHEME AMENDMENT NO.10, REZONING PARKS AND RESERVES FROM 'RESIDENTIAL' TO 'PUBLIC OPEN SPACE' - REPORT ON RESULTS OF STAKEHOLDER ENGAGEMENT (REC) (ATTACHMENT)

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

There are two alternate options available for the Council to consider which are summarised below.

Alternate Option	Implication
Modify Scheme Amendment No.10 prior to its endorsement.	Changes can be made via a resolution of the Council. Depending on the extent of proposed modifications it may be necessary to readvertise the proposed amendment prior to submission to the WAPC and ultimately the Minister for Planning for final determination.
Do not support Scheme Amendment No.10	The scheme amendment would be submitted to the WAPC and ultimately the Minister for Planning for final determination in accordance with the Regulations, noting that Council does not support the amendment.

CONCLUSION

The proposed scheme amendment to rezone the identified parks and reserves from 'Residential' to 'Public Open Space' is consistent with the objectives of the City's Local Planning Strategy and Local Planning Scheme No.6 and reflects both the use of the sites and the expectations of the community, with the exception of a portion of Robert Henwood Park.

The subject portion of Robert Henwood Park is owned by the Water Corporation, contains significant existing and planned water assets and therefore it would be more appropriate to amend the designation of this site from 'Residential' to 'Public Purpose – WSD'. It is recommended that the scheme amendment is modified to reflect this.

It is recommended that the Council approve the modified scheme amendment. The amendment is then required to be forwarded to the WAPC for consideration. The WAPC in turn will forward the amendment to the Minister for Planning for determination.

P21/3935 - SCHEME AMENDMENT NO.10, REZONING PARKS AND RESERVES FROM 'RESIDENTIAL' TO 'PUBLIC OPEN SPACE' - REPORT ON RESULTS OF STAKEHOLDER ENGAGEMENT (REC) (ATTACHMENT)**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3935) APPROVAL**

At 7:54pm Cr Sandford Moved, Seconded Cr Woodall –

1. Pursuant to Part 5 of the Planning and Development Act 2005, resolves to adopt Scheme Amendment No. 10 to Local Planning Scheme No. 6 by rezoning the following lots from 'Residential' to 'Public Open Space':
 - a) Lot 1924, No.8 Cambey Way, Brentwood (Ces Deceau Reserve)
 - b) Lot 7080, No.18 Mullings Way, Myaree (Harry Clemens Reserve)
 - c) Lots 2698 & 2567, No.18-20 Earliston Way, Booragoon (Hugh Corbet Park)
 - d) Lot 2593, No.160 Winterfold Road, Kardinya (Jack Jeffery Park)
 - e) Lot 6371, No.31 Lawlor Road, Attadale (Marguerite Smith Reserve)
 - f) Lot 4212, No.60 Farrington Road, Kardinya (Norm Godfrey Reserve)
 - g) Lot 6392, No.10 Patterson Place, Myaree (Pitman Park)
 - h) Lot 6725, No.21A Prosser Way, Myaree (Prosser Park)
 - i) Lot 87, No.58-60 Murray Road, Bicton (Bicton Substation)
 - j) Lot 18, No.15 Tuart Street, Applecross (Charles Eckert Reserve)
 - k) Lot 1, No.2 Lawlor Road, Attadale (Davis Lawlor Park)
 - l) Lot 535, No.43 Zenobia Street, Palmyra (Geo Thompson Park)
 - m) Lots 9, 10 & 18, No.70-72 Ogilvie Road, Mount Pleasant (Ogilvie Road Reserve)
 - n) Lot 1771 & 1772, No.20 Damell Avenue, Mount Pleasant (Reg Seal Reserve)
 - o) Pt Lot 2346, No.20 Dalston Crescent, Kardinya (Laurie Withers Reserve)
 - p) Lots 2344 & 2347, No.32 Dalston Crescent, Kardinya (Jack Martin Reserve)
 - q) Lots 2694 & 2789, McBeth Way, Kardinya (Unnamed Park)
 - r) Lot 14539, No.12 Lockwood Court, Bicton (Unnamed Park)
 - s) Lot 323, No. 41A McCallum Crescent, Ardross (Baden Powell Reserve)
2. Pursuant to Part 5 of the Planning and Development Act 2005, resolves to adopt Scheme Amendment No. 10 to Local Planning Scheme No. 6 by rezoning Lot 319, No.12 Stamos Court, Kardinya (Robert Henwood Park) from 'Residential' to to 'Public Purpose – WSD'
3. Directs the CEO pursuant to Part 5, Regulation 53 of the Planning and Development (Local Planning Schemes) Regulations 2015 to provide the amendment to the Western Australian Planning Commission within 21 days.
4. Notes; the submissions received during the public advertising of Scheme Amendment No.10 and directs the Chief Executive Officer to advise all submitters and relevant landowners in writing of the Council's resolution.

At 7:54pm, the Mayor declared the motion

CARRIED (11/0)

At 7:54pm Cr Kepert abstained from voting on the matter.

**P21/3936 - REVIEW OF COMPLIANCE AND ENFORCEMENT ACTIONS - 18A AND 18B
TWEEDDALE ROAD, APPECROSS (REC) (ATTACHMENT)**

Item Brought Forward.
See Page 12.

Disclosure of Interest

Member	Cr S Kepert
Type of Interest	Interest under the code
Nature of Interest	I do not possess the information required to make an informed decision.
Request	Stay and Discuss
Decision Leave	Stay and Discuss

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)

Ward	: All
Category	: Policy
Application Number	: N/A
Property	: N/A
Proposal	: Review of Local Planning Policy 1.12 Child Care Premise and Family Day Care
Applicant	: N/A
Owner	: N/A
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Item P15/3648 Review of Council Policy CP-049: Child Minding Centres and Family Day Care August 2015 Ordinary Council Meeting. Item P16/3718 Review of Planning Policies September 2016 Ordinary Council Meeting. Item 17.3 Amendment to Policy LPP 1.12 Child Care Premises and Family Day Car – 20 April 2021 Ordinary Meeting of Council.
Responsible Officer	: Peter Prendergast Manager Statutory Planning

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)

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>

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

- At the April 2021 Ordinary Council Meeting, Council moved a motion to insert a new clause into Local Planning Policy 1.12 'Child Care Premise and Family Day Care' (LPP1.12) which makes it undesirable for Child Care Premises to be located on 'primary distributor or regional distributor roads'.
- Main Roads Western Australia (MRWA) identifies the road hierarchy for Western Australian road types. In regards to the term 'regional distributor roads', this is only for roads in rural (non-built up areas) and are not primary distributors. Therefore, for the purposes of this report, the road hierarchy term moved by Council is described as a 'primary distributor road'.
- Under the Metropolitan Region Scheme (MRS), primary distributor roads are also known as 'primary regional roads'. As South Street, Leach Highway and Canning Highway are the only primary distributor/primary roads capable of being developed for Child Care Premise within the City of Melville, these are proposed to be specifically referred to in LPP 1.12 so that there is no confusion as to which roads are primary distributor/primary regional roads.
- The change proposed by Council is considered to be a significant change to LPP1.12 and as such was advertised to the public for comment as required by the Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations).
- During the consultation period 40 submissions were received with the majority opposed to the proposed change.
- The change to LPP1.12 outlined in the April 2021 Council resolution is not supported in the manner proposed as it is considered that this would not be consistent with the objectives of the relevant planning framework, including Planning Bulletin 72/2009 Child Care Centres. Rather, it is proposed that further clarity be provided regarding preferred vehicle access arrangements for Child Care Premises on Primary Distributors.
- A number of administrative changes are also recommended as a part of this review which are likely to improve the operation of the policy.
- The recommended changes are minor in nature and as such it is recommended that they are adopted without advertising as permitted by the Planning and Development (Local Planning Schemes) Regulations 2015. A notice to advise the public of the changes to the local planning policies will be published in the local newspaper and on the City's website.

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)**BACKGROUND**

Council Policy 049: Child Minding Centres and Family Day Care was originally adopted by the Planning and Development Services Committee in 1996 and has been reviewed regularly.

The objective of the policy is:

To provide for the establishment of child minding centres and family day care premises within the City of Melville, whilst ensuring that their location, siting and design is compatible with the surrounding built form, and avoids significant adverse amenity impacts.

At the April 2021 Ordinary Council Meeting, the following resolution was carried:

That Council requests that the Chief Executive Officer amend Local Planning Policy 1.12 – Child Care Premise and Family Day Care, by inserting a new item (c) under “Section 3.1 Undesirable characteristics” as follows: (c) Sites located on Primary Distributor or Regional Distributor Roads (as per WAPC Planning Bulletin 72/2009)

The reasons provided in support of the notice, cited concerns with decisions of the Joint Development Assessment Panel to approve applications for new Child Care Premises on sites fronting Canning Highway, contrary to the recommendation of the administration and the Council.

Scheme Provisions

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

Site Details

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

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)**DETAIL**

LPP 1.12 guides the assessment of applications for Child Care Premise and Family Day Care land uses across the City of Melville. It sets out expectations in relation to the preferred locational characteristics, design criteria and the information which should be provided with an application for Child Care Premises. A review of LPP1.12 has been undertaken having regard to the amendment requested by Council at the April 2021 Ordinary Council Meeting. As a part of the review, the recent changes to the Planning and Development (Local Planning Schemes) Regulations (the Regulations) have been taken into account as well as the existing planning framework including WA Planning Commission Planning Bulletin 72/2009 Child Care Centres, the Local Planning Strategy and Local Planning Scheme No.6 (LPS6).

As is detailed further below, it is recommended that the policy is not amended to make it undesirable for Child Care Premises to be located on 'Primary Distributor Roads'. This is considered to be inconsistent with the broader planning framework.

A number of minor changes are recommended to take into consideration changes to the planning frameworks as summarised below:

- Clarification that Family Day Care can operate without development approval where it is a 'P' use in Table 3-Zoning Table Clause 17 of LPS6 or in the relevant Activity Centre Plan.
- Further guidance for operators of Family Day Care centres to make the policy more readily understood.
- Minor modification to the preferred locations and modification of the term undesirable to less desirable.
- Insert reference to the Regulations to clarify the land use requirements for Child Care Centres in non-residential zones.
- Insert more specific design guidance for Child Care Premise in non-residential zones.

STAKEHOLDER ENGAGEMENT

Advertising Required:	Yes
Neighbour's Comment Supplied:	Yes
Reason:	As required by the Regulations
Support/Object:	Summarised below

I. COMMUNITY

The proposed change to the local planning policy was advertised on Melville Talks from 27 May to 18 June. A total of 40 submissions were received during the consultation period with 7 supporting the proposal and the remainder opposing the proposed change.

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)

A summary of these submissions and an officer response is provided below.

Supporting submissions

Issue Raised	Officer Comment
The proposal will resolve traffic impacts and safety concerns associated with child care premises.	The proposed policy change clarifies that vehicle access should be taken from a street other than a primary distributor. A proposal for child care premises on Primary Distributors would require a traffic impact statement to be prepared by a suitably qualified person and would likely be referred to MRWA for comment as part of the assessment process. These measures would ensure that any concerns relating to traffic and safety can be adequately addressed.
The proposal will resolve air quality impacts on children.	There are no specific air quality measures provided in Planning BulletinPB72 therefore this is not a matter which can be addressed through the planning framework.
Child care premises are only located on these roads based on economic considerations.	Noted.
Proposal would prevent a child care premise being built on Willcock Street.	This statement is not correct. The LPP states that Child Care Premises are supported in principle in Centres and most other commercial areas as these are well located, in close proximity to other commercial land uses and public transport.

Opposing submissions

Issue Raised	Officer Comment
Preventing child care premises on busy roads will result in extra traffic in the suburbs and on quieter streets.	The submitters concerns in respect of this issue are noted. If a decision is made to make Primary Distributors undesirable locations for Child Care Premises, then it may become more attractive for these to be located on Local and District Distributor roads which carry lower numbers of vehicles per day.
Child care premises located on primary roads on the way to work are convenient	Noted
More child day care centres are required as they are an essential service.	Noted

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)

Issue Raised	Officer Comment
Never experienced traffic and parking issues while using a child care premises.	Noted
Even if the policy is changed as per Council recommendation Child Care Premise remains a discretionary use in a Residential zone. It would be preferable to amend the Scheme.	Child Care Premise can be compatible with residential development and therefore it is not proposed to amend the scheme to make this a prohibited use in a residential zone. The submitter's concerns in respect of this issue are noted. See discussion in the report below for further commentary on the role of a local planning policy.
The LPP states that Child Care Premise are supported in principle in Centres and most other commercial areas as these are well located, in close proximity to other commercial land uses and public transport. Most of these centres include frontage to primary roads. It would therefore be inconsistent to prevent Child Care premises on these roads only when the land is zoned 'Residential'.	Noted.
Similar to the above, the LPP seeks to ensure that Child Care Premise are located in close proximity to non-residential land uses. Many residential zoned properties on primary roads are close to these non-residential land uses and as such meet one of the preferred characteristics.	Noted. Both the provisions of PB-72 and LPP1.12 encourage Child Care Premises where these are in close proximity to non-residential land uses and amenities such as public transport and footpaths. Primary Distributors such as Canning Highway are often served very well in this respect.
Multiple child care premises are located on primary roads in the City of Melville and operate without issue.	Noted.
The existing planning framework ensures that traffic considerations are addressed as a part of the assessment of the development application, including referral to Main Roads Western Australia. The proposed change will not prevent the decision maker approving a proposed child care premise on a regional road.	Noted. This is elaborated on in the body of the report below.
The proposed terminology is confusing and not aligned with the established road hierarchy.	Noted. Any change to the policy should refer to the established road hierarchy.

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)**II. OTHER AGENCIES / CONSULTANTS**

During the consultation phase, discussions were held with the Department of Planning Lands and Heritage in relation to the Planning Bulletin 72/2009 - Child Care Centres (PB-72). Officers of the DPLH are currently reviewing the PB and are likely to present the results of this review to the Western Australian Planning Commission (WAPC) for endorsement in late 2021. The revised document may require public consultation prior to being finally endorsed.

The City's Local Planning Policy 1.12 Child Care Premise and Family Day Care, may require further review once the WAPC has finalised its position on this matter.

Clause 4(b) of Schedule 2 of the Regulations requires that the Council advise the WAPC if it is of the opinion that the policy is inconsistent with any State Planning Policy. The proposed changes to LPP, as recommended by City officers, are not considered to present any inconsistency and WAPC referral is not required.

STATUTORY AND LEGAL IMPLICATIONS

The Planning and Development (Local Planning Schemes) Regulations establishes the approval or modification process and advertising requirements for a LPP. A LPP is required to be advertised for a period of not less than 21 days. At the conclusion of the advertising period (current stage) the local government is required to review the LPP in light of any submissions made and decide whether or not to proceed with or modify the policy. Substantial modification of the LPP would require a further advertising period. If the LPP is adopted by Council, it will take effect upon advertising of a Notice in a local newspaper.

Once the LPP is amended and adopted by Council it needs to be given due regard by the decision maker. In considering the weight to be applied to a LPP the decision maker must take into account a number of factors including whether it is based on sound planning principles. In addition, as a local planning policy is a due regard policy it should not prescribe mandatory provisions, using terms such as 'shall' or 'must'. Further information regarding the status of local planning policies and a guide to their preparation can be found via the links below.

[WALGA Local Planning Policy Guide](#)

[Development Assessment Panel Practice Notes: Making Good Decisions](#)

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The proposed policy change put forward by Elected Members is a response to the JDAP approving two child care premises on Canning Highway contrary to the recommendation of City officers and Council. The proposal to make Primary Distributors undesirable locations for Child Care Premise will not prevent the JDAP from making similar decisions in the future.

Risk Statement & Consequence	Level of Risk	Risk Treatment
The decision may determine that the proposal from Elected Members is not based on sound planning principles and as such give the policy provisions minimal weight.	Moderate consequences which are possible, resulting in a Medium level of risk	Proposed LPP clarifies that Primary Distributors are a preferred location subject to suitable access arrangements being made.
The policy may discourage the development of child care premises and as such the child care needs of local residents and business owners may not be met.	Moderate consequences which are possible, resulting in a Medium level of risk.	The proposed LPP clarifies that Primary Distributors are a preferred location subject to suitable access arrangements being made allowing for greater choice of development sites.
The proposed policy change may see more Child Care Premise being developed on lower order roads which may impact on local traffic conditions.	Moderate consequences which are possible, resulting in a Medium level of risk.	The proposed LPP clarifies that Primary Distributors are a preferred location subject to suitable access arrangements being made allowing for greater choice of development sites.
The City of Melville is a Small Business Friendly Local Government and is engaging in a process to review its local planning policies accordingly. The current proposal could be seen not to be consistent with this position.	Moderate consequences which are possible, resulting in a Medium level of risk.	For the technical reasons given, the proposal as put forward by Council is not supported in the manner proposed. Rather, further clarity is proposed regarding vehicle access arrangements to Child Care Premises on Primary Distributors. A number of minor changes to the policy have also been proposed to make it clearer that Family Day Care does not require development approval and to improve clarity and certainty.

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)**POLICY IMPLICATIONS**

There are no other policy implications associated with modification of the LPP as recommended by City officers.

COMMENT**Planning Bulletin 72 Child Care Centres**

Planning Bulletin 72 Child Care Centres (PB72) outlines the position of the State Government in relation to the siting and location of Child Care Premises. This document was adopted in 2009 and is currently under review. State Planning Policy 1 'State Planning Framework' sets out the various documents in the planning framework and the hierarchy of these in terms of decision making. It is observed that Planning Bulletins are not in this list.

Discussions with officers of the Department of Planning, Lands and Heritage (DPLH) indicate that all Planning Bulletins will be converted to Position Statements over time. Position statements are lower order documents in the overall hierarchy but set out the policy position of the WAPC in relation to particular matters. PB 72 Child Care Centres is likely to be reviewed later in the year and will likely involve consultation with key stakeholders including the development industry, Main Roads Western Australia and environmental agencies. Consultation may also involve local government and the community. It is anticipated that LPP1.12 will need a further review in the future if there are significant changes to PB 72 Child Care Centres and a further report to Council would be prepared at that time.

PB 72 sets out broad considerations for the establishment of Child Care Premise. It does not set specific guidance in relation to design and parking matters, allowing these to be set by local government as required. It is expected that any future Position Statement will also take a broad approach, providing guidance from a regional perspective rather than providing prescriptive assessment measures.

The content of PB 72 is summarised as follows:

- acknowledges the growing need for child care centres;
- acknowledges that child care centre activities are often located in Residential Areas;
- acknowledges there are a number of non-planning related matters to be addressed including state and federal government legislation which address the quality of service provided in terms of matters such as staffing; and
- sets out site characteristics, design considerations, traffic and noise consideration.

LPP1.12 is considered to be consistent with the provisions of PB72, particularly in regard to the objectives and the locational characteristics. Both documents seek to protect residential amenity of adjoining properties and locate child care premises in appropriate locations

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In relation to traffic and noise considerations, further detail regarding the content of PB 72 and corresponding officer comment is provided in the table below:

Summary of provision	Officer comment
<p>Clause 3.3e) Sites that are considered suitable from a traffic/engineering/safety point of view are acceptable for Child Care Premise</p>	<p>A Traffic Assessment, prepared by a qualified person, is required to be provided in conjunction with an application for a Child Care Premise. This will be reviewed by the City's Technical Services traffic engineering officers and where required, referred to MRWA for comment. This ensures that the technical experts are able to review the documentation and can provide comment in relation to the suitability of the site.</p>
<p>Clause 3.3j) Sites which require access from a major road or in close proximity to a major intersection where there may be safety concerns are not likely to be considered to be suitable.</p>	<p>As noted above, a Traffic Assessment is required to be submitted with an application. This would then be the subject of analysis by Technical officers and if concerns are raised which cannot be adequately addressed then the proposal is unlikely to be supported.</p> <p>The proposed policy change to encourage access from a street other than the Primary Distributor will assist in managing and reducing vehicle conflicts.</p>
<p>Clause 3.3m) Noise produced by roads, railways and aircraft are likely to have an adverse impact on the site may not be suitable.</p>	<p>An acoustic report is required to be submitted with an application and assessed by the technical experts including MRWA. If the acoustic report is not satisfactory the proposal will not be supported.</p>
<p>Clause 3.3l) The current use or any permissible use under the zoning of the adjoining premises produces unacceptable levels of noise, fumes or emissions or poses a potential hazard by reason of activities or materials stored on-site may not be suitable.;</p>	<p>It is noted this clause relates to land use emissions only and as such Child Care Premises should not be located in industrial areas or where there is an existing use which produces unreasonable amounts of pollutants.</p> <p>The clause does not consider vehicle emissions. It is expected that as the global trend towards low emission vehicles continues road based emissions will reduce.</p> <p>It also observed that other sensitive land uses such as residential, aged care and hospitality are not excluded from being located in close proximity to the major road network.</p>

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Council may resolve to insert a clause into LPP 1.12 to indicate that sites located on Primary Distributors are less preferred locations for Child Care Premises as per the original motion however as noted in the report above, this is not recommended as it is not considered to be based on sound planning principles.

CONCLUSION

Local Planning Policy 1.12 Child Care Premise and Family Day Care has been reviewed so as to be consistent with the Planning and Development (Local Planning Schemes) Regulations 2015 and to introduce further clarity.

It is not proposed to make primary distributor roads, undesirable locations for Child Care Premises as this is not consistent with the local planning framework.

It is recommended that the Council adopt the proposed changes to Local Planning Policy 1.12 Child Care Premise and Family Day Care and a newspaper advertisement placed in the local newspaper as required by the Regulations.

OFFICER RECOMMENDATION (3937)**APPROVAL**

At 7:55pm Cr Fitzgerald moved, seconded Cr Wheatland –

That the Council:

1. pursuant to clause 4, schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 adopts the changes to Local Planning Policy 1.12 Child Care Premise and Family Day Care [3937 LPP1.12 Child Care Premise and Family Day Care](#)
2. endorse the publication of a notification of the changes in the local newspaper and on the City's website as required by the Planning and Development (Local Planning Schemes) Regulations 2015.

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)**Amendment****COUNCIL RESOLUTION**

At 7:55pm Cr Pazolli moved, seconded Cr Sandford –

- 1. That the Officer Recommendation is amended by adding the following to the end of Item 1 of the officer recommendation:**

“, including the following amendments to the LPP1.12 document:

- 1. At the end of the Policy Objectives section after the word “amenity” insert the words “child health and safety”.**
 - 2. At Clause 3.1(d) after the words; “suitable areas of play space” insert the words; “(both indoor and outdoor)”.**
 - 3. At Clause 3.1(e) delete “: or”.**
 - 4. Delete Clause 3.1(f).**
 - 5. In Clause 3.0 “Less desirable characteristics” reinstate the word “Undesirable” and delete the words “Less desirable” in the heading.**
 - 6. In Clause 3.0 “Undesirable characteristics” insert a new clause (c) as follows “(c) Sites located on the following Primary Distributor roads, Canning Highway, Leach Highway and South Street, in order to minimise the potential for harmful traffic fumes and road safety risks impacting on the health of children, staff and visitors to the child care centre and surrounding road users.”**
 - 7. Insert a new Clause 7.4 as follows: “7.4 Use of car stackers or tandem parking arrangements are considered not desirable”.**
- 2. Insert the following to the Officer Recommendation as a new Item 3:
“3. That Council requests the Chief Executive Officer to prepare for Council approval a Scheme Amendment to Local Planning Scheme No. 6 to list Child Care Centres as an unpermitted use (X use) for sites with residential zoning located on Primary Distributor Roads (Canning Highway, Leach Highway and South Street).”**

At 7:55pm the Mayor declared the motion

CARRIED (11/0)

At 7:55pm Cr Kepert abstained from voting on the matter.

At 7:57pm Cr Kepert left the meeting and did not return.

At 8:00pm Ms Young left the meeting and returned at 8:02pm.

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)Reasons for the Amendment as Provided by Cr Pazolli:

1. It is clear from a review of the community submissions to the advertised proposed changes to LPP 1.12 that those opposed to the change predominantly cited the reasons:
 - Convenience of parents dropping off children at Child Care Centres en-route to their worksites that is facilitated by locating Centres in residential areas on Primary Distributor Roads. This incorrectly assumes that the LPP change is to prevent Child Care Centres being located on all Primary Distributor Roads, when it actually considers locating these Centres in the RESIDENTIAL zoned areas of Primary Distributor Roads (PDR). Those sections of the PDRs zoned as commercial, multi-use or in activity centres could still be used for Child Care Centres (though perhaps at greater capital cost to purchase the site).
 - The perceived demand for child care centre places are such that it should not be restricted by discouraging locating child care centres on Primary Distributor Roads. This ignores that the LPP supports locating Child Care Centres on Local and District Distributor Roads as well as on commercial/multi-use/Activity Centre zoned locations on PDRs. Therefore there is little restriction in the availability of suitable sites for Child Care Centre developers (though perhaps some restriction in the profitability of such developments!).
 - Fears that restricting locating Child Care Centres on Primary Distributor Roads will result in these Centres being located on local access roads in their suburbs and would result in additional traffic and noise impacts in residential suburbia. As above, the restriction of Child Care Centre sites in Residential zoned PDR properties is not going to see a flood of Child Care Centres being built in suburban local access streets because the LPP does not allow commercial child care centres to be located on local access streets.

2. Those supporting the proposed change in the LPP cited their concerns with the impact on the health of the very young children (0 to 6 years of age) from traffic fumes and vehicle particulates that result from the extremely high volumes of traffic that daily traverse Primary Distributor Roads (PDR). The potential health impacts are much more severe on children of this age than on older school children or adults. The other major concern cited relates to the road traffic safety impacts on the children attending and parents transporting them to Child Care Centres located on extremely busy PDRs.

3. Inserting an undesirable characteristic in a local planning policy may not stop the construction of Child Care Centres on the residential areas of PDRs. When I raised the issue with Local Government Minister Carey at the recent community cabinet meeting, he was surprised that the City of Melville Local Planning Scheme allowed Child Care Centres to be constructed in residential areas. His response was that it was the responsibility of the Council to amend its Local Planning Scheme to make such a commercial development a non-permitted use in a residential zoning. Therefore, as foreshadowed at our recent Mayor's Elected Members' Management meeting, in this amendment I have proposed to request that the CEO prepare a scheme amendment to the City's Local Planning Scheme Nos 6 to make Child Care Centres on residential zoned sections of PDRs an un-permitted use.

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)**Substantive Motion as Amended**

At 7:55pm Cr Fitzgerald moved, seconded Cr Wheatland –

That the Council:

1. **pursuant to clause 4, schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 adopts the changes to Local Planning Policy 1.12 Child Care Premise and Family Day Care 3937 LPP1.12 Child Care Premise and Family Day Care, including the following amendments to the LPP1.12 document:**
 1. **At the end of the Policy Objectives section after the word “amenity” insert the words “child health and safety”.**
 2. **At Clause 3.1(d) after the words; “suitable areas of play space” insert the words; “(both indoor and outdoor)”.**
 3. **At Clause 3.1(e) delete “: or”.**
 4. **Delete Clause 3.1(f).**
 5. **In Clause 3.0 “Less desirable characteristics” reinstate the word “Undesirable” and delete the words “Less desirable” in the heading.**
 6. **In Clause 3.0 “Undesirable characteristics” insert a new clause (c) as follows “(c) Sites located on the following Primary Distributor roads, Canning Highway, Leach Highway and South Street, in order to minimise the potential for harmful traffic fumes and road safety risks impacting on the health of children, staff and visitors to the child care centre and surrounding road users.”**
 7. **Insert a new Clause 7.4 as follows: “7.4 Use of car stackers or tandem parking arrangements are considered not desirable”.**
2. **endorse the publication of a notification of the changes in the local newspaper and on the City’s website as required by the Planning and Development (Local Planning Schemes) Regulations 2015.**
3. **That Council requests the Chief Executive Officer to prepare for Council approval a Scheme Amendment to Local Planning Scheme No. 6 to list Child Care Centres as an unpermitted use (X use) for sites with residential zoning located on Primary Distributor Roads (Canning Highway, Leach Highway and South Street).”**

At 8:15pm, during discussion and debate, the mover and seconder consented to the inclusion of “, excessive noise levels” after “harmful traffic fumes” in point 6 of the substantive motion as amended, to read:

6. **in Clause 3.0 “Undesirable characteristics” insert a new clause (c) as follows**

“(c) Sites located on the following Primary Distributor roads, Canning Highway, Leach Highway and South Street, in order to minimise the potential for harmful traffic fumes, excessive noise levels and road safety risks impacting on the health of children, staff and visitors to the child care centre and surrounding road users.”

P21/3937 - REVIEW OF LOCAL PLANNING POLICY 1.12 CHILD CARE PREMISE AND FAMILY DAY CARE (REC) (ATTACHMENT)**Substantive Motion as Amended****COUNCIL RESOLUTION**

At 7:55pm Cr Fitzgerald moved, seconded Cr Wheatland –

That the Council:

1. pursuant to clause 4, schedule 2 of the Planning and Development (Local Planning Schemes) Regulations 2015 adopts the changes to Local Planning Policy 1.12 Child Care Premise and Family Day Care [3937 LPP1.12 Child Care Premise and Family Day Care](#), including the following amendments to the LPP1.12 document:
 1. At the end of the Policy Objectives section after the word “amenity” insert the words “child health and safety”.
 2. At Clause 3.1(d) after the words; “suitable areas of play space” insert the words; “(both indoor and outdoor)”.
 3. At Clause 3.1(e) delete “: or”.
 4. Delete Clause 3.1(f).
 5. In Clause 3.0 “Less desirable characteristics” reinstate the word “Undesirable” and delete the words “Less desirable” in the heading.
 6. In Clause 3.0 “Undesirable characteristics” insert a new clause (c) as follows: “(c) Sites located on the following Primary Distributor roads, Canning Highway, Leach Highway and South Street, in order to minimise the potential for harmful traffic fumes, excessive noise levels and road safety risks impacting on the health of children, staff and visitors to the child care centre and surrounding road users.”
 7. Insert a new Clause 7.4 as follows: “7.4 Use of car stackers or tandem parking arrangements are considered not desirable”.
2. endorse the publication of a notification of the changes in the local newspaper and on the City’s website as required by the Planning and Development (Local Planning Schemes) Regulations 2015.
3. That Council requests the Chief Executive Officer to prepare for Council approval a Scheme Amendment to Local Planning Scheme No. 6 to list Child Care Centres as an unpermitted use (X use) for sites with residential zoning located on Primary Distributor Roads (Canning Highway, Leach Highway and South Street).

At 8:18pm the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

**T21/3940 – RFT202126 SUPPLY OF VEGETATION AND TREE WATERING SERVICES FOR
A THREE YEAR TERM WITH OPTION PERIOD (REC) (CONFIDENTIAL ATTACHMENT)**

Item Deferrred to later in the meeting

See page 113.

**T21/3942 - RFT202124 – CONSTRUCTION OF KARLUP CERAMICS STUDIO (AMREC)
(CONFIDENTIAL ATTACHMENT)**

Item Deferred to later in the meeting.
See page 117.

Disclosure of Interest

Member Cr S Kepert
 Type of Interest Interest under the code
 Nature of Interest I do not possess the information required to make an informed decision.
 Request Stay and Discuss
 Decision Leave Stay and Discuss

Cr Kepert declared an interest in this matter, but was not in attendance when the matter was discussed.

M21/5849 – POLICY REVIEW, COUNCIL POLICY CP-091 ELECTED MEMBERS ALLOWANCES AND EXPENSES (REC) (ATTACHMENT)

Ward : All
 Category : Operational
 Subject Index : Elected Members
 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 M15/5446 – Salaries and Wages Tribunal – Elected Members Fees and Allowances – Ordinary Meeting of Council, 17 November 2015.
 Item M16/5485 – Salaries and Wages Tribunal – Elected Member Fees, Expenses and Allowances, Ordinary Meeting of Council 17 May 2016.
 Motion 16.2 Motion with Notice Policy CP-091 Elected Members Allowances and Expenses, Amendment, Ordinary Meeting of Council 21 and 22 July 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>

M21/5849 – COUNCIL POLICY CP-091 ELECTED MEMBERS ALLOWANCES AND EXPENSES REVIEW (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

- The Council Policy CP-091 Elected Members Allowances and Expenses requires updating to included revised allowance values as determined by the Salaries and Allowances Tribunal.
- The revised Policy is recommended for approval.

BACKGROUND

In February 2013, the *Salaries and Allowances Act 1975* and the *Local Government Act 1995* were amended to empower the Salaries and Allowances Tribunal to determine the fees, allowances and reimbursements payable to Elected Members from 1 July 2013.

The Salaries and Allowances Tribunal is required to undertake a review of the Salaries and Allowances for Local Government Chief Executive Officers and Elected Members at intervals of not more than 12 months in accordance with Section 8 of the *Salaries and Allowances Act 1975*. This report will update the Council Policy CP-091 with the revised figures.

DETAIL

The Salaries and Allowances Tribunal undertakes an annual review of the salaries and allowances for Elected Members. The most recent determination of the Salaries and Allowances Tribunal was undertaken in April 2021, with the following conclusion:

“The Tribunal has determined that remuneration, fees, expenses and allowance ranges provided to CEO’s and elected members will be maintained at current levels. The ranges remain appropriate within the wider framework of senior public offices and the current economic climate.

The City of Melville is classified and remains as a Band 1 Local Government.

The annual allowances paid to Elected Members have been increased, when an increase has been determined by the Tribunal, as part of the City’s Annual Budget Process, however the updated figures have not been reflected in the Council Policy CP-091 Elected Members Allowances and Expenses. The last increase was in 2019.

CP-091 provides for reimbursement of childcare expenses incurred by Elected Members as a result of attending Council meetings or Committee meetings. In 2019, the child care reimbursement rate was increased from \$25.00 to \$30.00 per hour and this has not been reflected in Council Policy CP-091. No claims for child care reimbursement were made during this period. The City has also elected to reimburse Carer/Support Worker expenses if required by an Elected Member and it recommended that the reimbursement amount also be increased to \$30.00 per hour.

This report recommends that Council Policy CP-091 be updated as shown to reflect the most up to date determinations of the Salary and Allowances Tribunal.

M21/5849 – COUNCIL POLICY CP-091 ELECTED MEMBERS ALLOWANCES AND EXPENSES REVIEW (REC) (ATTACHMENT)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

No comment has been sought from the community.

II. OTHER AGENCIES / CONSULTANTS

No comment has been sought from other agencies or consultants.

STATUTORY AND LEGAL IMPLICATIONS

The *Local Government Act 1995* provides at Section 5.98 (2), (3) and (4) that expenses incurred may be reimbursed specifically or generally. This information is confirmed in the *Local Government (Administration) Regulations 1996* at Regulation 32(1)(c).

FINANCIAL IMPLICATIONS

Provision is made in the annual budget each year for the payment of Elected Members Allowances and Fees and the reimbursement of approved expenses.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

Risk Statement & Consequence	Level of Risk	Risk Treatment
A lack of transparency to the community if information provided on the City's website is out of date.	Low consequences possible resulting in a low level of risk	Ensure information on the website is up to date to ensure transparency to the community.

POLICY IMPLICATIONS

The Council Policy CP-091 Elected Members Allowances and Expenses requires updating to ensure transparency to the community.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council could choose not to update the policy, however the reimbursement figures determined by the Salary and Allowances Tribunal would still be applicable.

M21/5849 – COUNCIL POLICY CP-091 ELECTED MEMBERS ALLOWANCES AND EXPENSES REVIEW (REC) (ATTACHMENT)

CONCLUSION

That Council Policy CP-091 Elected Members Allowances and Expenses be updated.

OFFICER RECOMMENDATION (5849)

APPROVAL

At 8:19pm Cr Wheatland Moved, Seconded Cr Woodall–

That the Council approves the updated Council Policy CP-091 Elected Members Allowances and Expenses.

Amendment

COUNCIL RESOLUTION

At 8:20pm Cr Mair moved, seconded Cr Barber

That carers allowance be set at \$45.00 per hour instead of \$30.00 in schedule 2.3.

At 8:34pm, the Mayor declared the motion

CARRIED (8/3)

Yes	8	Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Robins, Cr Fitzgerald, Mayor Gear
No	3	Cr Sandford, Cr Woodall, Cr Pazolli

Substantive Motion as Amended

COUNCIL RESOLUTION

At 8:19pm Cr Wheatland Moved, Seconded Cr Woodall–

That the Council approves the updated Council Policy CP-091 Elected Members Allowances and Expenses subject to the carers allowance be set at \$45.00 per hour instead of \$30.00 in schedule 2.3.

At 8:34pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

Disclosure of Interest

Member Cr S Kepert
 Type of Interest Interest under the code
 Nature of Interest I do not possess the information required to make an informed decision.
 Request Stay and Discuss
 Decision Leave Stay and Discuss

Cr Kepert declared an interest in this matter, but was not in attendance when the matter was discussed.

M21/5853 – REVIEW OF COUNCIL POLICY CP-017 LEGAL REPRESENTATION ELECTED MEMBERS AND EMPLOYEES (REC) (ATTACHMENT)

Ward : All
 Category : Policy
 Subject Index : Corporate Policy
 Customer Index : City of Melville
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Item M16/5505 Policy Review – Management Services - October 2016 Ordinary Meeting of Council.
 M18/5610 – Legal Representation Policy, Elected Members and Employees - April 2018 Ordinary Meeting of Council.
 M20/5757 – Confidential Item – Financial Assistance Legal Representation Policy - July 2020 Ordinary Meeting of Council.
 Works Programme : Not Applicable
 Funding : Not Applicable
 Responsible Officer : Corrine Newman
 Governance Coordinator

AUTHORITY / DISCRETION

DEFINITION

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	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 to note.</i>

M21/5853 – REVIEW OF COUNCIL POLICY CP-017 LEGAL REPRESENTATION ELECTED MEMBERS AND EMPLOYEES (REC) (ATTACHMENT)**KEY ISSUES / SUMMARY**

- Council Policy CP-017 has been in place since 2007 and is due for review.
- Recent application and requests for legal services has led to scrutiny of the intent of the policy, with Elected Members providing comments in writing and at a workshop.
- Updates to the policy have been made and the suggested amendments to the policy are based on the comments of Elected Members.

BACKGROUND

At the 21 and 22 July 2020 Ordinary Meeting of Council, the Council resolved that this policy be presented to an Elected Member Information Session for review.

The Policy has been presented to the Council as a motion from an Elected Member for consideration at Meetings of Council held:

- 16 February 2021 Ordinary Meeting of Council
17.1 Motion Without Notice – Review of Policy CP-017
- 16 March 2021 Ordinary Meeting of Council
16.5 Motion – Review of Policy CP-017 – Legal Representation Policy Elected Members and Employees
- 6 April 2021 Special Meeting of Council
12.3 Motion – Review of Policy CP-017 – Legal Representation Policy Elected Members and Employees
- 15 June 2021 Ordinary Meeting of Council
16.1 Motion – Review of CP-017

Elected Members were provided with the opportunity to provide comment on the Council Policy CP-017 Legal Representation Elected Members and Employees via the electronic discussion board, with those comments and comments made in other forums collated for discussion at an Elected Members Workshop.

DETAIL

Council Policy CP-017 Legal Representation Policy Elected Members and Employees has been in place since 2007, with reviews being undertaken in 2009, 2012, 2014, 2016 and 2018.

The review of this policy relates to the applications from Elected Members and Employees for financial assistance to instigate civil proceedings in the course of their official duties.

The recent application of the policy has led to scrutiny of the policy by Elected Members and resulted in comments via several avenues. Elected Members were provided with a copy of the Department of Local Government Operational Guideline “Legal Representation for Council Members and Employees” which includes a model policy. The current Council Policy is not inconsistent with the model policy.

M21/5853 – REVIEW OF COUNCIL POLICY CP-017 LEGAL REPRESENTATION ELECTED MEMBERS AND EMPLOYEES (REC) (ATTACHMENT)

The current policy was discussed in detail by Elected Members at a Workshop held 21 July 2021, which has resulted in the following changes being proposed:

Clause	Proposed Amendments
Policy Scope	<ul style="list-style-type: none"> • Inclusion of a new second paragraph <p>“There are four major criteria for determining whether the City will pay the legal representation costs of a council member or employee. These are:</p> <ol style="list-style-type: none"> 1. the legal representation costs must relate to a matter that arises from the performance, by the council member or employee, of his or her functions; 2. the legal representation cost must be in respect of legal proceedings that have been, or may be, commenced; 3. in performing his or her functions, to which the legal representation relates, the council member or employee must have acted in good faith, and must not have acted unlawfully or in a way that constitutes improper conduct; and 4. the legal representation costs do not relate to a matter that is of a personal or private nature.”
Clause 1 General Principles	<ul style="list-style-type: none"> • Inclusion of a new point b) “All applications for legal assistance by Elected Members, to be funded by the City, must first be approved by the Council” • Inclusion of a new point c) “All applications for the City to fund the commencement of legal proceedings by an Employee must first be approved by the Council.” • Delete the following words from the first paragraph in current point c) “except in exceptional circumstances” • Delete the second paragraph in the current point c) in its entirety. <p>Rationale: Ensuring the Council is aware of and approves any legal proceedings that are outside of those that would be instigated by the City in support of an employee carrying out their duties.</p> <ul style="list-style-type: none"> • Renumber all points in order.

M21/5853 – REVIEW OF COUNCIL POLICY CP-017 LEGAL REPRESENTATION ELECTED MEMBERS AND EMPLOYEES (REC) (ATTACHMENT)

Clause	Proposed Amendments
<p>Clause 2 Applications for Financial Assistance</p>	<ul style="list-style-type: none"> • Delete point (a) in it's entirety. <p>Rational: The proposed revisions to Clause 1, make this clause unnecessary.</p> <ul style="list-style-type: none"> • Amend point (f) to read: "Where it is the Chief Executive Officer who is seeking urgent financial support for legal services then the Mayor, with the assistance of the Director Corporate Services, shall deal with the application." <p>Rational: Provides for the Mayor to be involved in an urgent application for financial support for legal services from the CEO.</p> <ul style="list-style-type: none"> • Renumber all points sequentially.
<p>General</p>	<ul style="list-style-type: none"> • Update references to legislation and policy • Update review information

A copy of the policy, showing the proposed changes is attached [CP-017 Legal Representation Policy Elected Members and Employees](#)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

No consultation with the community has been sought in relation to 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

Section 9.56 of the *Local Government Act 1995* provide protection from actions of tort for anything a council member or employee has undertaken in their role.

There is no statutory requirement for a Legal Representation Policy, however it is considered best practice to have such a policy in place to ensure clarity and guidance in determining applications for financial assistance in relation to legal expenses.

M21/5853 – REVIEW OF COUNCIL POLICY CP-017 LEGAL REPRESENTATION ELECTED MEMBERS AND EMPLOYEES (REC) (ATTACHMENT)**FINANCIAL IMPLICATIONS**

Expenditure for legal services, advice and opinions is provided for in the annual budget.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

This report is the review of a current policy of the Council. The policy is generally based on the model policy provided by the Department of Local Government Sport and Cultural Industries.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council could resolve not to amend Council Policy CP-105 Election Caretaker Period and the current policy would remain in place. This review has been based on comments provided by Elected Members, in relation to the application of the Policy.

CONCLUSION

The Legal Representation Policy for Elected Members and Employees is in place to provide clarity in the process applied when an Elected Member or Employee makes request for financial assistance in relation to a legal matter. Amendments to the policy are suggested based on feedback and comments from Elected Members.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5853)**APPROVAL**

At 8:34pm Cr Fitzgerald Moved, Seconded Cr Wheatland –

That the Council approves the review of and amendments to [CP-017 Legal Representation Policy Elected Members and Employees](#)

At 8:35pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

Disclosure of Interest

Member Cr S Kepert
 Type of Interest Interest under the code
 Nature of Interest I do not possess the information required to make an informed decision.
 Request Stay and Discuss
 Decision Leave Stay and Discuss

Cr Kepert declared an interest in this matter, but was not in attendance when the matter was discussed.

**M21/5854 – REVIEW OF COUNCIL POLICY CP-105 ELECTION CARETAKER PERIOD
(REC) (ATTACHMENT)**

Ward : All
 Category : Policy
 Subject Index : Corporate Policy
 Customer Index : City of Melville
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : M17/5570 – New Council Policy Election Caretaker Period(August 2017 Ordinary Meeting of Council)
 Works Programme : Not Applicable
 Funding : Not Applicable
 Responsible Officer : Corrine Newman
 Governance Coordinator

AUTHORITY / DISCRETION

DEFINITION

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

**M21/5854 – REVIEW OF COUNCIL POLICY CP-105 ELECTION CARETAKER PERIOD
(REC) (ATTACHMENT)**

KEY ISSUES / SUMMARY

- | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> • Council Policy CP-105 Election Caretaker Period Terms of Office was adopted in 2017 and has been in place for two local government elections, one state election and one federal election. • This report recommends some minor amendments to the policy to improve clarity and reflect changes in legislation. |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

BACKGROUND

At the Ordinary Meeting of Council held 15 August 2017, the Council endorsed the introduction of Council Policy CP-105 Election Caretaker Policy.

The Policy has been in place for the 2017 and 2019 Local Government Elections, the 2019 Federal Election and the 2021 State Election.

DETAIL

The general intent of the policy is to avoid the Council making major decisions that would bind an incoming Council and to prevent the use of public resources in ways seen to be advantageous to existing Elected Members.

Elected Members were given the opportunity to make comment on the policy. A workshop was held with Elected Members to consider comments and the application of the policy during elections, with the following changes proposed for consideration:

Clause	Proposed Amendments
Clause 2.2	<ul style="list-style-type: none"> • Delete words “may permit a matter:” and replace with the words “may facilitate a matter”, • Insert a new fifth dot point” to read as: “whether the matter is following a process under regulations or legislation; <p>Rationale: Where there are long term issues under consideration, that are following statutory process, it may be appropriate for the CEO to continue to facilitate these matters through to the Council for consideration during the Caretaker Period. It is not intended that matters that require consideration over a longer term, and follow statutory process should be delayed due to the Caretaker Period.</p>
Clause 3	<ul style="list-style-type: none"> • Delete the words “may choose” from the first dot point and replace with the words “is encouraged”
General	<ul style="list-style-type: none"> • Update references to legislation and policy • Update review information

A copy of the policy, showing the proposed changes is attached [CP-105 Election Caretaker Period.](#)

**M21/5854 – REVIEW OF COUNCIL POLICY CP-105 ELECTION CARETAKER PERIOD
(REC) (ATTACHMENT)**

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

No consultation with the community has been sought in relation to 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

There is currently no statutory requirement for the City to have a Caretaker Policy in place however, the adoption and application of such a policy provides clarity and guidance around decision making and behaviour expectations in the lead up to local, state and federal elections.

FINANCIAL IMPLICATIONS

There are no financial implications associated with the proposed amendments to Council Policy CP-105 Election Caretaker Period.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement & Consequence	Level of Risk	Risk Treatment
Risk of public perception that decisions are made by Elected Members that are not reflective of the communities desires, or the perception of misuse of resources.	Major consequences are possible, resulting in a High level of risk.	Ensure policy and processes in place to mitigate the likelihood of occurrence and ensure good governance practices and organisational transparency.

POLICY IMPLICATIONS

The Election Caretaker Policy supports the revised Code of Conduct for Elected Members, Committee Members and Candidates, adopted by the Council in May 2021, which provides guidance on the behaviours expected to be demonstrated by Elected Members, Committee Members and Candidates and encourages a commitment to professional and ethical behaviour.

**M21/5854 – REVIEW OF COUNCIL POLICY CP-105 ELECTION CARETAKER PERIOD
(REC) (ATTACHMENT)****ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The Council could resolve not to amend Council Policy CP-105 Election Caretaker Period and the current policy would remain in place.

CONCLUSION

The Election Caretaker Policy is in place to provide guidance to Elected Members and officers in the lead up to elections, to ensure that the business of the City of Melville continues in a responsible and transparent manner. It is recommended that some minor amendments be made to the policy to ensure clarity and correct references to legislation and policy.

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

At 8:35pm Cr Barton moved, seconded Cr Barber –

That the Council approves the review of and amendments to [CP-105 Election Caretaker Period](#)

At 8:35pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

M21/5000 – COMMON SEAL REGISTER (REC)

KEY ISSUES / SUMMARY

This report details the documents to which the City of Melville Common Seal has been applied for the period from 16 June 2021 up to and including 15 July 2021 for the Council's noting.

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
CS2176	City of Melville and Landgate	Notification 70A - Transfer or Land act 1893 – Certificate of title. Transport Noise Notification.	DA-2021-603

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.

M21/5000 – COMMON SEAL REGISTER (REC)

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

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

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

FINANCIAL IMPLICATIONS

There are no financial implications in this report other than that held in any contract advised above.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

There are no policy implications in this report.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

CONCLUSION

This is a standard report for the Elected Members' that details the documents to which the City of Melville Common Seal has been applied for the period from 16 June 2021 up to and including 15 July 2021.

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 16 June 2021 up to and including 15 July 2021.

At 8:36pm the Mayor declared the motion

CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)

Disclosure of Interest

Member Cr S Kepert
 Type of Interest Interest under the code
 Nature of Interest I do not possess the information required to make an informed decision.
 Request Stay and Discuss
 Decision Leave Stay and Discuss

Cr Kepert declared an interest in this matter, but was not in attendance when the matter was discussed.

C21/6000 - INVESTMENT STATEMENTS FOR JUNE 2021 (REC)

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

AUTHORITY / DISCRETION

DEFINITION

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

KEY ISSUES / SUMMARY

This report presents the investment statements for the period ending 30 June 2021 for the Council's information and noting.

C21/6000 - INVESTMENT STATEMENTS FOR 30 JUNE 2021 (REC)

BACKGROUND

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

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

DETAIL

The following statement details the investments held by the City as at 30 June 2021.

CITY OF MELVILLE STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 30 JUNE 2021		
SUMMARY BY FUND		
Municipal		\$29,289,209
Reserve		\$146,768,391
Trust		\$-
Citizen Relief		\$217,779
TOTAL		\$176,275,379
SUMMARY BY INVESTMENT TYPE		
11AM		\$13,954,907
31Days at Call		\$6,000,000
60Days at Call		\$2,000,000
90Days at Call		\$16,600,000
Term Deposit		\$137,720,473
TOTAL		\$176,275,379
SUMMARY BY CREDIT RATING		
AAA Category	AAA	
AA Category (AA+ to AA-)	AA-	\$128,774,664
A Category (A+ to A-)	A+	\$10,000,716
	A	
	A-	
BBB+ Category	BBB+	\$37,500,000
TOTAL		\$176,275,379

C21/6000 - INVESTMENT STATEMENTS FOR 30 JUNE 2021 (REC)

Exposure to an individual institution is limited according to Council policy and in June 2021 the investments were within the acceptable limits.

Investment with financial institutions						
Institution	Credit Rating	Credit Rating Category	Funds held at period end	Actual %	Limit Per Policy	
ANZ	AA-	AA Category	\$ 5,500,000	3.12%	30.00%	✓
AMP	BBB+	BBB+ Category	\$ -	0.00%	15.00%	✓
Bankwest	AA-	AA Category	\$ -	0.00%	30.00%	✓
Bank of Queensland	BBB+	BBB+ Category	\$ 26,000,000	14.75%	15.00%	✓
ING Bank	A-	A Category	\$ -	0.00%	25.00%	✓
Bendigo & Adelaide	BBB+	BBB+ Category	\$ 11,500,000	6.52%	15.00%	✓
CBA	AA-	AA Category	\$ 43,000,000	24.39%	30.00%	✓
Macquarie	A+	A Category	\$ 7,000,716	3.97%	25.00%	✓
NAB	AA-	AA Category	\$ 26,233,104	14.88%	30.00%	✓
St George	AA-	AA Category	\$ -	0.00%	30.00%	✓
Suncorp	A+	A Category	\$ 3,000,000	1.70%	25.00%	✓
Westpac	AA-	AA Category	\$ 54,041,560	30.66%	30.00%	✗
TOTAL			\$ 176,275,379	100%		

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

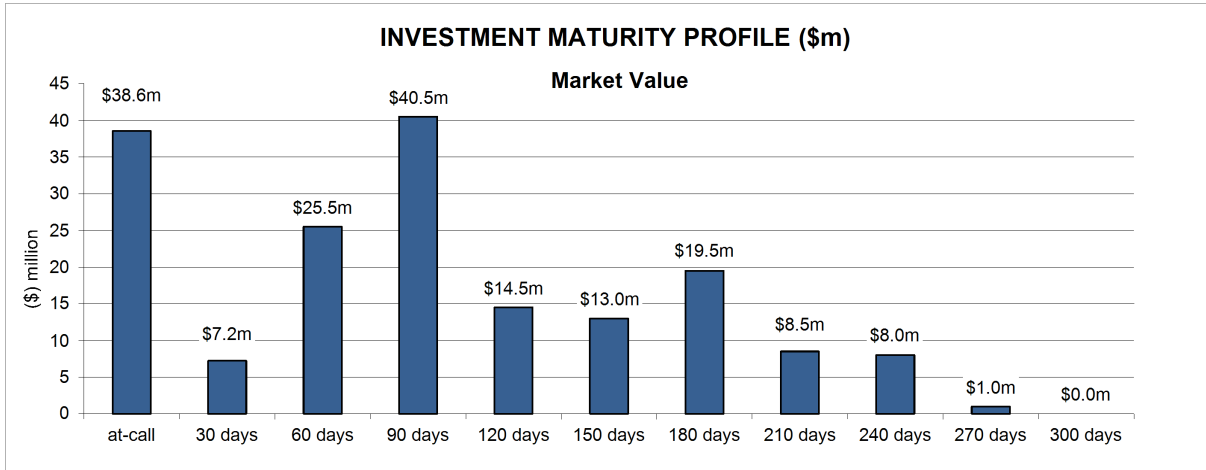
The City's investments were invested within the limits allowed within each category rating for June 2021 except Westpac Bank which has exceeded the policy limit for individual financial institute by 0.66%. The minor variation for Westpac reflects the reduction in the total investment balance which has resulted in the exceeding of the policy limit by \$1M. Given the maturity profile of the Westpac investments it is expected that this will be resolved by August 2021.

Maximum Percentage of Average Investment Portfolio Balance				
Long Term Rating	Funds held at period end \$	Actual %	Limit Per Policy	
AAA Category	\$ -	0%	100%	✓
AA Category (AA+ to AA-)	\$ 128,774,664	73%	80%	✓
A Category (A+ to A-)	\$ 10,000,716	6%	50%	✓
BBB+ Category	\$ 37,500,000	21%	25%	✓
TOTAL	\$ 176,275,379	100%		

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

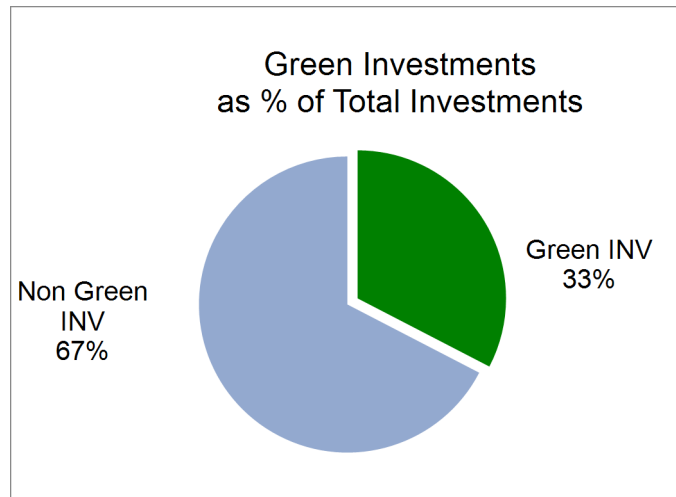
C21/6000 - INVESTMENT STATEMENTS FOR 30 JUNE 2021 (REC)

The below graph summarises the maturity profile of the City’s investments at market value as at 30 June 2021. The immediacy of the demand for funds depends on the particular Fund or Reserve Account(s) of the City. The maturity profile provided in the table above meets the liquidity requirements of the Council policy.



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

The total investment in authorised institutions that do not lend to industries engaged in the exploration for, or production of, fossil fuels, as at 30 June 2021 was \$57,500,000 or 33% of total investment holdings being in non-fossil fuels institutions, compared to \$54,500,000 (29%) in May 2021. The total investments holding for June and May were \$176,275,379 and \$185,575,379 respectively.



C21/6000 - INVESTMENT STATEMENTS FOR 30 JUNE 2021 (REC)

Green Investment with financial institutions			
Institution	Credit Rating	Credit Rating Category	Funds held at period end
Bendigo & Adelaide	BBB+	BBB+ Category	\$ 11,500,000
CBA	AA-	AA Category	\$ 43,000,000
Suncorp	A+	A Category	\$ 3,000,000
TOTAL			\$ 57,500,000

Green investments are invested in three banks listed above, following the council credit rating policy. Green Term Deposits with CBA are currently limited or no longer available as the pool of funds with them has reached full capacity. However, CBA allocated an additional \$3M Green Investment to the City in June. Other banks offer a lower interest rate on Green Investment.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

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

II. OTHER AGENCIES / CONSULTANTS

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

STATUTORY AND LEGAL IMPLICATIONS

The following legislation is relevant to this report:

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

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

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

C21/6000 - INVESTMENT STATEMENTS FOR 30 JUNE 2021 (REC)

FINANCIAL IMPLICATIONS

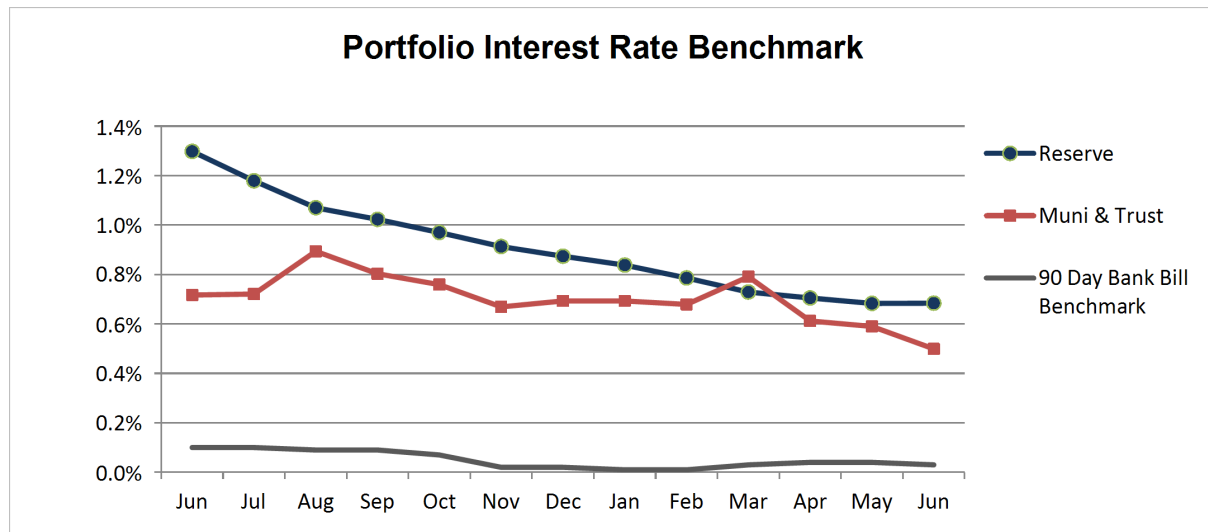
For the period ending 30 June 2021:

- Investment earnings on Municipal and Trust Funds were \$148,954 against a year to date budget of \$252,375 representing a negative variance of \$103,422 . The negative variance is the result of the City having a lower balance of Municipal funds that expected. It is noted that the City overall is likely to have an operating surplus for the 2021-2021 financial year.

The weighted average interest rate for Municipal and Trust Fund investments as at 30 June 2021 was 0.50% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.03%.

- Investment earnings on Reserve accounts were \$1,369,754 against a year to date budget of \$1,180,760 representing a positive variance of \$188,994. The variance is a result of larger reserve balances than anticipated.

The weighted average interest rate for Reserve account investments as at 30 June 2021 was 0.68% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.03%.



STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Strategic

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

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

Risk

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

C21/6000 - INVESTMENT STATEMENTS FOR 30 JUNE 2021 (REC)**Environmental**

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable as this report only presents information for noting.

CONCLUSION

The City's investment portfolio is invested in highly secure investments with a low level of risk yielding a weighted average rate of return of 0.50% to 0.68% which exceeds the benchmark three month bank bill swap (BBSW) reference rate of 0.03%.

33% 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 29% in May 2021.

Whilst the interest revenue on Municipal funds is less than budgeted the City is still expected to have a positive operating result of 2020-2021.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6000)**NOTING**

That the Council notes the Investment Report for the period ending 30 June 2021.

At 8:36pm the Mayor declared the motion

CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)

Disclosure of Interest

Member Cr S Kepert
 Type of Interest Interest under the code
 Nature of Interest I do not possess the information required to make an informed decision.
 Request Stay and Discuss
 Decision Leave Stay and Discuss

Cr Kepert declared an interest in this matter, but was not in attendance when the matter was discussed.

C21/6001 – SCHEDULE OF ACCOUNTS PAID FOR JUNE 2021 (REC) (ATTACHMENT)

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

AUTHORITY / DISCRETION

DEFINITION

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

KEY ISSUES / SUMMARY

This report presents the details of payments made under delegated authority to suppliers for the period of June 2021 and recommends that the Schedule of Accounts Paid be noted.

C21/6001 – SCHEDULE OF ACCOUNTS PAID FOR JUNE 2021 (REC) (ATTACHMENT)

BACKGROUND

Delegated Authority DA-035 has been granted to the Chief Executive Officer to make payments from the Municipal and Trust Funds. This authority has then been on-delegated to the Director Corporate Services. 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 June including Payment Register numbers, Cheques: 796-797, Electronic Funds Transfers batches: 708-714, Trust Payments, Card Payments and Payroll was distributed to the Elected Members of the Council on 30 July 2021.

A total of \$10,210,748 direct creditor payments were paid during the month, of which, 24% of payments were paid to suppliers located within the City of Melville and 34% to suppliers within the South West Group. This compares to 12% and 18% out of a total of \$ 9,916,769 direct creditor payments made over May 2021 respectively. The biggest payment of \$1,358,383 made during the month was the waste charges to the SMRC Southern Metropolitan Regional Council. 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 JUNE 2021		
<i>Payments made under Delegated Authority DA-035</i>		
MUNICIPAL FUNDS - DIRECT CREDITOR PAYMENTS		
<i>Cheques</i>	Chq Payment Register No. 796 and 797	\$10,518.69
	Chq Payment on Restricted Funds Register No.	\$0.00
	Less Cancelled Chqs	(\$152.75)
<i>Electronic Funds Transfers</i>	EFT Payment Register No. 708,709,711,712 and 714	\$9,504,745.56
	EFT Payment on Restricted Funds Register No. 108, 710 and 713	\$551,595.35
	Less Cancelled EFTs	(\$3,147.68)
		\$10,063,559.17
<i>Direct Debits</i>	Bank Fees	\$12,083.28
	Ampol Fuel	\$76,778.18
<i>Direct Payments</i>		\$58,327.39
	Total Direct Creditor Payments	\$10,210,748.02
<i>Payroll</i>	Total Pay 25 and 26	\$3,701,637.92
	Total Payroll	\$3,701,637.92
<i>Cards</i>	Corporate Cards	\$13,648.88
	Purchase Cards	\$53,340.45
	American Express	\$25,629.50
	Total Card Payments	\$92,618.83
	Total Direct Creditor Payments from Municipal Account	\$14,005,004.77

C21/6001 – SCHEDULE OF ACCOUNTS PAID FOR JUNE 2021 (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		(\$12,900,138.70)	
Reserve		\$12,900,138.70	
Trust			\$0.00
<i>Total Interfund Transfers</i>			\$0.00
<i>New Municipal Investments</i>			
Westpac Bank	3/06/2021		\$2,000,000.00
Westpac Bank	4/06/2021		\$1,300,000.00
Westpac Bank	9/06/2021		\$1,800,000.00
Commonwealth Bank	16/06/2021		\$1,500,000.00
Commonwealth Bank	17/06/2021		\$1,500,000.00
Westpac Bank	17/06/2021		\$3,000,000.00
Westpac Bank	18/06/2021		\$800,000.00
<i>Total New Investments</i>			\$11,900,000.00
Grand Total			\$25,905,004.77

Details of the payments are shown in attachment [6001 Payment Details June 2021](#). Any payment over and above \$25,000.00 has been highlighted under the Payment Amount column in the attachment to this statement named 'Listing of Payments made under Delegated Authority'.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not applicable.

II. OTHER AGENCIES / CONSULTANTS

Not applicable.

C21/6001 – SCHEDULE OF ACCOUNTS PAID FOR JUNE 2021 (REC) (ATTACHMENT)**STATUTORY AND LEGAL IMPLICATIONS**

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

FINANCIAL IMPLICATIONS

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable as this report presents information for noting only.

CONCLUSION

The Schedule of Payments for the month totals \$25,905,004.77.

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 June 2021 as approved by the Director Corporate Services in accordance with delegated authority DA-035, and detailed in attachment [6001 Payment Details June 2021](#).

At 8:36pm the Mayor declared the motion

CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)

**C21/6002 – PRELIMINARY STATEMENTS OF FINANCIAL ACTIVITY FOR JUNE 2021
(AMREC) (ATTACHMENTS)****KEY ISSUES / SUMMARY**

This report presents:

- The Preliminary Statements of Financial Activity by Program, Sub-Program and Nature and Type, for the period ending 30 June 2021 and recommends that they be noted by the Council.
- The final figures for 2020-2021 are yet to be finalised. Year end processes are still underway and therefore the final accounts for 2020-2021 may be materially different to what is presented in this report.
- The preliminary variances for the month of 30 June 2021 and recommends that they be noted by the Council.
- The Budget amendments required for the month of 30 June 2021 and recommends that they be adopted by Absolute Majority decision of the Council.

BACKGROUND

The Statements of Financial Activity for the period ending 30 June 2021 have been prepared and tabled in accordance with the *Local Government (Financial Management) Regulations 1996*.

OVERALL SUMMARY OF THE CITY'S FINANCIAL POSITION

- End of financial year processes for 2020-2021 are still underway and therefore the final figures for 2020-2021 may be materially different to what is presented in this report.
- The Municipal cash balance at the end of the month is \$29.2m. This reflects that the City is in a positive financial position to meet its obligations.
- There was no change in investment holdings in reserve accounts, compared to the reserve investment holding \$147m in May 2021. 83% of the City's investment holdings are held in reserve accounts which are restricted to the defined purpose for which the reserve account was established.
- The Green investment in authorised banking institutions as at 30 June 2021 was \$57,500,000 or 33% of total investment holdings, compared to \$54,500,000 (29%) in May 2021.
- During June, budget amendments were made to reflect reallocation of funds, additional expenditure funded by new grant income and changes to budgets of capital works projects and the corresponding impact on reserves funding those projects.
- Rates raised year to date were \$81,392,990 with a negative variance of \$34,398 compared to the year to date annual budget of \$81,427,388. Rates collection progress for June is at 94.4% which is below the month end target of 94.6%.
- Total debtor collections for June equalled \$2,224,254. The year to date total outstanding debtors (including all rates and sundry debtors) is \$7,374,972. The YTD cash collection of \$111,806,347 from total debtors is lower than the cash collection of \$120,376,898 during the same period in the previous year. The rates raised in 2020-21 were lower due to COVID -19 concessions; hence the amount collected is also lower.

**C21/6002 – PRELIMINARY STATEMENTS OF FINANCIAL ACTIVITY FOR JUNE 2021
(AMREC) (ATTACHMENTS)**

- Total waivers under the Community Stimulus Package adopted by Council on 9 April 2020, is \$1,021,464 over multiple financial years. There were no new waivers during June 2021.
- Year to date capital expenditure was \$30,551,081 against the annual capital budget of \$65,208,137 representing a positive variance of \$34,657,056. The end of year expenditure accrual process is yet to be finalised and will materially change the overall spend. Incomplete capital works projects may be carried to the 2021-2022 financial year.

DETAIL

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

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

Variations

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

[6002C Statement Sub Program June 2021](#): Rate Setting Statement by Sub-Program
[6002H Statement of Variations June 2021](#): Statement of Variations in Excess of \$50,000

Revenue

Rates raised as at June were \$81,392,990, compared to a year to date budget of \$81,427,388. The negative variance of \$(31,186) is made up of minor variations.

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	9,142,487	9,142,487	0%	6,607,681	38%
Debtors Raised	102,042,742	102,327,864	0%	116,254,088	-12%
Payments Received	(104,693,366)	(103,612,939)	1%	(113,301,258)	-8%
Closing Balance	6,491,862	7,857,412	-17%	9,560,511	-32%

Total rate debtor collections for the month equalled \$1,080,427.

**C21/6002 – PRELIMINARY STATEMENTS OF FINANCIAL ACTIVITY FOR JUNE 2021
(AMREC) (ATTACHMENTS)**

Sundry Debtor Movement

SUMMARY OF SUNDRY DEBTOR MOVEMENT					
Detail	Actuals Current Month YTD	Actuals Previous Month YTD	% Diff Current Mth to Previous Mth	Actuals This Month Last Year YTD	% Diff Current Mth to Current Mth Last Yr
Opening Balance - 1 July	1,238,865	1,238,865	0%	432,873	186%
Invoices Raised	6,738,602	5,703,088	18%	7,866,842	-14%
Receipts	(7,112,980)	(5,969,153)	19%	(7,075,640)	1%
Prepayments	18,623	17,429	7%	14,790	26%
Closing Balance	883,110	990,229	-11%	1,238,865	-29%

Sundry debtor balances decreased by-\$107,119 over the course of June from \$990,229 to \$883,110 of which total 90 day sundry debtors over \$1,000 for the month is \$225,904, representing 26% of total sundry debtors.

Money Expended in an Emergency and Unbudgeted Expenditure

Not applicable for June 2021.

Budget Amendments

Details of Budget Amendments requested for the month of June 2021 are shown in attachment [6002J June 2021](#). Variances greater than \$50,000 processed in June 2021 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.

\$100 for hire charges was written off under delegated authority in the month of June. All communication sent to the debtor was returned to sender. No other form of contact details or email address available for further communication.

\$297.50 was written off in the month of June for waste services as the customer had moved but the City was not notified. All communication sent to debtor was returned to sender. No other form of contact details or email address available for further communication.

**C21/6002 – PRELIMINARY STATEMENTS OF FINANCIAL ACTIVITY FOR JUNE 2021
(AMREC) (ATTACHMENTS)**

The following attachments form part of the Attachments to the Agenda for the month of June 2021.

DESCRIPTION	LINK
Statement of Financial Activity By Nature and Type	<u>6002A Statement Nature Type June 2021</u>
Rate Setting Statement by Program	<u>6002B Rate Setting Program June 2021</u>
Rate Setting Statement by Sub-Program	<u>6002C Rate Setting Sub Program June 2021</u>
Representation of Net Working Capital	<u>6002E Net Working Capital June 2021</u>
Reconciliation of Net Working Capital	<u>6002F Reconciliation Net Working Capital June 2021</u>
Notes on Rate Setting Statement reporting on variances of 10% or \$50,000 whichever is greater	<u>6002H Notes Rate Setting Statement June 2021</u>
Details of Budget Amendments requested	<u>6002J Budget Amendments June 2021</u>
Summary of Rates Debtors	<u>6002L Summary Rate Debtors June 2021</u>
Graph Showing Rates Collections	<u>6002M Rates Collections Graph June 2021</u>
Summary of General Debtors aged 90 Days Old or Greater	<u>6002N General Debtors Aged 90days June 2021</u>

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not applicable.

II. OTHER AGENCIES / CONSULTANTS

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

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

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

**C21/6002 – PRELIMINARY STATEMENTS OF FINANCIAL ACTIVITY FOR JUNE 2021
(AMREC) (ATTACHMENTS)****34. Financial activity statement report — s. 6.4**

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

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

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

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

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

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

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

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

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

The variance adopted by the Council is 10% or \$50,000 whichever is greater.

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

FINANCIAL IMPLICATIONS**Variances**

Variances are detailed and explained in attachment

[6002H Notes Rate Setting Statement June 2021](#): Notes on Statement of Variances in excess of \$50,000 by Sub-Program.

**C21/6002 – PRELIMINARY STATEMENTS OF FINANCIAL ACTIVITY FOR JUNE 2021
(AMREC) (ATTACHMENTS)****STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable

CONCLUSION

The attached financial reports reflect a positive financial position of the City of Melville as at 30 June 2021.

**C21/6002 – PRELIMINARY STATEMENTS OF FINANCIAL ACTIVITY FOR JUNE 2021
(AMREC) (ATTACHMENTS)**

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

That the Council:

- 1. Notes the Rate Setting Statement and Statements of Financial Activity for the month ending 30 June 2021 as detailed in the following attachments:**

DESCRIPTION	LINK
Statement of Financial Activity By Nature and Type	<u>6002A Statement Nature Type June 2021</u>
Rate Setting Statement by Program	<u>6002B Rate Setting Program June 2021</u>
Rate Setting Statement by Sub-Program	<u>6002C Rate Setting Sub Program June 2021</u>
Representation of Net Working Capital	<u>6002E Net Working Capital June 2021</u>
Reconciliation of Net Working Capital	<u>6002F Reconciliation Net Working Capital June 2021</u>
Notes on Rate Setting Statement reporting on variances of 10% or \$50,000 whichever is greater	<u>6002H Notes Rate Setting Statement June 2021</u>
Details of Budget Amendments requested	<u>6002J Budget Amendments June 2021</u>
Summary of Rates Debtors	<u>6002L Summary Rate Debtors June 2021</u>
Graph Showing Rates Collections	<u>6002M Rates Collections Graph June 2021</u>
Summary of General Debtors aged 90 Days Old or Greater	<u>6002N General Debtors Aged 90days June 2021</u>

- 2. By Absolute Majority Decision adopts the budget amendments, as detailed in the attached Budget Amendment Reports for June 2021
[6002J Budget Amendments June 2021](#)**

At 8:36pm the Mayor declared the motion

CARRIED EN BLOC BY ABSOLUTE MAJORITY (11/0)

15. EN BLOC ITEMS

At 8:36pm Cr Fitzgerald moved, seconded Cr Barton–

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

- M21/5000 Common Seal Register**
- C21/6000 Investment Statements June 2021**
- C21/6001 Schedule of Accounts Paid June 2021**
- C21/6002 Preliminary Statements of Financial Activity for June 2021**

At 8:36pm the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (11/0)

16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Nil.

At 8:36pm Cr Woodall left the meeting.

At 8:37pm the Mayor relinquished the Chair in order to table a motion without notice.
At 8:37pm the Deputy Mayor, Cr June Barton, assumed the role of Presiding Member.

17. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL**17.1 South Metropolitan Zone Committee Meeting Delegation****COUNCIL RESOLUTION**

At 8:37pm Mayor Gear moved, seconded Cr Macphail –

That the Council authorises the Chief Executive Officer to deputise for the City of Melville Delegates to the South Metropolitan Zone, including voting rights, for the South Metropolitan Zone meeting scheduled to be held Monday 23 August 2021.

At 8:38pm, the Deputy Mayor declared the motion

CARRIED UNANIMOUSLY (10/0)

Reasons as provided by the Mayor

The City's Delegate to the South Metropolitan Zone are Cr Macphail, Cr Barton and Cr Kepert with Cr Pazolli as deputy. For the 23 August 2021 South Metropolitan Zone Meeting, only Cr Macphail is able to attend, which would mean the City would only have one voting member representing the City. Chief Executive Officers, who attend the meeting as non-voting delegates, are able to deputise for voting delegates when a full voting capacity is not present.

At 8:38pm the Deputy Mayor relinquished the Chair.
At 8:38pm the Mayor assumed the Chair.

Disclosure of Interest

Member Cr S Kepert
 Type of Interest Interest under the code
 Nature of Interest I do not possess the information required to make an informed decision.
 Request Stay and Discuss
 Decision Leave Stay and Discuss

Cr Kepert declared an interest in this matter, but was not in attendance when the matter was discussed.

T21/3940 – RFT202126 SUPPLY OF VEGETATION AND TREE WATERING SERVICES FOR A THREE YEAR TERM WITH OPTION PERIOD (REC) (CONFIDENTIAL ATTACHMENT)

Ward : All
 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 : Tree watering and Streetscape budgets
 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>

**T21/3940 - RFT202126 SUPPLY OF VEGETATION AND TREE WATERING SERVICES FOR
A THREE YEAR TERM WITH OPTION PERIOD (REC) (CONFIDENTIAL ATTACHMENT)****KEY ISSUES / SUMMARY**

To recommend the acceptance of a tender submitted for the Supply of Vegetation and Tree Watering Services for a Three Year Term with Option Period.

BACKGROUND

The City of Melville is seeking a suitably qualified and experienced Contractor to supply and apply water to the City's trees, median islands, and streetscapes at various locations within the City.

This contract is valid for an initial term of three years with two additional 12 month option periods to be granted at the sole discretion of the City.

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 three qualitative criteria for this Request, being Demonstrated Experience, Key Personnel, and Methodology.

The Evaluation Panel reviewed all Respondent offers and prepared an Evaluation Report, identifying the recommended Respondent.

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

STAKEHOLDER ENGAGEMENT**I. COMMUNITY**

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

II. OTHER AGENCIES / CONSULTANTS

No other agencies/consultants has been required or undertaken for this tender.

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".

T21/3940 - RFT202126 SUPPLY OF VEGETATION AND TREE WATERING SERVICES FOR A THREE YEAR TERM WITH OPTION PERIOD (REC) (CONFIDENTIAL ATTACHMENT)

FINANCIAL IMPLICATIONS

Pre-Tender Estimate	\$944,000 per year
If the budget is exceeded by appointing the proposed contractor a budget amendment proposal must be included in the recommendation	Not applicable, within budget.

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 is no residual risk implications following the invitation and evaluation process conducted for this item. Actions taken to address identified risks are listed in a confidential attachment included in the Contract and Tender Advisory Unit Meeting Minutes of 25 May 2021.

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 supplier has demonstrated that they have the necessary relevant experience, appropriate key personnel to deliver the services, and follows a methodology in line with the City's expectations.

The confidential attachments are included in the Contract and Tender Advisory Unit Meeting Minutes of 20 July 2021 which are available on the Elected Members Portal.

**T21/3940 - RFT202126 SUPPLY OF VEGETATION AND TREE WATERING SERVICES FOR
A THREE YEAR TERM WITH OPTION PERIOD (REC) (CONFIDENTIAL ATTACHMENT)****OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3940)****APPROVAL**

At 8:40pm Cr Mair moved, seconded Cr Barton–

That the Council

- 1. accept the recommendation as contained in the Confidential Attachment – RFT202126 Contract and Tender Advisory Unit Minutes, and**
- 2. upon resolution the recommendation, directs that the successful respondents' name be inserted below this point 2, awarded;**

**Baroness Holding Pty Ltd T/AS Tree Planting and Watering
ABN 35 614 676 550**

At 8:40pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (10/0)

At 8:41pm Cr Woodall returned to the meeting.

Disclosure of Interest

Member Cr S Kepert
 Type of Interest Interest under the code
 Nature of Interest I do not possess the information required to make an informed decision.
 Request Stay and Discuss
 Decision Leave Stay and Discuss

Cr Kepert declared an interest in this matter, but was not in attendance when the matter was discussed.

**T21/3942 - RFT202124 – CONSTRUCTION OF KARLUP CERAMICS STUDIO (AMREC)
(CONFIDENTIAL ATTACHMENT)**

Ward : Bicton - Attadale – Alfred Cove
 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 : As outlined in the confidential attachments
 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>

**T21/3942 - RFT202124 – CONSTRUCTION OF KARLUP CERAMICS STUDIO (AMREC)
(CONFIDENTIAL ATTACHMENT)****KEY ISSUES / SUMMARY**

To recommend the acceptance of a tender submitted for the Construction of Karlup Ceramics Studio.

BACKGROUND

The City of Melville (“City”), is seeking a suitably qualified and experienced Contractor to undertake the construction of the new Karlup Ceramics Studio at the existing Atwell House and Gallery precinct 586 Canning Highway Attadale.

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 four qualitative criteria for this Request, being Demonstrated Experience, Key Personnel, Sustainable Procurement, and Methodology.

The Evaluation Panel reviewed all Respondent 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.

STAKEHOLDER ENGAGEMENT**I. ABORIGINAL ELDERS / COMMUNITY**

During the concept planning period engagement was held with elders and heritage site informants led by Whadjuk facilitator Karen Jacobs. The concept plan was well received and influence on the project was mainly about programing and landscaping/interpretative design elements.

Continued engagement and consultation was conducted with the South of the Rivers Potters Club Inc (SORP) and the Melville Community Arts Association (MCAA).

City Officers continued to attend SORP and MCAA regular committee meetings at which design plans for the project were presented. Comments from the SORP and MCAA committee on the design plan were incorporated into the final design for the project. Feedback from the two community groups appreciated the engagement process and reported back very positively their ability to influence the design of the facility.

**T21/3942 - RFT202124 – CONSTRUCTION OF KARLUP CERAMICS STUDIO (AMREC)
(CONFIDENTIAL ATTACHMENT)**

II. OTHER AGENCIES / CONSULTANTS

Architectural, engineering and tender evaluation support services have been provided by Slavin Architects Pty Ltd.

Quantity Surveying services were provide by Wilde and Woollard Consultants.

Preliminary consultation with Waters and Rivers Department.

DBCA application 17-50182-1 was approved for the project 5th March 2021.

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".

FINANCIAL IMPLICATIONS

Pre-Tender Estimate	\$792,305
If the budget is exceeded by appointing the proposed contractor a budget amendment proposal must be included in the recommendation	The 2020-2021 Adopted Budget included the provision of \$950,000 in the capital works programme for the ceramics studio project. These funds were allocated from the New/Upgrade Works Reserve (previously known as the Future Works Reserve). Project funds have been carried from the 2020-2021 financial year to 2021-2022. As outlined in the attachments, the total project cost (inclusive of project management and contingency) has exceeded the current budget. A budget amendment of \$300,000 from the Community Facilities Reserve is required to complete the project.

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. Actions taken to address identified risks are listed in a confidential attachment included in the Contract and Tender Advisory Unit Meeting Minutes of 25 May 2021.

POLICY IMPLICATIONS

CP-023 Procurement of Products or Services

**T21/3942 - RFT202124 – CONSTRUCTION OF KARLUP CERAMICS STUDIO (AMREC)
(CONFIDENTIAL ATTACHMENT)**

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The only alternative to approving this tender is to not proceed with the Project. Given the considerable amount of engagement that has been undertaken during the course of the development of this Project this would likely lead to broad ranging outrage from the club and community.

CONCLUSION

The CTAU is satisfied that the recommended supplier has demonstrated that they have the necessary demonstrated experience, appropriate capacity to deliver, follow sustainable practices and follow a methodology in line with the City's expectations.

The recommended supplier offers the lowest cost to the City of the submissions whilst satisfying the City's qualitative requirements therefore they offer the best value for money.

The confidential attachments are included in the Contract and Tender Advisory Unit Meeting Minutes of 29 July 2021 available on the Elected Members Portal.

OFFICER RECOMMENDATION (3942)

ABSOLUTE MAJORITY APPROVAL

At 8:41pm Cr Barber moved, seconded Cr Wheatland –

That the Council

- 1. Accept the recommendation as contained in the Confidential Attachment – RFT202124 Contract and Tender Advisory Unit Minutes, and**
- 2. By absolute majority decision increases the project budget for Karlup Ceramic Studio (BCR04156) by \$300,000 and that this increase be funded by increasing the transfers from the Community Facilities Reserve, and**
- 3. Upon resolution the recommendation, directs that the successful respondents' names be inserted below this point 3, awarded;**

**AE Hoskins Building Services
ABN 14 941 679 801**

At 8:45pm, the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (10/1)

Yes	11	Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Woodall, Cr Robins, Cr Fitzgerald, Mayor Gear
No	1	Cr Pazolli

**LATE ITEM P21/3943 AMENDMENT TO SINGLE HOUSE (SITE WORKS AND SCREENING)
– LOT 802 (10D) BIRDWOOD CIRCUS, BICTON WA 6157 (REC) (ATTACHMENT)**

Item Brought Forward.
See page 29.

Disclosure of Interest

Member : Cr S Kepert
 Type of Interest : Interest under the code
 Nature of Interest : I do not possess the information required to make an informed decision.
 Request : Stay and Discuss
 Decision Leave : Stay and Discuss

Cr Kepert declared an interest in this matter, but was not in attendance when the matter was discussed.

LATE ITEM P21/3944 – “GALLERY ESTATE” CARAWATHA WILLAGEE, PROJECT UPDATE AND REQUEST FOR CEO AUTHORISATION (REC)

Ward : Palmyra – Melville - Willagee
 Category : Operational
 Property : Gallery Estate, 10 Archibald Street, Willagee
 Proposal : Gallery Estate, Willagee – Carawatha redevelopment project update
 Owner : City of Melville
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Item P17/3738 – Carawatha Residential Development Project Proposal Ordinary Meeting of Council held 21 February 2017. Item P17/3753 – Carawatha Residential Development Project Proposal Submissions Report - Ordinary Meeting of Council held 16 May 2017.
 Responsible Officer : Jeremy Rae
 Strategic Property Executive

AUTHORITY / DISCRETION

DEFINITION

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

LATE ITEM P21/3944 – “GALLERY ESTATE” CARAWATHA WILLAGEE, PROJECT UPDATE AND REQUEST FOR CEO AUTHORISATION (REC)**KEY ISSUES / SUMMARY**

- The third and final stage of the revitalisation project for the “Gallery” Estate Carawatha site has commenced.
- The civil construction contractor, Croker Constructions under the supervision of the City’s project partner Satterley Property Group, has completed the civil subdivision works and new titles were issued in May 2020 for all 43 lots composed of 23 cottage lots, 16 terrace home lots and 4 apartment site lots.
- Sales and settlements of all 23 cottage lots have been completed with 12 two storey homes currently under construction. The average lot selling price was \$360,000.
- The next phase of the project involves the construction and sale of 16 terrace homes and 98 apartments across 4 apartment sites.
- This report provides a project update and requests the Council to authorise the City’s CEO, to conclude the disposal of all the “Gallery Estate” built form terrace homes and apartments, located at the former Carawatha Primary School site, 10 Archibald Street, Willagee; in accordance with Section 3.58 of the Local Government Act 1995.

BACKGROUND

In June 2006 the City of Melville acquired the former Carawatha Primary School site, situated at 10 Archibald Street, Willagee from the Department of Education. The City’s key objectives in acquiring the site were to address the long held concerns of residents wishing to see activation of the suburb through urban renewal and to provide additional public open space required for Willagee. The Council at its meetings on 20 August 2013 and 10 December 2013, endorsed an approach to explore opportunities via either seeking Requests for Proposals (RFP) or Expression of Interest (EOI) for the potential redevelopment of a portion of the Carawatha site to deliver on the initial key objectives originally sought by the City, in addition to achieving the objectives outlined in the Willagee Structure Plan following extensive community consultation and feedback.

An RFP process was initiated in mid-2015 for a 2.6ha portion of the former Carawatha Primary School site in Willagee. The City’s Executive Leadership Team endorsed the recommendation from the Evaluation Panel, which identified Satterley Property Group (SPG) as the highest ranked proponent out of all submissions received, for the redevelopment of the Carawatha site and the shortlist of preferred proponents in accordance with their ranking from the evaluation assessment. A presentation at the Elected Members Information Session (EMIS) was provided on 14 July 2015 with a full briefing on the RFP process and Phase 1 of the evaluation assessment and recommendations. The major land transaction was publicly advertised with submissions considered and approved by Council in May 2017.

Satterley Property Group was formally appointed Developer, Project Manager and Exclusive Sales agent for the redevelopment of the former Carawatha Primary School in February 2018.

LATE ITEM P21/3944 – “GALLERY ESTATE” CARAWATHA WILLAGEE, PROJECT UPDATE AND REQUEST FOR CEO AUTHORISATION (REC)

PROJECT SUBDIVISION DEVELOPMENT DETAIL

Approximately 1.3 hectares was developed as public open space in 2015, with the balance 2.6 hectares of the site recently being developed by Satterley Property Group. The subdivision approval for the site (WAPC ref: 157351) included the creation of the following lots with Certificates of Title issued in May 2020. Refer to Figure 1: Gallery Sales Plan.

Single Cottage Lots	23
Terrace Homes Lots	12
Duplex Lots	4
Apartment Site Lots	4
TOTAL LOTS	43



Figure 1: Gallery Sales Plan

The project includes the sale of land and the built form development of the terrace lots, duplex lots and apartment sites which were designed by MJA Studios.

The Council has been and will continue to be kept informed of progress of sales by the EMB.

LATE ITEM P21/3944 – “GALLERY ESTATE” CARAWATHA WILLAGEE, PROJECT UPDATE AND REQUEST FOR CEO AUTHORISATION (REC)

PROJECT BUILT FORM CONSTRUCTION DETAIL

The built form development product will provide a variety of housing typologies including one bedroom apartments to three bedroom apartments, as well as three bedroom terrace homes. There are 16 terrace homes (including 4 duplex terrace homes) and 4 apartment buildings comprising over 98 apartments to be designed and constructed on a staged basis over a period of 3 to 4 years depending upon sales demand.

The terrace homes and first apartment building have been architecturally designed by MJA Studios up to the Development Application and Approval stage. Both the Terrace Homes and the proposed apartments have received development approval from the Development Assessment Panel (DAP) approval (Ref: DAP-2020-2 & DAP-2020-3).

The DA plans and specifications are used as a basis for a Design and Construct (D&C) building contract, tendered through a request for proposal process by the development project manager, Satterley Property Group. Satterley has tendered for builders for construction of both the 16 Terrace Homes and first stage of apartments and is currently assessing those submissions with the objective to appoint two builders in the next three months. The likely sale prices for the built form products will range from \$450,000 to \$700,000. Authorisation to the CEO is required in order to transact these sales.

Refer to Gallery artist impressions below.



Artist impression of Gallery aerial view facing north-east. Indicative only, and may not accurately or fully depict the actual or final development at present or in the future. For more information see www.satterley.com.au/disclaimer

**LATE ITEM P21/3944 – “GALLERY ESTATE” CARAWATHA WILLAGEE, PROJECT
UPDATE AND REQUEST FOR CEO AUTHORISATION (REC)**



**LATE ITEM P21/3944 – “GALLERY ESTATE” CARAWATHA WILLAGEE, PROJECT
UPDATE AND REQUEST FOR CEO AUTHORISATION (REC)**



**LATE ITEM P21/3944 – “GALLERY ESTATE” CARAWATHA WILLAGEE, PROJECT
UPDATE AND REQUEST FOR CEO AUTHORISATION (REC)**



LATE ITEM P21/3944 – “GALLERY ESTATE” CARAWATHA WILLAGEE, PROJECT UPDATE AND REQUEST FOR CEO AUTHORISATION (REC)**UDIA Industry Award Recognition**

Satterley entered the Gallery project into the Urban Development Institute of Australia (UDIA) annual project awards and the project won the Marketing Award. This award recognised the unique marketing strategy implemented by Satterley as Selling Agent and included recognition of the projects theme and story relating to the link through the POS and landscape areas to the native environment, local aboriginal heritage and the local building and settlement history of Willagee.

STAKEHOLDER ENGAGEMENT**I. COMMUNITY**

Satterley Property Group (Satterley) as project manager and sales agent for the redevelopment of the site is responsible for stakeholder engagement.

Satterley has and is actively continuing to engage with the local community and all stakeholders throughout the progress of the development of the site, as well as having met all the necessary statutory requirements through the planning and building process.

II. OTHER AGENCIES / CONSULTANTS

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

The development of the former Carawatha Primary School at 10 Archibald Street, Willagee is a partnership with Satterley Property Group whereby the City retains ownership of the land, and contracts directly with the purchasers of the created lots and built form dwellings.

All disposals of land and built form product at the Carawatha Redevelopment project, Gallery Estate are concluded in accordance with Sections 3.58 and 3.59 of the *Local Government Act 1995* and the requirements of valuations and advertising contained in these sections.

The City has legal obligations under its Development Agreement and Project Management/Sales Agreement with Satterley to accept offers in a timely manner to ensure the offers remain valid and do not lapse. Under the Agreements it is implied that the CEO would execute the contracts for the City to meet its legal obligations. The CEO has a separate authority to dispose of land and other assets to the value of \$500,000. To date the CEO has accepted three offers on the terrace homes whose individual sales prices and values exceed this amount. These offers were accepted under the implied authority given by Council previously in 2017 when the Section 3.59 *Local Government Act 1995* business proposal was approved and the Agreements entered into. This report seeks confirmation of the CEO's authority to conclude any sales transactions for any built form terrace homes and apartments over \$500,000.

LATE ITEM P21/3944 – “GALLERY” ESTATE CARAWATHA WILLAGEE, PROJECT – REQUEST FOR CEO AUTHORISATION (REC)

The process for the disposal of individual built form terrace and apartments (units) is that an updated valuation is obtained in terms of the requirements of the *Local Government Act 1995* Sections 3.58 and 3.59, in respect of each unit, with offers then invited for the acquisition of these units. Once an offer is received for a unit the intention to sell is advertised for comment and the offer only accepted at the valuation amount after the advertising period has concluded.

FINANCIAL IMPLICATIONS

The development and sale of the land and built form products is supported by current market valuations and in line with the current project budget approved by the Carawatha Management Committee made up equally and jointly of representatives from Satterley and the City of Melville.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

Risk Statement & Consequence	Level of Risk	Risk Treatment
Risk of CEO accepting all offers	Low level of risk	All sale contracts are reviewed by Satterley Property Group and City officers. Each sale is concluded in accordance with the <i>Local Government Act 1995</i> which includes (but not limited to) a valuation within six months of the contract date, Section 3.58 public notice including details relating to the proposed disposition of the property.

POLICY IMPLICATIONS

The disposals of land and built form product at the “Gallery Estate ” Carawatha are concluded in accordance with Council Policy CP-005 – Land and Property Retention, Disposal and Acquisition.

LATE ITEM P21/3944 – “GALLERY” ESTATE CARAWATHA WILLAGEE, PROJECT – REQUEST FOR CEO AUTHORISATION (REC)**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The alternate option is for the Council to not authorise the CEO to conclude the sale of the built form developments and any of the remaining 114 transactions that exceed \$500,000 will need to be presented to and considered by the Council.

This is not supported by officers nor the Carawatha Management Committee, due to the lengthy timeframes required for seeking approval on individual offers to purchase lots from Council and the financial risk associated with the sales contract condition impacting negatively on future sales given the large number of future contracts. Further, the City has legal obligations under its Development Agreement and Project Management/Sales Agreement with Satterley to accept offers in a timely manner to ensure the offers remain valid and do not fall over.

Failure to process any offers of units in terms of the valuation amounts in a timely manner could lead to the City being in breach of its obligations in terms of the joint venture.

CONCLUSION

The Carawatha redevelopment project, “Gallery Estate”, Carawatha Willagee is a City project partnered with Satterley Property Group. It is in its final stages of delivering the vision for the site and the Willagee structure plan; whilst providing a financial return to the City.

The project includes the City efficiently administering a large number (137) Sales Contracts in accordance with the provisions of the *Local Government Act 1995*.

OFFICER RECOMMENDATION (3944)**APPROVAL**

At 8:47pm Cr Wheatland moved, Seconded Cr Mair –

That the Council notes the “Gallery Estate”, Carawatha Willagee project update and authorises the CEO to conclude the disposal of all built form terrace homes and apartments, located at the former Carawatha Primary School site, 10 Archibald Street, Willagee; in accordance with Section 3.58 of the *Local Government Act 1995* and valuations.

At 8:47pm Mr Rae, Strategic Property Executive, entered the meeting for the purpose of responding to questions.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3944)**APPROVAL**

At 8:47pm Cr Wheatland moved, Seconded Cr Mair –

That the Council notes the “Gallery Estate”, Carawatha Willagee project update and authorises the CEO to conclude the disposal of all built form terrace homes and apartments, located at the former Carawatha Primary School site, 10 Archibald Street, Willagee; in accordance with Section 3.58 of the *Local Government Act 1995* and valuations.

At 8:50pm, the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

18. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil.

19. CLOSURE

There being no further business to discuss, the Mayor Honourable George Gear confirmed that Mr Ferris, Director Corporate Services was still in attendance and declared the meeting closed at 8:50pm.