MINUTES

OF THE

ORDINARY MEETING OF THE COUNCIL

HELD ON

TUESDAY, 17 MARCH 2020

AT 6.30PM IN THE COUNCIL CHAMBERS

MELVILLE CIVIC CENTRE

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1. OFFICIAL OPENING

The Presiding Member welcomed those in attendance to the meeting and officially declared the meeting open at 6:32pm. Mr B Taylor, Manager Governance and Property, read aloud the Disclaimer that is on the front page of these Minutes and then Mayor, Honourable George Gear, read aloud the following Affirmation of Civic Duty and Responsibility.

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 N Pazolli (Deputy Mayor) (*until 7:04pm*)	Applecross – Mount Pleasant
Cr S Kepert,	Applecross – Mount Pleasant
Cr D Macphail, Cr N Robins	Bateman – Kardinya - Murdoch
Cr C Robartson, Cr M Woodall	Bull Creek - Leeming
Cr G Barber, Cr J Barton	Bicton – Attadale – Alfred Cove
Cr K Mair, Cr M Sandford	Central
Cr T Fitzgerald, Cr K Wheatland	Palmyra – Melville - Willagee

3. IN ATTENDANCE

Ms C Young	A/Chief Executive Officer
Mr S Cope	Director Urban Planning
Mr M McCarthy	Director Technical Services
Mr A Ferris	Director Corporate Services
Mr T Cahoon	A/Director Community Development
Mr L Hitchcock	Executive Manager Governance and Legal Services
Mr B Taylor	Manager Governance and Property
Ms C Newman	Governance Coordinator
Ms T Wright	Governance Officer

At the commencement of the meeting there were approximately 23 members of the public and one representative from the Press in the Public Gallery.

4. APOLOGIES AND APPROVED LEAVE OF ABSENCE

4.1 APOLOGIES

Mr M Tieleman Chief Executive Officer

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.

Nil.

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

Nil.

6. QUESTION TIME

6.1 Questions Received with Notice

6.1.1 Ms G Phillips, Ardross

Question 1

How does the City of Melville regard the loss of street trees due to developer disturbance and neglect, e.g. the tree at the corner of Collier Street and McCallum Crescent, Ardross? Does the City of Melville require compensation for such loss as it should be regarded at tree vandalism?

Response

If a City managed tree is not protected in accordance with development advice notes and/or approval conditions the applicant may be liable for associated costs to repair or replace any City managed tree damaged as a result of the lack of protection provided during the development works.

Where the tree is able to be retained the City will seek to recover costs including all pruning and remedial works required.

Where the tree is unable to be retained the City may seek to recover the costs of

- Removal of the tree including stump grinding.
- Two replacement trees with establishment for three years.
- Fair value assessment as determined by the City of Melville Tree Evaluation Method.

Enforcement action may also be pursued through the City of Melville Activities in Thoroughfares, Public Places and Trading Local Law 2014 Part 9 where an offence has occurred.

Question 2

I wish to know what responsibility developers have for the welfare of street trees. The City of Melville Urban Forest leaflet claims that a tree can be worth $99,000. If street trees die as a result of developments, is this the same as tree vandalism?

Response

In the case of tree vandalism, which is the unauthorised removal, damage or pruning of verge trees not subject to the development approval process, these are investigated and if the perpetrator is identified enforcement action may be pursued through the *City of Melville Activities in Thoroughfares, Public Places and Trading Local Law 2014* Part 9 where an offence has occurred.

6. Question Time, continued

6.1.2 Mr M Fitzgibbon, Melville

T20/3842 Technical Services Policy Review-CP-034 Road Safety Audit Policy.

Question 1

Were the Stage 3 and Stage 4 Road Safety Audits prescribed by Council Policy CP-034 conducted for Palmyra Apartments, McGregor Road, Palmyra, Land Development which contains 42 on-street car parking bays?

Response

The policy update for Stage 3 and Stage 4 Road Safety Audits had not been adopted when this development application was reviewed. However under the older version of the policy a Stage 3 design audit was recommended to be a condition. Unfortunately the condition was removed when approved at Joint Development Assessment Panel.

The Policy CP-034 was then strengthened to ensure this condition would not be removed in future applications.

Designs are still checked by the City to ensure they meet relevant standards and do not introduce unacceptable road safety risks.

Question 2

Were the Stage 3 and Stage 4 Road Safety Audits prescribed by council policy CP-034 conducted for the 3 storey mixed use development (DA-2018-538) at 6-8 Fifth Street, Bicton?

Response

The development did not meet the criteria as prescribed by the policy for a Road Safety Audit to be conditioned.

Designs are still checked by the City to ensure they meet relevant standards and do not introduce unacceptable road safety risks.

6.1.3 Mr C Ross, Applecross

Question 1

Did the City of Melville pay for the costs of installation of the air conditioning in the Cirque development Community Area?

In answering this question, please provide a complete answer which must include how it became the City's responsibility to pay for the air conditioning installation, why the City failed to ensure that the developer included air conditioning in these "community benefits" which gave the developer a bonus five storeys, what are the ongoing service costs and future replacement costs and how much was paid?

6. Question Time, Mr Ross continued

Response

The City did not pay for the installation of the air conditioning at Cirque.

It is pointed out that the installation of the air conditioner by the developer is not the only consideration for bonus height in this development.

It is noted in responding to this question that the community benefit space at Cirque is one of a number of community benefits that will accrue from the Cirque Mixed Use development.

Bonus height within the M10 and M15 areas of the Canning Bridge Activity Centre Plan (CBACP) is not simply achieved and is approved only where the relevant desired outcomes of all Elements of the CBACP are met or exceeded, and where exemplary design is proposed in the opinion of the Design Review Panel. In addition development must include community benefit.

The Cirque development at Mount Pleasant, in the opinion of the Design Review Panel, demonstrates exemplary building design, the quality of which has, since construction, been the subject of design awards, as well as providing for a number of community benefits, including the community space referred to.

Question 2

How much did the City of Melville pay towards the costs of the Street Soiree on 21 February 2020 outside the Cirque development at 63 Kishorn Road, Mt Pleasant?

In answering this question, please provide a complete answer which must include the costs of closing the street, parking fees foregone, costs of City of Melville staff involvement, costs of free food vouchers, costs of entertainment, food vans etc. plus the costs of involvement of Element Advisory Pty Ltd (Element) which shows the total contractual liability of the City to the Element contract?

Response

Security	$176
Road Traffic Management Plan	$2,967
Community Newspaper advertising	$557
Portable accessible toilet	$370
31 food vouchers redeemed @ $5 each	$155
Additional bins (City of Melville)	$35
Perth Party Games	$200
Total	$4,480

No overtime payments were made for City staff attendance

City staff have worked in partnership with Element undertaking several engagement and place activation events in the Canning Bridge area. Each event or activity has not been individually costed in terms of contractor time.

Parking on Kishorn Road at the front of the Cirque building is $2.20 per hour, with approx. 6 bays. The event was from 3pm to 8pm, with free parking after 6pm. If all 6 bays were occupied between 3pm and 6pm the potential loss of parking income would have been $39.60

6. Question Time, continued

6.1.4 T Yoshino, Melville

T20/3842 Technical Services Policy Review-CP-034 Road Safety Audit Policy

Question 1:

Were the Stage 3 and Stage 4 Road Safety Audits prescribed by Council Policy CP-034 conducted for the mixed use development at 57 Carrington Street, Palmyra?

Response:

The policy update for Stage 3 and Stage 4 Road Safety Audits had not been adopted when this development application was reviewed in April 2017. The updated policy was endorsed by Council in November 2017.

However, a Stage 3 detailed design road safety audit was arranged by the City on the development works in the road reserve.

6.2 Questions Received without Notice

6.2.1 City of Melville Residents and Ratepayers Association

We refer to the recently completed 6 and 8 Fifth St Bicton apartment/commercial development by Mr Frank Caputi and Ferreira Caputi Developments and/or other related entities (Developers) and the 10 July 2018 DAU meeting minutes.

Question 1

1.1 How much has the Developer contributed, directly or indirectly, to the recently completed verge modifications and road works including the 3 verge parking bays, footpath modifications, pram ramp and traffic island on the road?

Response

All work adjacent to the building was completed at the developer's expense.

Question 2

1.2. How much will the City received on an ongoing basis for the Developers' use of the 3 verge parking bays that are required for visitor parking?

Response

These are currently free public parking bays, so the City does not receive revenue from them. The City reserves the right to charge for parking in the future.

6. Question Time, City of Melville Residents and Ratepayers Association (Inc) cont'd

Question 3

1.3. How many proper verge trees will be planted on the verge of this development to compensate for the loss of green space/canopy/urban forest as a result of this development?

Response

The landscaping plan shows a total of seven trees being planted in the verge.

Question 4

1.4. How many building compliance or other inspections have been carried out at this development?

Response

Planning services staff has recently attended the site on three occasions. Site visits were also carried out as a part of the Development Assessment process.

This is a privately certified development; inspections may be carried out by the private certifier.

Question 5:

1.5. When was the notice of completion submitted and/or occupancy permit issued?

Response

Notice of Completion was submitted 21 January 2020 and a privately certified Application Occupancy Permit was issued 13 February 2020.

Question 6

1.6. When did Mr Caputi, either directly or indirectly, start providing services to the City?

Response

Mr Caputi commenced providing services to the City in October 2012.

Question 7

2. When and how will the City Administration publicly respond to the further clarifications we sought post the City's inaccurate and/or incomplete public responses to questions asked at the 18 February OMC as outlined in our 27 February letter to City CEO Mr Marten Tieleman. For the sake of clarity this does not relate to the questions taken on notice?

6. Question Time, City of Melville Residents and Ratepayers Association (Inc) cont'd

Response

The City is satisfied that the questions asked at the 18 February OMC were adequately answered. With regards to the reference to a letter dated 27 February, the City has no record of a letter addressed by the City of Melville Residents and Ratepayers Association on the 27 February to Mr Marten Tieleman.

6.2.2 T Yoshino, Melville

T20/3842 Technical Services Policy Review-CP034 Road Safety Audit Policy

Question 1

In the interest of transparency and to demonstrate its commitment to Road Safety will the City of Melville please provide on its website a register of Road Safety Audits undertaken by or for the City in compliance with Road Safety Audit Policy CP-034?

Response

This Question will be Taken on Notice.

6.3 Questions Taken on Notice at Previous Meeting

Ordinary Meeting of Council – 18 February 2020

6.3.1 Mr McLerie, Bicton

Questions were received from Mr McLerie relating to a payment by the City to Action Demolition (WA) Pty Ltd (Action Demolition) and referring to:

- A court order requiring Action Demolition to pay Mr McLerie a sum of money for compensation relating to damage caused at his property at 10 Ince Road, Attadale.
- A letter to the City dates 3 December 2019 in response to Mr McLerie's questions of 19 November 2019.
- An amount owed by Action Demolition to the City.

Question 3B

1.1. How many fines has the City issued over the last 3 years for damage to street trees, and for which trees?

Response

Fifteen notices have been sent since September 2018 to residents for damage to or removal of street trees, noting that prior to September 2018 the City used an education and warning notice process when dealing with unauthorised damage or removal of verge trees.

6. Question Time, Mr McLerie cont'd

Question 3C

1.2. Has the City ever prosecuted anyone for wilfully damaging a street tree in breach of s 2.1 (d) of the City's Activities in Thoroughfares and Public Places local law? Are there any current investigations underway in relation to unlawful damage to street trees?

Response

The City has not prosecuted anyone for damaging or removing a tree or part of a tree.

There is currently one enquiry underway to try to determine the party that was responsible for damaging a tree.

Question 4

1.2.1. What enforcement action did the City take against Action for damaging the 10 Ince Road Attadale street tree?
1.2.2. Why did the City fail to take enforcement action to ensure Action, and subsequently the builder Broadway Homes, properly protected the 10 Ince Road Attadale street tree in accordance with the City's requirements post being notified of the issue many time (sic), including in my 7 October 2017?
1.2.3. Why did the City fail to properly respond to me about the other issues identified in the same 7 October 2017 letter?

Response

The question refers to a mature Callistemon street tree (Bottlebrush) on the western Ince Road verge in line with the common boundary between the properties at 10 and 10A Ince Road. In a report prepared by the City at the time of receipt of the building application for a new two storey dwelling at 10 Ince Road in October 2016, it was noted that the six metre high tree had been previously lopped, that there had been large limb removal, that the tree structure was poor although the tree was otherwise in good health.

The City wrote to the builder in March 2018 highlighting that Condition 8 of the relevant planning approval (DA-2016-1389) requiring installation of a tree protection zone had not been satisfied and requesting installation of a tree protection zone for the mature bottlebrush street tree during construction of the dwelling at 10 Ince Road. A tree protection barrier was subsequently installed in a form that satisfied the City that the tree was adequately protected from damage as a result of the building work. The tree remains on the Ince Road verge. The City noted that the tree had suffered some impact damage but there was insufficient evidence to identify either the date of the damage or the party responsible. The City did undertake measures to ensure the protection of the tree as evidenced by the erection of an effective protection barrier between the tree and the construction activity.

The City responded at length to Mr McLerie's letter of 7 October 2017 via a letter dated 26 November 2017

6. Question Time, Mr McLerie cont'd

Question 5

1.3. What changes will Council make to ensure that it never again engages contractors with abhorrent credit histories such as Action's, as evidenced Action's failure to comply with the Payment Order and previous Court orders and the Department of Justice's Outstanding Fines and Infringements web page that still lists Action as the State's 4th largest outstanding fine debtor?

Response

The City does not intend to make any changes to the procurement processes currently in place in regard to credit checks on suppliers.

In the current process:

- For contracts over the tender threshold the City conducts financial checks through Illion on all preferred suppliers for each tender it awards.
- For contracts awarded under the tender threshold, the City will conduct a financial check if it considers the project/procurement to be a high risk.

Question 6

1.4. Why has CEO, Mr Marten Tieleman, failed to respond to the Letter, 2+ months later?

Response

A response to the 3 December 2019 letter referred to by Mr McLerie was sent to him on 12 December 2019.

7. AWARDS AND PRESENTATIONS

YES Sign Mobile Speed Reduction Program

The City of Melville has been awarded the 2020 Institute of Public Works Engineering Australia Sarkis Petrossian Award for Innovation in Traffic Management, for their everyday speed (YES) signs, which measure the speed of cars and give a happy or sad face depending on whether the car is going faster or slower than the speed limit. The signs are deployed in areas where higher speeds are recorded and through their use many of the areas have seen an 85% reduction in speeding.

The Mayor, Honourable G Gear, presented to the Award to the Director Technical Services, Mr M McCarthy, representing the City's Engineering Team.

8. CONFIRMATION OF MINUTES

8.1 ORDINARY MEETING OF THE COUNCIL – 18 FEBRUARY 2020
Minutes 18 February 2020

COUNCIL RESOLUTION

At 6:58pm Cr Robins moved, seconded Cr Kepert–

That the Minutes of the Ordinary Meeting of the Council held on Tuesday, 18 February 2020, be confirmed as a true and accurate record.

At 6:58pm the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

8.2 NOTES OF AGENDA BRIEFING FORUM – 3 MARCH 2020
Notes 3 March 2020

COUNCIL RESOLUTION

At 6:58pm Cr Barton moved, seconded Cr Barber –

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

At 6:59pm the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

8.3 MINUTES OF FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE MEETING – 9 MARCH 2020

COUNCIL RESOLUTION

At 6:59pm Cr Wheatland moved, seconded Cr Robins –

That the Minutes of the Financial Management, Audit, Risk and Compliance Committee Meeting held on Tuesday, 3 March 2020, be received.

At 6:59pm the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

9. DECLARATIONS OF INTEREST

9.1 FINANCIAL INTERESTS

- Cr Woodall – Item P20/3838 – Request for Scheme Amendment - Higher Density Coding at Kintail Road, Applecross.

9.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

- Cr Sandford – Item P20/3838 – Request for Scheme Amendment - Higher Density Coding at Kintail Road, Applecross
- Cr Kepert – Item P20/8125 – Tompkins Park Redevelopment Review

10. DEPUTATIONS

10.1 Mr K Short and Mr C Greenwood Representing Tompkins Park Community and Recreational Association (Inc)
CD20/8125 - Tompkins Park Redevelopment Review

At 7:00pm Mr K Short and Mr Greenwood, representing the Tompkins Park Community and Recreational Association (Inc) entered the Chambers for the purpose of making a deputation in relation to Item CD20/8125 – Tompkins Park Redevelopment Review. The presentation concluded at 7:06pm.

At 7:13pm Mr Short and Mr Greenwood departed the Chambers.

At 7:04pm Cr Pazolli left the meeting and did not return.
At 7:04pm Mr Hitchcock left the meeting and returned at 7:07pm.
At 7:04pm Cr Robins left the meeting and returned at 7:07pm.

At 7:14pm the Mayor brought forward Item CD20/8125 – Tompkins Park Redevelopment Review, for the convenience of the public gallery.

Disclosures of Interest

Member	Cr Kepert
Type of Interest	Interest Under the Code
Nature of Interest	A Member of Palmyra Ruby Club resides at his address
Request	Stay, Discuss and Vote
Decision	Stay, Discuss and Vote

CD20/8125 – TOMPKINS PARK REDEVELOPMENT REVIEW (REC) (ATTACHMENT)

Ward	:	Applecross - Mt Pleasant Bicton - Attadale – Alfred Cove
Category	:	Strategic
Subject Index	:	Tompkins Park
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	:	CD16/8081 City of Melville Lawn Bowls Strategy June 2016; CD16/8089 City of Melville Lawn Bowls Strategy – 16 October 2016;CD16/8088 Community Sport and Recreation Facilities Fund Annual Forward Planning Grants Round – 18 October 2016; CD17/8098 Tompkins Park Concept Plan – 20 June 2017; Item 16.2 Motion with Notice, Review of Redevelopment of Tompkins Park Facility – 21 May 2019; CD19/8114 Tomkins Park Review – 18 June 2019; Motion With Notice Mount Pleasant Bowling Club Review – 19 December 2019
Works Programme	:	Not Applicable
Funding	:	$3,360,000
Responsible Officer	:	Todd Cahoon Manager Healthy Melville

CD20/8125 -TOMPKINS PARK REDEVELOPMENT REVIEW-(REC) (ATTACHMENT)

AUTHORITY / DISCRETION

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

KEY ISSUES / SUMMARY

- This Report responds to a Council resolution to hold further implementation of the Tompkins Park facility redevelopment pending a review by Council of redevelopment options and community requirements for the Tompkins Park facility.
- An independent facilitator delivered three workshops with Elected Members in mid to late 2019 to assist with their input into the review.
- The review process was impacted by local government elections, with a period of time required to inform new Councillors and Mayor of the project and subsequent review.
- The review also considered the cost implications of the project, particularly related to compliance requirements imposed by State bodies.
- Officers are recommending that the Tompkins Park redevelopment project not proceed as per the Concept Plan due to significant cost escalation which results in the project as originally planned not representing good value for money.

CD20/8125 -TOMPKINS PARK REDEVELOPMENT REVIEW-(REC) (ATTACHMENT)

BACKGROUND

In June 2017 Council approved CD17/8098 - Tompkins Park Concept Plan **8125_Tompkins_Park_Concept_Plan** and a budget of $9,420,500 was allocated to the project.

The City commenced schematic design further developing the design considering club, building compliance and the Department of Biodiversity, Conservation and Attractions (DBCA) requirements.

Nearing the completion of detailed design the City was notified by the Melville Bowling Club that they no longer supported the move to Tompkins Park redeveloped facility and withdrew from the project. The timing of the notification from Melville Bowling Club coincided with the scheduled design value engineering exercise.

The scope of the project had changed somewhat from schematic design to detailed design due to a number of compliance requirements, the withdrawal of Melville Bowling Club and the general reduction in membership numbers at Mount Pleasant Bowling Club since the Bowls Strategy was endorsed by Council.

The final design has 2 greens (1 covered) with a total of 21 rinks. This is a reduction from the previous design of 4 greens (2 covered) with a total of 32 rinks. Additionally due to the requirements of drainage relating to the greens a significant compensation basin is needed and included in the project. This information was presented and discussed at the Elected Members Information Session in December 2018.

Based on the revised design the City progressed to tender documentation.

CD20/8125 -TOMPKINS PARK REDEVELOPMENT REVIEW-(REC) (ATTACHMENT)

In May 2019 a Council resolution was passed **8125_Motion_with_Notice_Review_of_Redevelopment_of_Tompkins_Park_Facility** relating to the Tompkins Park Redevelopment requesting the Chief Executive Officer to:

1. Put on hold the further implementation of the redevelopment of the Tompkins Park facility pending a review by Council of redevelopment options and community requirements for the Tompkins Park facility.

2. Facilitate and arrange workshops and/or EMIS meetings for Council to consider the community requirements and redevelopment options including appropriate community consultation for the Tompkins Park facility as an input into the following review of the Tompkins Park facility.

3. Undertake a review of options for the redevelopment of the Tompkins Park facility taking into consideration and addressing:
   - the change in circumstances resulting from the Surf Wave Park Ground Lease should it not proceed;
   - the refusal of the Melville Bowls Club to shift to a new Tompkins Park Bowls facility;
   - the reduction in the numbers of Mt Pleasant Bowls Club members likely to join in a new Tompkins Park Bowls facility;
   - the financial status of the Mt Pleasant Bowls Club;

CD20/8125 -TOMPKINS PARK REDEVELOPMENT REVIEW-(REC) (ATTACHMENT)

- the financial status of the Tompkins Park Community and Recreational Association;
- the financial sustainability of a re-organised Tompkins Park Community and Recreational Association with and without a Function Centre and/or café business;
- the requirements for additional public open space and Dunkley Ave storm flood mitigation;
- any other relevant considerations.

4. Provide a report to Council on the results of the review of the Tompkins Park facility for Council approval before any further work proceeds.

At the time of the Council directive to hold all works the City had progressed the project to nearing the completion of tender documentation and had received the pre-tender cost estimate.

This report addresses elements of the above Council resolution while also addressing the pre-tender analysis of project cost.

DETAIL

Through the initial review investigations it has become apparent that a decision by Council on whether to progress the Tompkins Park redevelopment project, in its current design form, is needed to guide the next steps relevant to the above Council resolution and a number of other resolutions relating to the Tompkins Park Redevelopment. This is predominately relating to the significant cost escalation of the project, which is detailed in the financial implications below.

In addressing point two of the above recommendation, the City appointed Dave Lanfear Consulting Pty Ltd to conduct workshops with the Elected Members with the primary intent to review the key principles and outcomes for the redevelopment project.

Three workshops were held and a guiding report has been developed detailing the following goals:

- *To be the premier sporting hub/precinct*
- *To be a multi-sport area*
- *To be sustainable from a financial, social and environmental perspective*
- *To cater for growing needs of the Melville community for sport (present and future)*
- *To be flexible and fit for purpose (useable)*
- *Accessible*
- *Welcoming to all*
- *Efficient use of land*
- *To deal sensitively with the foreshore*

CD20/8125 -TOMPKINS PARK REDEVELOPMENT REVIEW-(REC) (ATTACHMENT)

Lawn Bowls Strategy 2016

In both June and October 2016, **8125__CD16/8081_City_of_Melville_Lawn_Bowls Strategy** and **8125_CD16/8089_City_of_Melville_Lawn_Bowls_Strategy,** Council endorsed the model of future Bowls facilities forming part of a sporting hub to accommodate larger numbers of bowlers in fewer facilities throughout the City. Council also endorsed two strategic locations for the future development of lawn bowls facilities; Morris Buzacott Reserve in the South of the City and Tompkins Park in the North of the City. Tompkins Park was identified as being the highest priority.

Given the significant cost escalation as discussed in this report and assuming Council supports the officer recommendations in this report, consideration will need to be given to the provision of bowls in the north of the City.

Officers remain of the view that one bowling club in the north of the City is required and that Tompkins Park should remain the strategic location as identified and endorsed by Council as part of the Bowls Strategy 2016. Melville Bowling Club is within Tompkins Park and therefore can be seen as the logical northern site for bowls in the City into the future.

An amalgamation / merger between the Melville and Mount Pleasant Bowling Clubs is now considered unlikely. Officers note the Council supported motion 19 December 2019 regarding the Mount Pleasant Bowling Club review **8125_Motion_With_Notice_Mount_Pleasant_Bowling_Club_Review** and the investigation into an additional sport on the site to potentially improve the MPBC's sustainability. Whilst the City is in the early stages of these investigations, the City's position is to ensure the sustainability of the sport of bowls into the future and to provide ratepayers best value for money.

Council need to be aware that should both Clubs remain on their existing sites, there is the likely potential for significant capital requests to come forward from both clubs to upgrade their buildings and playing surfaces. Funding these requests would be difficult to justify as it would be at odds with City's funding principles and sets a precedence for other specialised sporting venues managed by a single sport. Increased ongoing maintenance costs also need to be considered along with the capacity for Clubs to replace their assets such as synthetic bowling greens.

Previous Council resolutions also remain in place regarding negotiating with the State Government about the acquisition and development of the Mt Pleasant Bowling Club site for housing with a minimum of 30% to be devoted to publicly accessible parkland.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Continued engagement and consultation with the sporting clubs impacted and the Tompkins Park Community Recreational Association has been conducted.

Two meetings have been held with representatives from Melville Bowling Club. The Club has verbally indicated they will be seeking a long term ground lease however a formal written request has not been received at the time of writing this report.

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While it is still the preference of the City to establish shared use community hubs the City has examples of clubs with specialised activities having an exclusive ground lease. Examples of ground leases are; Melville Water Polo Club, Swan River Rowing Club, South of Perth Yacht Club and Melville Glades Golf Club. The Melville Bowling Club site, being part of Tompkins Park, aligns with the City of Melville Lawn Bowls Strategy 2016 endorsed directive of one bowling club north of Leach Highway and located at Tompkins Park.

Monthly meetings with Mount Pleasant Bowling Club continue to be held to review the clubs financials and provide financial support where needed. The Club has indicated that they would prefer to remain at their current site. They have improved their operational performance, however have exhausted all capital reserve funds previously set aside for green replacement and would continue to be unable to make loan repayments.

City officers continue to attend the Tompkins Park Community Recreation Association (TPCRA) monthly committee meetings and have also attended a strategy planning session held by the association. The TPCRA have conducted an operational review and have commenced implementation of the actions from the review. They have also indicated that they will be finalising a future development plan for the City's consideration. What has also been highlighted is the urgency of some elements of the redevelopment, which were dealing with general maintenance and upkeep of the facility.

Three workshops with Elected Members regarding the key outcome and principles of the project have been completed along with further updates presented at Elected Member Information Sessions.

Given the nature of the review no other community consultation has been conducted at this time. Pending the outcome of this initial report any future planning at the site will include the appropriate community engagement.

II. OTHER AGENCIES / CONSULTANTS

The Department of Local Government, Sport and Cultural Industries were notified of the relinquishment of the $700,000 grant provided through the Community Sports and Recreation Facilities Fund.

The Department of Biodiversity and Attractions were notified of the review of the project and requested that the planning development application be placed on hold.

STATUTORY AND LEGAL IMPLICATIONS

Nil.

CD20/8125 -TOMPKINS PARK REDEVELOPMENT REVIEW-(REC) (ATTACHMENT)

FINANCIAL IMPLICATIONS

Cost Review

Even though a value engineering exercise was conducted and the scope of the project was modified, the pre tender estimate of $12,157,439 (including club operational support and loan forgiveness) is significantly more than the approved budget of $9,420,500. Comparing the impact of incorporating bowls into the Tompkins Park facility the projected costs from concept to pre tender specifically for lawns bowls increased by some $3.5 million, a 218% increase on the initial projected cost ($3,005,500 to $6,567,500).

In addition to cost escalation, given the hold that had been placed on the project and the estimated time to complete the review the City relinquished the $700,000 grant received through the Department of Local Government, Sport and Cultural Industries (DLGSCI) Community Sport and Recreation Facilities Fund (CSRFF).

Bowls competition participation has continued to decline and the playing membership base of Mount Pleasant Bowling Club has followed this continued trend since the endorsement of the Bowls Strategy 2016.

At the current level of pennant/competition membership and an estimation of the number of members that would relocate to the proposed new facility, the cost impact of bowls in the development would equate to a capital cost in the vicinity of $50,000 per playing member. The capital outlay for the cost impact of bowls at the concept stage was in the vicinity of $12,500 per playing member.

Subsidies

The CD17/8098 – Tompkins Park Concept Plan report detailed the ongoing subsidy savings with assumptions relating to the number of members at both bowling clubs, and savings made through the rationalisation of both Melville Bowling Club and Mount Pleasant Bowling Club's facilities.

At the time of the Concept Plan the subsidy per pennant member was over $500 per annum and with the development of the facility inline with the concept plan this would reduce to $150 per annum per member. When allowing for the reduction in membership numbers and the increase in cost the annual subsidy is estimated to be $271 per player.

This still provides a reduction of subsidy for the bowling members as compared to current situation, however results in an increase in subsidy by $109 per player for the existing sports at Tompkins Park Sport Hub (Cricket, Soccer and Rugby).

With the increase in development costs and the continual decline in pennant membership, the current Tompkins Park Redevelopment provides far less value for money for the ratepayer than previously anticipated and officer therefore recommend closing off the project and revisiting other options for bowls in the north of the City should be given.

CD20/8125 -TOMPKINS PARK REDEVELOPMENT REVIEW-(REC) (ATTACHMENT)

Self-Supporting Loans

If the current project does not proceed as per the approved concept plan, the responsibility for the Mount Pleasant Bowling Club loan and the Tompkins Park Community and Recreational Association loan would remain with the respective club. If this were to be the case consideration should be given to establishing a payment plan to enable the entities to recommence loan repayments.

Elements to remain funded

There are also maintenance and upkeep elements of the Tompkins Park Redevelopment project that were due for renewal or fit for use design improvements. It is recommended that the following elements of the project be progressed:

- Club Room/ Function facilities maintenance and renewal
- Carpark renewal and upgrade including lighting
- Renewal of playground (to accommodate car park improvements)
- Improvements to storage facilities
- Public Universal Access Toilet
- Change Room upgrade
- Minor sports field levelling and improvements
- Floodlighting upgrade
- Essential compliance works

Total estimate for these elements inclusive of contingency and consultants' fees is: $3,060,000.

Note: The above cost estimate does not include any additional requirements that may be imposed on the City through the development application process.

Additionally the above works may result in the building code requirement to upgrade the Fire Services, namely the installation of fire tanks and pumps. This requirement is subject to further compliance investigation but if required the cost is estimated to be $300,000.

There is acknowledgement that some funding is supporting the commercial nature of the Tompkins Park operations. Given the significant capital outlay by the City and potential ongoing maintenance costs which in some way support these commercial activities, it is not unreasonable to expect a contribution from the operations of the facility towards these costs. This principle will be further investigated during the management model review.

CD20/8125 -TOMPKINS PARK REDEVELOPMENT REVIEW-(REC) (ATTACHMENT)

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk	Risk Mitigation Strategy
Risk of increased ongoing maintenance expenses due to not proceeding with the Tompkins Park Redevelopment as previously planned.	Minor consequences which are almost certain, resulting in a **High** level of risk	Complete essential maintenance and improvements to the existing Tompkins Park facility, sports fields and car park.
Risk of further declining sustainability of Tompkins Park facility due to not proceeding with the Tompkins Park Redevelopment as previously planned.	Moderate consequences which are likely, resulting in a **High** level of risk	Continue Operational management review. Complete essential maintenance and improvements. Complete a revision of the initial concept plan
Risk of declining sustainability of Melville Bowling Club due to uncertainty of tenure.	Minor consequences which are possible, resulting in a **Medium** level of risk	Progress discussions with Melville Bowling Club in regards to becoming the northern bowls facility for the City.
If the Tompkins Park Redevelopment as previously planned does not proceed governance issues may arise due to previous Council resolutions.	Moderate consequences which are likely, resulting in a **High** level of risk	Rescind resolution as identified in this report

POLICY IMPLICATIONS

Reference is given to several Council Policies that guide the decision making by Council in consideration to this report and include the following Council Policies:

CP-028 Physical Activity Policy highlights the increased opportunities for physical activity; leading to the improved health and wellbeing of the community.

CP-037 Neighbourhood Development – Community Hub Policy highlights that gaining the greatest community benefit can be achieved through the provision of facilities consolidated into community hubs.

CP-031 Asset Management Policy highlights that assets must be reviewed on a regular basis to ensure they remain relevant, have a demonstrated community need and are achieving optimal levels of service in a cost effective manner over the asset lifecycle.

CD20/8125 -TOMPKINS PARK REDEVELOPMENT REVIEW-(REC) (ATTACHMENT)

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The City could continue with the currently planned redevelopment. This would align with the previously approved Council reports, however would be at a significantly increased cost for reduced benefit over and above the current facility provision.

CONCLUSION

The cost of the Tompkins Park Redevelopment has significantly increased from the approved budget at concept to the pre tender estimate.

The Melville Bowling Club site location aligns to the City of Melville Lawns Bowls Strategy 2016 as the northern bowling site for the City being located on Tompkins Park.

Essential maintenance and improvements work are required on the Tompkins Park facilities should the Tompkins Park Redevelopment not proceed.

The City will work with the Tompkins Park Community Recreational Association and the Mount Pleasant Bowling Club regarding their respective loans.

OFFICER RECOMMENDATION (8125)

APPROVAL

At 7:14pm Cr Woodall moved, seconded Cr Fitzgerald –

That the Council:

1. **Does not proceed with the Tompkins Park Redevelopment as detailed in CD17/8098 – Tompkins Park Concept Plan.**
   8125_Tompkins_Park_Redevelopment

2. **Rescinds 3b of the resolution from item**
   8125_CD16/8089_City_of_Melville_Lawn_Bowls_Strategy being 3b. facilitate the Mel*ville Bowling Club and the Mount Pleasant Bowling Club to amalgamate and relocate to a new facility at the expanded Tompkins Park Hub*.

3. **Approves the allocation of $3,060,000 from the Tompkins Park Redevelopment budget to the essential maintenance and improvements to the facilities at Tompkins Park Sporting Hub.**

4. **Approves the allocation of $300,000 for fire services or other compliance upgrades if the works are deemed to be required.**

5. **Allocate the remaining funds approved by item**
   8125_CD19/8114_Tompkins_Park_Review to continuing the management model review and the revision of the initial Tompkins Park concept plan which will include appropriate community engagement.

6. **Notes Tompkins Park, in particular the Melville Bowling Club site, as the location for the northern lawn bowls facility for the City.**

CD20/8125 -TOMPKINS PARK REDEVELOPMENT REVIEW-(REC) (ATTACHMENT)

7. Notes the current review and investigation process regarding the Mount Pleasant Bowling Club, as per 8125 Motion With Notice Mount Pleasant Bowling Club Review.

8. Directs the Chief Executive Officer to:

a. Commence discussions with Melville Bowling Club in regards to becoming the northern lawn bowls facility for the City.

b. Commence discussions with Mount Pleasant Bowling Club and Tompkins Park Community and Recreational Association regarding the establishment of payment plans to enable clubs to recommence loan repayments.

Prior to the discussion and debate, Cr Mair requested that her amendment be considered in two parts, the Mayor consented to this request.

Amendment

COUNCIL RESOLUTION

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

That the Officer Recommendation be amended as follows:

- **Point 5 - that the words "within the next 12 months." be included at the end of this point.**
- **Point 6 – that this item be amended to read "… location for a northern lawn bowls …"**
- **Point 8a – that this item be amended to read "… becoming a northern lawn bowls …"**

At 7:32pm the Mayor declared the motion

CARRIED (8/4)

Vote Result Summary	
Yes	8
No	4

Vote Result Detailed	
Cr Barton	Yes
Cr Fitzgerald	Yes
Cr Kepert	Yes
Cr Mair	Yes
Cr Robins	Yes
Cr Sandford	Yes
Cr Wheatland	Yes
Mayor Gear	Yes
Cr Barber	No
Cr Macphail	No
Cr Robartson	No
Cr Woodall	No

CD20/8125 -TOMPKINS PARK REDEVELOPMENT REVIEW-(REC) (ATTACHMENT)

At 7:25pm Mr Hitchcock left the meeting and returned at 7:30pm.

At 7:26pm Cr Barber foreshadowed an Amendment, which did not proceed.

Amendment

COUNCIL RESOLUTION

At 7:33pm Cr Mair moved, seconded Cr Barton –

- **Point 8b – that the words be added at the end of this point ", noting payments will not commence until after the conclusion of the:**
  - **Mount Pleasant Bowling Club Review; and**
  - **Tompkins Park Operational Management Model Review."**

At 7:58pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

Reasons for the Amendment as provided by Cr Mair

Item 5: The officers have been working on the Thompkins Park Review for several years and now the clubs need to have some certainty about timeframes for the review of the plan since this will also impact on their viability and financial forecasts for the future.

Item 6: In the southern part of the City we have two bowling clubs that are functioning successfully, the Kardinya Bowling Club and the Leeming Bowling Club. There is no reason why two northern bowling clubs like the Melville Bowling Club and the Mt Pleasant Bowling Club could not be as equally successful given the right support and opportunities.

Item 8:

a. The reason for the change is the same as for Item 6.

b. Currently there is a management model review at Thompkins Park and the Mt Pleasant Bowling Club is preparing a Business Plan. Officers will present a report on the Mt Pleasant Bowling Club approximately June. A deferral of any discussions regarding loan payment plans should resume after the reviews are completed which will enable the clubs to provide more accurate income forecasts for loan repayments.

CD20/8125 -TOMPKINS PARK REDEVELOPMENT REVIEW - (REC) (ATTACHMENT)

Substantive Motion as Amended

At 7:14pm Cr Woodall moved, seconded Cr Fitzgerald –

That the Council:

1. **Does not proceed with the Tompkins Park Redevelopment as detailed in CD17/8098 – Tompkins Park Concept Plan.**
   8125_Tompkins_Park_Redevelopment

2. **Rescinds 3b of the resolution from item**
   8125_CD16/8089_City_of_Melville_Lawn_Bowls_Strategy being 3b. facilitate the Mel*ville Bowling Club and the Mount Pleasant Bowling Club to amalgamate and relocate to a new facility at the expanded Tompkins Park Hub*.

3. **Approves the allocation of $3,060,000 from the Tompkins Park Redevelopment budget to the essential maintenance and improvements to the facilities at Tompkins Park Sporting Hub.**

4. **Approves the allocation of $300,000 for fire services or other compliance upgrades if the works are deemed to be required.**

5. **Allocate the remaining funds approved by item**
   8125_CD19/8114_Tompkins_Park_Review to continuing the management model review and the revision of the initial Tompkins Park concept plan which will include appropriate community engagement within the next 12 months.

6. **Notes Tompkins Park, in particular the Melville Bowling Club site, as the location for a northern lawn bowls facility for the City.**

7. **Notes the current review and investigation process regarding the Mount Pleasant Bowling Club, as per 8125_Motion_With_Notice_Mount_Pleasant_Bowling_Club_Review.**

8. **Directs the Chief Executive Officer to:**
   a. **Commence discussions with Melville Bowling Club in regards to becoming a northern lawn bowls facility for the City.**

   b. **Commence discussions with Mount Pleasant Bowling Club and Tompkins Park Community and Recreational Association regarding the establishment of payment plans to enable clubs to recommence loan repayments, noting payments will not commence until after the conclusion of the:**
      - **Mount Pleasant Bowling Club Review; and**
      - **Tompkins Park Operational Management Model Review."**

CD20/8125 -TOMPKINS PARK REDEVELOPMENT REVIEW - (REC) (ATTACHMENT)

At 8.00pm prior to discussion and debate on the matter, the mover and the seconder agreed to the deletion of points 6 and 8a, and requested that the recommendation be renumbered accordingly.

Substantive Motion as Amended

COUNCIL RESOLUTION

At 7:14pm Cr Woodall moved, seconded Cr Fitzgerald –

That the Council:

1. **Does not proceed with the Tompkins Park Redevelopment as detailed in CD17/8098 – Tompkins Park Concept Plan.**
   8125_Tompkins_Park_Redevelopment

2. **Rescinds 3b of the resolution from item**
   8125_CD16/8089_City_of_Melville_Lawn_Bowls_Strategy being 3b. facilitate the Mel*ville Bowling Club and the Mount Pleasant Bowling Club to amalgamate and relocate to a new facility at the expanded Tompkins Park Hub*.

3. **Approves the allocation of $3,060,000 from the Tompkins Park Redevelopment budget to the essential maintenance and improvements to the facilities at Tompkins Park Sporting Hub.**

4. **Approves the allocation of $300,000 for fire services or other compliance upgrades if the works are deemed to be required.**

5. **Allocate the remaining funds approved by item**
   8125_CD19/8114_Tompkins_Park_Review to continuing the management model review and the revision of the initial Tompkins Park concept plan which will include appropriate community engagement within the next 12 months.

6. **Notes the current review and investigation process regarding the Mount Pleasant Bowling Club, as per 8125_Motion_With_Notice_Mount_Pleasant_Bowling_Club_Review.**

7. **Directs the Chief Executive Officer to commence discussions with Mount Pleasant Bowling Club and Tompkins Park Community and Recreational Association regarding the establishment of payment plans to enable clubs to recommence loan repayments, noting payments will not commence until after the conclusion of the:**
   - **Mount Pleasant Bowling Club Review; and**
   - **Tompkins Park Operational Management Model Review."**

At 8:10pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

At 8:05pm Cr Wheatland left the meeting and returned at 8:07pm.

At 8:10pm Cr Mair requested a Motion Without Notice relating to the response to the Coronavirus, be brought forward.

17 MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL – Brought Forward

17.1 Cr Woodall - Response to Coronavirus: Community/Sporting Group Assistance.

COUNCIL RESOLUTION

At 8:11pm Cr Kepert moved, seconded Cr Mair–

That Cr Woodall be permitted to present to the Council a Motion Without Notice relating to Response to Coronavirus: Community/Sporting Group Assistance.

At 8:11pm the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (12/0)

COUNCIL RESOLUTION

At 8:11pm Cr Woodall moved, seconded Cr Mair –

That the Council:

1) Notes the disruption cause by the COVID-19 pandemic and its likely financial impact on the community and sporting clubs in the City of Melville;

2) Directs the Chief Executive Officer to:

a. temporary suspend or defer any loan repayments, rental payments or other payments due to the City from community and sporting club, as the CEO deems necessary; and

b. provide the Council with updates and advice on any additional support or assistance that is requested or may be required by community and sporting clubs in the City.

from 18 March 2020 until 30 September 2020.

At 8:17pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

Reasons provided by Cr Woodall

1. The outbreak and spread of coronavirus has resulted in many sporting and community clubs cancelling their fixtures and events. There has also been a significant decline in venue bookings. Both of these changes will have a negative financial impact on these clubs.

2. It is important that the City supports our sporting and community clubs as they are a key part of our community. Deferring and/or suspending payments from these clubs (where necessary), whether rental payments, loan repayments or otherwise, will assist these clubs with cashflow and hopefully enable them to get through this period of disruption.

3. Given COVID-19 developments are rapidly changing, it may be that other assistance or support from the City is required. It is appropriate that the Council is kept informed of the situation faced by community groups and sporting clubs so that we can monitor and respond appropriately in the circumstances.

11. APPLICATIONS FOR NEW LEAVES OF ABSENCE

At 8:17pm Cr Macphail moved, seconded Cr Kepert –

That the application for new leaves of absence submitted by Cr Barton and Cr Mair on 17 March 2020 be granted.

At 8:17pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

12. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

- Late Item T20/3843 - Civic Centre Fire Services Upgrade Works

That the meeting be closed to members of the public, if required, to allow for items deemed confidential in accordance with Sections 5.23 (2)(c) of the *Local Government Act 1995* to be discussed behind closed doors.

At 8:17pm Cr Wheatland left the meeting and returned at 8:19pm.
At 8:17pm Mr Cahoon left the meeting and returned at 8:20pm.

13. PETITIONS

13.1 Petition – Seeking to move the South-Eastern Boundary of the Canning Bridge Activity Centre Plan to Helm Street

A petition signed by 52 residents of the City of Melville has been received and reads as follows:

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

1) It is noted that while the full review of the Canning Bridge Activity Center Plan (BACP) is progressed, the Council may proceed in parallel to approve Local Planning Policies and to amend the existing CBACP to expeditiously correct serious issues with the existing CBACP.

2) One such serious issue is the inequitable anomaly created by the locating the (sic) south eastern CBACP H4 boundary along adjacent residential boundaries, rather than streets, causing direct conflicts between the planning rules and protections applying within and outside the CBACP.

3) Out of fairness to existing residents and potential developers, we call for this issue to be urgently rectified by moving the south eastern CBACP H4 boundary to Helm Street where there is a buffer between zones as a consequence of the Street space between the two."

OFFICER RECOMMENDATION

At 8:18pm Cr Robartson moved, seconded Cr Kepert –

That the petition in requesting the relocation of the South-Eastern Boundary of the Canning Bridge Activity Centre Plan to Helm Street, signed by 52 residents be acknowledged and a report be prepared.

At 8:18pm the Mayor declared the motion

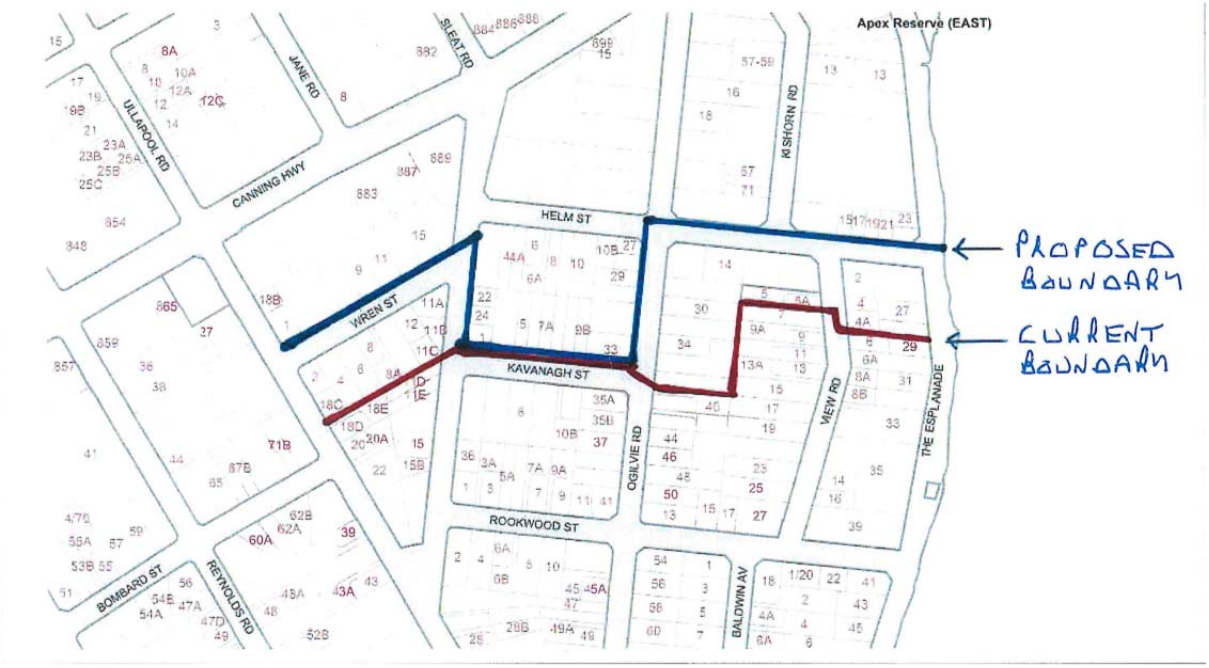
CARRIED UNANIMOUSLY (12/0)

13.2 Petition – To Change South-Eastern Boundary of the Canning Bridge Activity Centre Plan.

A petition signed by 191 residents of the City of Melville has been received and reads as follows:

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

Action Sought: Move the south-eastern boundary of the Canning Bridge Activity Centre Plan ("CBACP") so it follows the road carriageway of Helm Street, Oglivie Road, Kavanagh Street, Sleat Road and Wren Street (as shown on the attached plan in blue).



The Reasons Supporting this action:

The current boundary of the CBACP in this area is located on the fence line between adjoining properties, resulting in direct conflicts between the rules that apply within and outside of the CBACP. These conflicts were not considered and addressed when the CBACP was prepared. It is common sense and good planning to have the boundaries for zone changes located along the street frontage of properties so ensuring that the street or road creates a buffer between zones."

OFFICER RECOMMENDATION

At 8:18pm Cr Kepert moved, seconded Cr Mair –

That the petition in requesting to move the south-eastern boundary of the Canning Bridge Activity Centre Plan ("CBACP") so it follows the road carriageway of Helm Street, Oglivie Road, Kavanagh Street, Sleat Road and Wren Street, signed by 191 residents be acknowledged and a report be prepared.

At 8:18pm the Mayor declared the motion

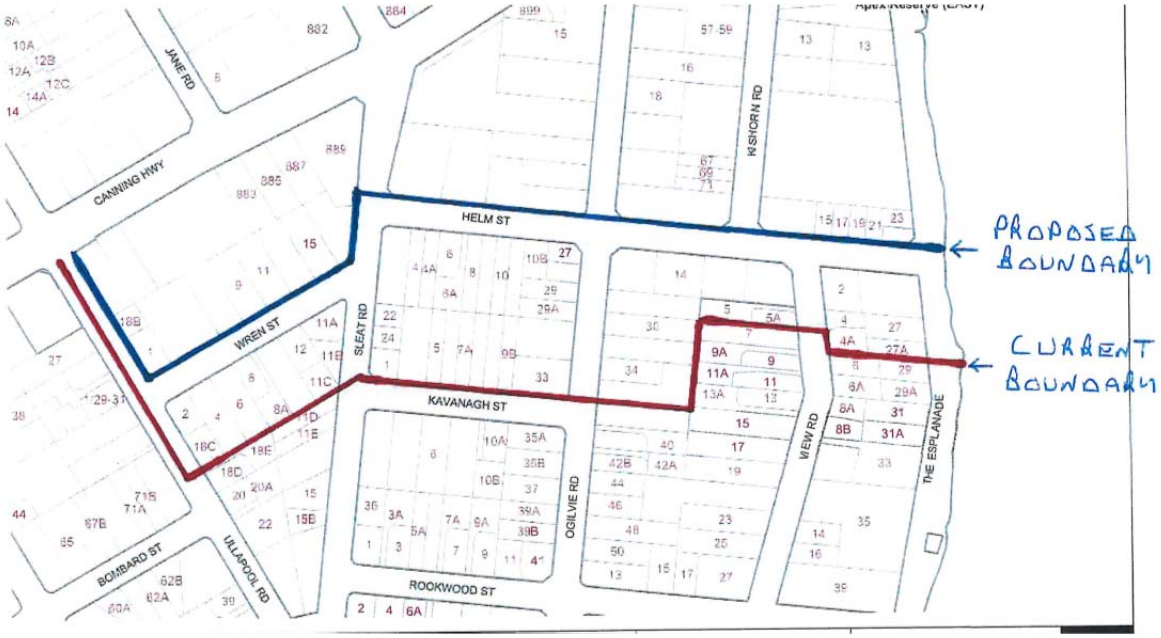
CARRIED UNANIMOUSLY (12/0)

13.3 Petition – To Change South-Eastern Boundary of the Canning Bridge Activity Centre Plan.

A petition signed by 379 residents of the City of Melville has been received and reads as follows:

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

Action Sought: Move the south-eastern boundary of the Canning Bridge Activity Centre Plan ("CBACP") so it follows the road carriageway of Helm Street, Sleat Road and Wren Street (as shown on the attached plan in blue).



The current boundary of the CBACP in this area is located on the fence line between adjoining properties, resulting in direct conflicts between the rules that apply within and outside the CBACP. These conflicts were not considered and addressed when the CBACP was prepared. It is common sense and good planning to have the boundaries for zone changes located along the street frontage of properties so ensuring that the street or road creates a buffer between zones."

OFFICER RECOMMENDATION

At 8:18pm Cr Kepert moved, seconded Cr Mair –

That the petition in requesting to move the south-eastern boundary of the Canning Bridge Activity Centre Plan ("CBACP") so it follows the road carriageway of Helm Street, Sleat Road and Wren Street signed by 379 residents be acknowledged and a report be prepared.

At 8:18pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

At 8:19pm the Mayor brought forward item P20/3838 – Request for Scheme Amendment – Higher Density Coding at Kintail Road, Applecross for the convenience of the public gallery.

Disclosures of Interest

Member	Cr Sanford
Type of Interest	Impartiality Interest
Nature of Interest	The proponent is married to a friend of Cr Sandford
Request	Stay and Discuss
Decision	Stay and Discuss

Member	Cr Woodall
Type of Interest	Proximity Interest
Nature of Interest	Parents own property on Tweeddale Road
Request	Leave
Decision	Leave

At 8:20pm having declared an interest in the matter, Cr Woodall left the meeting.

14.2 REPORTS OF THE CHIEF EXECUTIVE OFFICER

P20/3838 - REQUEST FOR SCHEME AMENDMENT - HIGHER DENSITY CODING AT KINTAIL ROAD, APPLECROSS (REC) (ATTACHMENT)

Ward	:	Applecross – Mount Pleasant
Category	:	Strategic
Application Number	:	Not Applicable
Property	:	Various
Proposal	:	Response to request for a higher density coding along Kintail Road, Applecross.
Applicant	:	Justin Page, Element.
Owner	:	Various
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	No Previous Item.
Responsible Officer	:	Gavin Ponton Manager Strategic Urban Planning

P20/3838 - REQUEST FOR SCHEME AMENDMENT - HIGHER DENSITY CODING AT KINTAIL ROAD, APPLECROSS (REC) (ATTACHMENT)

AUTHORITY / DISCRETION

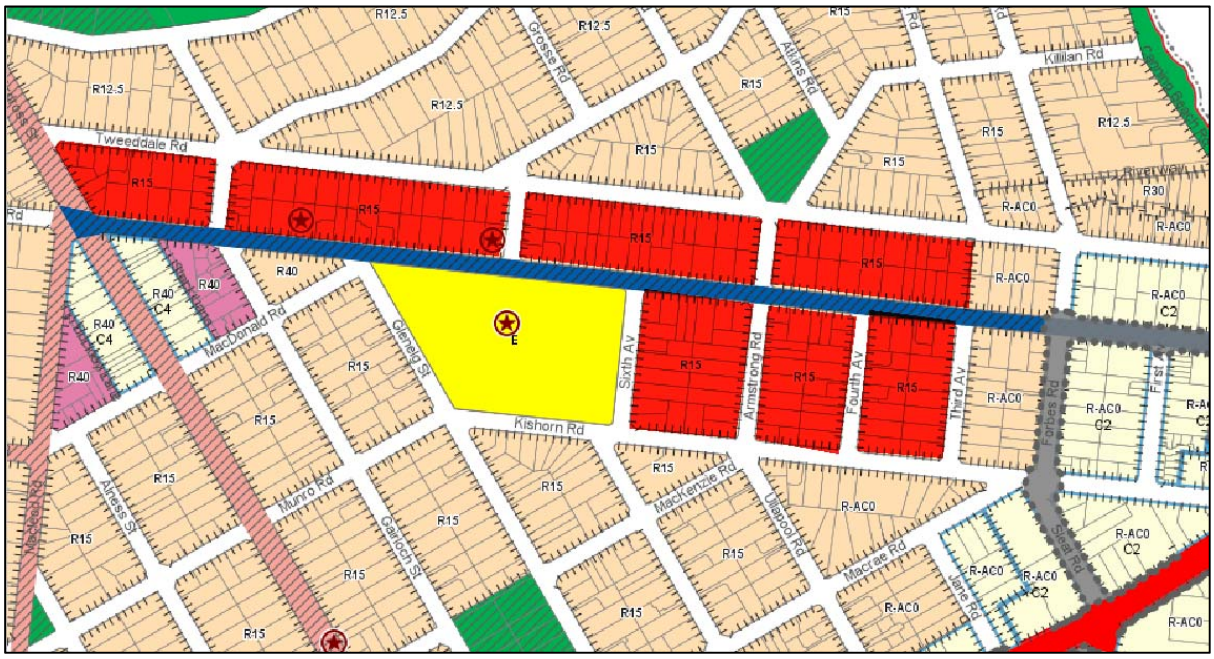
		DEFINITION
☐	Advocacy	*When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.*
☐	Executive	*The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting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

P20/3838 - REQUEST FOR SCHEME AMENDMENT - HIGHER DENSITY CODING AT KINTAIL ROAD, APPLECROSS (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- City of Melville Local Planning Scheme 6 (LPS6) was gazetted on 27 May 2016.
- On 19 November 2019, the City received a proposal for a scheme amendment for a higher density coding for properties along Kintail Road, Applecross.
- The subject properties are currently zoned Residential R15. The proposed zoning is Residential R20.
- The properties are between the Canning Bridge Activity Centre to the east and Applecross Village to the south west.
- Bus routes 148 and 158 run along Kintail Road and the eastern lots are within 1km of the Canning Bridge Train Station.
- Applecross Primary School is to the south of Kintail Road.
- This report recommends that the request not be supported at this point in time but be considered as part of the larger area at the next review of LPS6.

P20/3838 - REQUEST FOR SCHEME AMENDMENT - HIGHER DENSITY CODING AT KINTAIL ROAD, APPLECROSS (REC) (ATTACHMENT)



Subject properties outlined in Red.

BACKGROUND

A submission was received in November 2019 requesting the properties along Kintail Road, Applecross be recoded from R15 to R20. The submission was prepared by Element on behalf of Philip Newman, owner of No. 64 Kintail Road, Applecross.

The supporting letter from the applicant provides the following justification for the requested rezoning from R15 to R20.

- The Amendment area is along Kintail Road and is situated between two activity commercial centres –Applecross Village neighbourhood centre and Canning Bridge Activity Centre Precinct.
- The R20 coding remains low density coding and will retain a suburban character and amenity.
- The Amendment will result in a subtle change over time and will not have a significant impact on the local amenity.
- The Amendment will provide opportunities for greater housing choice, which will assist residents in ageing in place and right size accommodation needs.

The Amendment area is in line with objectives in the City's Local Planning Scheme Local Planning Strategy and Local Housing Strategy.

3838 Scheme Amendment Report Lodged with Council

A change to the density coding from R15 to R20 would require a standard scheme amendment to be prepared, initiated, publicly advertised and approved in accordance with the process outlined in the *Planning and Development (Local Planning Schemes) Regulations 2015*. A scheme amendment would be required to be supported by a report highlighting the strategic merits of the proposal.

P20/3838 - REQUEST FOR SCHEME AMENDMENT - HIGHER DENSITY CODING AT KINTAIL ROAD, APPLECROSS (REC) (ATTACHMENT)

Scheme Provisions

MRS Zoning	:	Urban
LPS Zoning	:	Residential
R-Code	:	R20
Use Type	:	Not Applicable
Use Class	:	Not Applicable

Site Details

The amendment area comprises of 127 original quarter acre lots with the following development characteristics / uses:

- 64 original quarter acre lots have been subdivided/redeveloped into two dwellings;
- 59 original quarter acre lots have not been subdivided and contain one dwelling;
- Two original quarter acre lots have been developed for multiple dwelling apartments; and
- Two original quarter acre lots have been developed for non-residential uses (i.e. RSL club and a church).

DETAIL

LPS6 was gazetted on 27 May 2016. LPS6 is the statutory tool to implement the City's Local Planning Strategy.

The subject properties are currently zoned Residential R15 in LPS6. The supporting letter from the applicant requests that the properties be recoded to Residential R20. The area around the subject lots has a variety of codings as follows:

- Canning Bridge Activity Centre Plan area is to the east with the H4 (Residential four storeys) zone adjoining the eastern end of the subject properties;
- Applecross Village is to the south east with a mix of commercial and residential R40 zones;
- The lots between the amendment area and the foreshore are R15 and R12.5; and
- The properties to the south are R15.

STAKEHOLDER ENGAGEMENT

Advertising Required: If the Council resolved to initiate a scheme amendment to LPS 6 it would require the completion of a public advertising period. Advertising is not required, or usually undertaken in determining whether or not to initiate a scheme amendment.

I. COMMUNITY

A standard amendment to LPS6 would be required to be advertised for not less than 42 days. Advertising would commence should the amendment be initiated. Formal advertising will involve notification in a local newspaper, information on the City's website and correspondence to affected landowner/occupiers.

P20/3838 - REQUEST FOR SCHEME AMENDMENT - HIGHER DENSITY CODING AT KINTAIL ROAD, APPLECROSS (REC) (ATTACHMENT)

II. OTHER AGENCIES / CONSULTANTS

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

STATUTORY AND LEGAL IMPLICATIONS

An amendment to LPS6 requires a resolution of the Council to initiate the process, including the commencement of advertising. Procedures are specified by the *Planning and Development (Local Planning Schemes) Regulations 2015*. It is noted that once a scheme amendment is initiated it is open for the Minister for Planning to proceed to determine the application or to make modifications to the content of the amendment.

FINANCIAL IMPLICATIONS

Should the Council resolve to proceed with initiation of a scheme amendment; costs will be incurred in terms of items including preparation of supporting planning reports, bushfire risk investigations and advertising. There may be opportunity to recover these costs from the applicants by way of a scheme amendment application fee. There is a possibility that supporting documentation may require strategic planning investigation of a wider. These costs may be substantial.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

As above, a change to residential development potential of these sites at this point in time is not considered in keeping with the Local Planning Strategy. There are not considered to be other specific policy implications associated with this proposal.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council may choose to initiate a scheme amendment to seek Western Australian Planning Commission (WAPC) approval for a R20 code. This option will involve costs associated with preparation of supporting documentation and advertising. Costs may be substantial should the scope of the amendment be required to be expanded beyond the subject lots. Upon initiation the Council would be required to advertise the proposal and forward a recommendation to the WAPC. At that stage the WAPC and Minister for Planning would have ability to determine the application, make modifications to the proposed R-Code or seek to widen the area subject to the proposed upcoding.

P20/3838 - REQUEST FOR SCHEME AMENDMENT - HIGHER DENSITY CODING AT KINTAIL ROAD, APPLECROSS (REC) (ATTACHMENT)

COMMENT

The Local Planning Strategy aims to concentrate growth and development in activity centres and along public transport corridors. The Strategy is a long term approach based on a 20 year vision. There are a large number of lots across the City located on or near high frequency public transport corridors.

The long-term vision is proposed to be implemented in a gradual and measured way, focussing initially on the higher priority areas. The rezoning of extensive areas of low density residential, even where these may be located close to high frequency public transport routes, could reduce the effectiveness of the current strategic approach by dispersing growth and development rather than concentrating it in the high priority areas.

Whilst the proposal is considered to have some merit, particularly as it involves land which is close to a high frequency public transport route and between activity centres, it is not recommended that the Council support the request at this time for the following reasons:

- The Local Planning Strategy is proposed to be implemented in a gradual and measured way, focusing initially on the higher priority areas.
- The City's strategic priorities for population growth and development are in key activity centres and along selected sections of public transport corridors.
- LPS6 has only recently been implemented and it is considered that it would be premature to facilitate increase in dwellings or development potential without examining the remaining sections of Applecross.
- There is not considered to be a demonstrated short term need in the area for the requested rezoning.

CONCLUSION

It is considered appropriate to consider this area holistically in future strategic planning in the medium to long term rather than the short term via proposed planning studies of future development along key transport corridors in the City. This approach is in keeping with the Local Planning Strategy key theme of focusing development in activity centres and along transport corridors whilst leaving lower density areas largely unchanged. The strategy envisages that over time higher intensity development may extend further from these strategic centres and corridors in a staged manner. At this stage, land use and density further out from the existing higher coded areas is expected to be examined in 2021 as part of the five year review process for LPS6.

P20/3838 - REQUEST FOR SCHEME AMENDMENT - HIGHER DENSITY CODING AT KINTAIL ROAD, APPLECROSS (REC) (ATTACHMENT)

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3838)

REFUSAL

At 8.20pm Cr Macphail moved, seconded Cr Kepert –

That the Council:

1 notes the submission requesting a higher density coding of residential R20 in Kintail Road and surrounds.

2 not support the requested change to the residential density coding from R15 to R20 at this time for the following reasons:

a. The local planning strategy will be implemented in a gradual and measured way, focussing initially on the higher priority areas.

b. The City's strategic priorities for population growth and development are in key activity centres and along selected sections of public transport corridors.

c. Local Planning Scheme 6 has only recently been implemented and it is considered that it would be premature to facilitate an increase in dwellings or development potential in this section of Applecross at this time.

d. There is not considered to be a demonstrated short term need in the area for the requested rezoning.

e. It is considered that it would be appropriate to consider this area holistically in future strategic planning in the medium to long term rather than the short term via proposed planning studies of residential coding's along key transport corridors in the city.

3 directs the Chief Executive Officer to advise the applicant in writing of the Council's resolution.

At 8:25pm the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

At 8:25pm Cr Woodall returned to the meeting.

At 8.25pm the Mayor brought forward Item P20/3841 – Six Multiple Dwellings At Lot 235 (5) Grimsay Road, Ardross WA 615, for the convenience of the public gallery.

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

Ward	:	Central Ward
Category	:	Operational
Application Number	:	DA-2019-911
Property	:	Lot 235 (5) Grimsay Road, Ardross
Proposal	:	Six Multiple Dwellings
Applicant	:	Property Projex
Owner	:	D Rogers Property Pty Ltd
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	N/A
Responsible Officer	:	Peter Prendergast Manager Statutory Planning

AUTHORITY / DISCRETION

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

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Development approval is sought for six multiple dwellings at Lot 235 (5) Grimsay Road, Ardross. The development contains two dwellings on the ground floor and four dwellings on the first floor. A partially covered roof terrace is provided for two of the first floor dwellings at the rear of the site. The subject site currently contains a single house.
- The application was assessed against Local Planning Scheme 6 (LPS6), the provisions of State Planning Policy 7.3 - Residential Design Codes Volume 2 Apartments (SPP7.3 – Volume 2) and relevant local planning policies and Council Policies. The original proposal satisfied the relevant provisions of the above with the exception of plot ratio, lot boundary setbacks, lot boundary wall height and number of visitor parking bays for which a performance assessment was required.
- The application was advertised in accordance with the provisions of the R-Codes and Local Planning Policy 1.1 'Planning Process and Decision Making' to affected landowners and occupiers. Six submissions were received outlining concerns relating to visual privacy, overshadowing, removal of existing trees, plot ratio, setbacks, shortfall of visitor parking bays, noise, vehicular access and traffic congestion.
- In addition, one petition signed by 100 residents was received on 10 October 2019 objecting to the proposed development. The petition was presented at the Ordinary Council Meeting held on 15th October 2019. The Council minutes record that the petition was acknowledged and that a report would be prepared.
- In response to issues raised by City officers and the concerns raised during the advertising period, the applicant provided amended plans which required a performance assessment against the provisions of SPP7.3 - Volume 2 in relation to plot ratio, lot boundary setback average and lot boundary wall height.
- Notwithstanding the objections received, it is considered that the development is acceptable when assessed against the relevant element objectives of SPP7.3 - Volume 2.
- In accordance with Council Delegation DA-20: *Planning and Related Matters*, the application was referred to the Development Advisory Unit (DAU) on 4 February 2020. The DAU determined that the application be recommended for approval subject to conditions.
- Following the DAU meeting, the development application was called up to Council for determination in accordance with the procedure outlined in Local Planning Policy 1.1 – Planning Process and Decision Making.
- Notwithstanding the objection received, it is recommended that the proposed development be approved subject to conditions.

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

Figure 1 – Aerial Photography

BACKGROUND

The subject site at 5 Grimsay Road, Ardross was zoned 'Living Area' with a density coding of R25/R40 under the provisions of the City of Melville Community Planning Scheme 5 (CPS5). Under the provisions of CPS5 the higher density coding was available where the lot size was greater than 1600m^2 and where there was no access to Riseley Street. The draft City of Melville Local Planning Scheme was the subject of advertising from October 2014 to January 2015 and was gazetted in April 2016. Under the provisions of LPS6 the subject site is zoned Residential with a density coding of R40. This change, which allows for development at the R40 density code as of right is consistent with the state planning policy framework, including Perth and Peel @3.5 Million and the Central sub-regional planning framework, which encourages higher densities in close proximity to high frequency public transport and both within and close to centres. Under the central sub-regional planning framework, Riseley Street is nominated as an Urban Corridor, an area where there are opportunities for medium rise, higher density development. The City's Local Planning Strategy also promotes greater density in the locations outlined above as this is considered the appropriate way to improve the viability of both public transport and existing centres. This approach also contributes to housing diversity and ensures that the majority of the suburban areas remain largely unchanged by urban development.

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

In this case it is noted that the subject site is located approximately 50 metres from Riseley Street. It is also approximately 600 metres to the intersection of Canning Highway and Riseley Street, the heart of the Riseley Activity Centre and 900 metres to the Melville City Centre (Garden City). Existing bus services provide a direct connection to the City along Riseley Street, approximately every 7 to 10 minutes during peak periods.

The development controls for this site are largely contained in State Planning Policy 7.3 Residential Design Codes Volume 2 'Apartments'. An assessment of the proposal is contained below. The proposed development is considered to be an example of a low rise apartment building which generally meets the expectations outlined by the state planning framework including the R-Codes.

Scheme Provisions

MRS Zoning	:	Urban
LPS6 Zoning	:	Residential
R-Code	:	R40
Use Type	:	Residential
Use Class	:	Permitted

Site Details

Lot Area	:	728 sqm
Retention of Existing Vegetation	:	Yes, retention of onsite vegetation
Street Tree(s)	:	Yes
Street Furniture (drainage, pits, etc.)	:	Not applicable
Site Details	:	Refer to Figure 1 above

DETAIL

Development approval is sought for six multiple dwellings at Lot 235 (5) Grimsay Road, Ardross. The proposal comprises two dwellings on the ground floor and four dwellings on the first floor, of which two dwellings have a roof top terrace. The application has been assessed against LPS6, the element objectives of the SPP7.3 - Volume 2 and relevant local planning policies and Council Policies. The proposal satisfies all of these requirements with the exception of those matters listed below.

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

Local Policy Requirements

Development Requirement	Deemed to Comply	Proposed	Comments	Delegation to approve variation
Boundary Wall – (North-East) Unit 2 – Living & Foyer	Maximum height of 3.5m with an average of 3m	Maximum height of 3.6m with an average of 3.5m	Requires assessment against the Element Objectives of State Planning Policy 7.3 Residential Design Codes - Volume 2 Apartments. Refer details in report below.	Development Advisory Unit (DAU)

3841 Development Plans

State Planning Policy 7.3 Residential Design Codes (Volume 2 – Apartments) Requirements

Design Element	Acceptable Outcome	Proposed	Comments	Delegation to approve variation
2.4 – Side and Rear Setbacks	Average Side Setback – (North-East) 2.4m	1.39m	Requires assessment against the Element Objectives of State Planning Policy 7.3 Residential Design Codes Volume 2 Apartments. Refer details in report below.	Development Advisory Unit (DAU)
2.5 - Plot Ratio	0.6	0.69	Requires assessment against the Element Objectives of State Planning Policy 7.3 Residential Design Codes Volume 2 Apartments. Refer details in report below.	Development Advisory Unit (DAU)

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Advertising Required:	Yes
Neighbour's Comment Supplied:	Yes
Reason:	Required pursuant to LPP 1.1 Planning Process and Decision Making
Support/Object:	Six objections received and a petition signed by 100 City of Melville residents against the proposal

The petition requested that the Council reject the proposal on the basis that the plan does not comply with State Planning Policy 7.3 R-Codes in relation to Parking, Driveway Width, Pedestrian Footpath, Visual Privacy and Security Concerns. These issues are summarised in the table below. The lead petitioner has been advised that the report is being submitted to the March Ordinary Council Meeting as per the provisions of Local Planning Policy 1.1 'Planning Process and Decision Making'

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

Summary of Issues Raised	Comment	Action (Condition/ Uphold/ Not Uphold)
Loss of privacy	The proposed development has been designed to ensure the development provides a good level of amenity to the future residents while also limiting the impact of the building on adjoining properties. The development meets Acceptable Outcomes of SPP7.3 – Volume 2.	Not Uphold
Overshadowing impacts	Meets Acceptable Outcomes of SPP7.3 – Volume 2.	Not Uphold
Removal of existing trees	Meets Acceptable Outcomes of SPP7.3 – Volume 2 in regards to trees within the site. A condition of planning approval will require the verge trees to be retained.	Not Uphold
Scale of development is inappropriate for the site	Refer to the comments section of this report.	Not Uphold
Insufficient car parking	Meets Acceptable Outcomes of SPP7.3 – Volume 2.	Not Uphold
Vehicle access	Meets Element Objective of SPP7.3 – Volume 2.	Not Uphold

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

Summary of Issues Raised	Comment	Action (Condition/ Uphold/ Not Uphold)
Traffic impact on immediate and surrounding streets	Car parking provided on-site meets Element Objective of SPP7.3 – Volume 2. On street parking is permitted subject to compliance with the City of Melville Parking Local Law 2016.	Not Uphold
Noise impacts	Meets Element Objective of SPP7.3 – Volume 2.	Not Uphold
Poor transition between sites	Meets Element Objective of SPP7.3 – Volume 2.	Not Uphold
Excessive screening on balconies	Amount of screening on balconies has been reduced since plans were advertised and meets Element Objective.	Not Uphold
Loss of Views	Height of development complies with Local Planning Policy 1.9 – Height of Buildings, therefore does not reduce access to views of significance of the adjoining properties.	Not Uphold
Adverse impacts from external fixtures	A condition of planning approval will require external fixtures are to be screened.	Condition

II. OTHER AGENCIES / CONSULTANTS

No consultation with other agencies/consultants is required.

STATUTORY AND LEGAL IMPLICATIONS

If an applicant is aggrieved by this determination of this application, there is a right of review by the State Administrative Tribunal in accordance with the *Planning and Development Act 2005* Part 14. An application must be made within 28 days of the determination.

FINANCIAL IMPLICATIONS

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

POLICY IMPLICATIONS

The proposal satisfies all of the relevant provisions of the applicable Local Planning Policies with the exception of the lot boundary wall height referenced in *LPP3.1 – Residential Development* which requires consideration against the Design Principles of the R-Codes (see comments section below).

COMMENT

Boundary Wall Height – North East Boundary

The proposed boundary wall requires a performance assessment having regard to the provisions of SPP7.3 Volume 2. The boundary wall height is considered to meet the Element Objectives of Clause 2.4 *Side and Rear Setbacks* of SPP7.3 - Volume 2 for the following reasons:

- The acceptable outcomes of SPP 7.3 Volume 2 envisage single storey boundary walls with a maximum length of 2/3 of the lot boundary. In this case 2/3 of the lot boundary is approximately 27 metres and the proposed boundary wall is approximately 16.2 metres. This reduced length reduces its bulk impact in relation to the adjoining landowner.
- As depicted in the image below, the proposal wall abuts the driveway area of the adjoining dwelling with the house setback 4 metres from the lot boundary. This further reduces the bulk impact of the wall. Given the orientation of the lot and the design of the dwelling there are no visual privacy issues or overshadowing issues.
- It is noted that the proposed boundary wall was advertised to the impacted property and no objection was received.

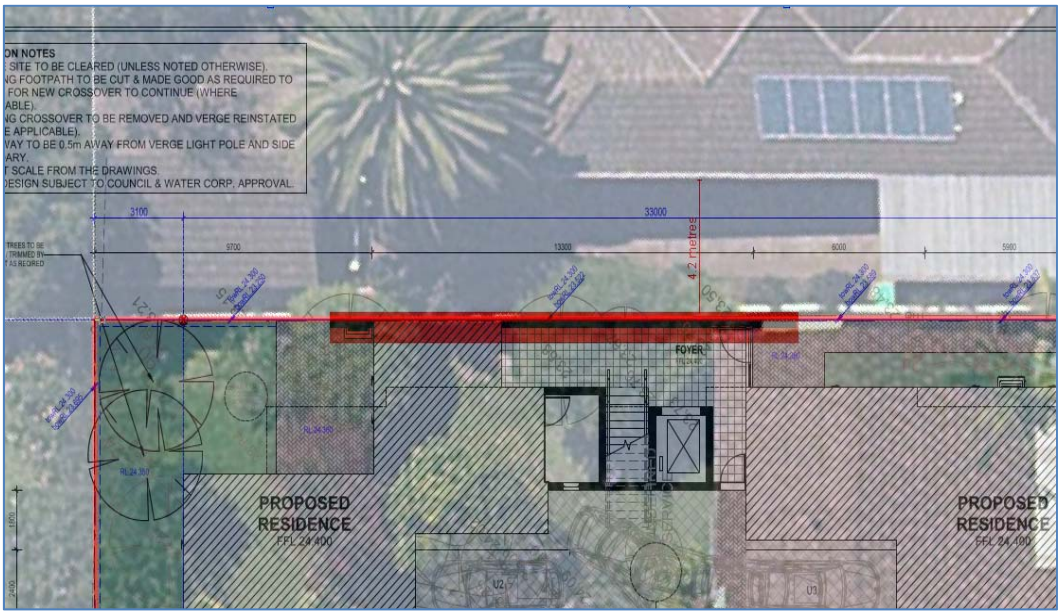


Figure 2 – Location of boundary wall marked in red

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

Average Side Setback – North East Boundary (Ground Floor)

The application is seeking an element objective assessment to the minimum average side setback on the north-east boundary ground floor comprising Units 1 & 2 as required by Table 2.1 of SPP7.3 – Volume 2. The setback proposed is considered to meet the relevant Element Objectives of Clause 2.4 *Side and Rear Setbacks* of SPP7.3 - Volume 2 for the following reasons:

- The bulk impact is minimal given it is of a single storey nature. The development meets all minimum setback requirements which are greater than what is required by Table 2.1 of SPP7.3 – Volume 2. The proposed ground floor setbacks provide a substantial separation between the proposed development and neighbouring dwelling at No.3 Grimsay Road.
- The setbacks sought will not result in any visual privacy or overshadowing impacts and will not cause detrimental impact in relation to access to light and ventilation of the adjoining north eastern property.
- The walls along the north eastern boundary are well articulated through the provision of minor openings and varying setbacks.
- The reduced setbacks will not adversely impact on any outdoor living areas or major openings to habitable rooms associated with the adjoining dwelling.
- The applicant has incorporated suitable areas of deep soil planting and other landscaping to support future tree canopy and stormwater management.

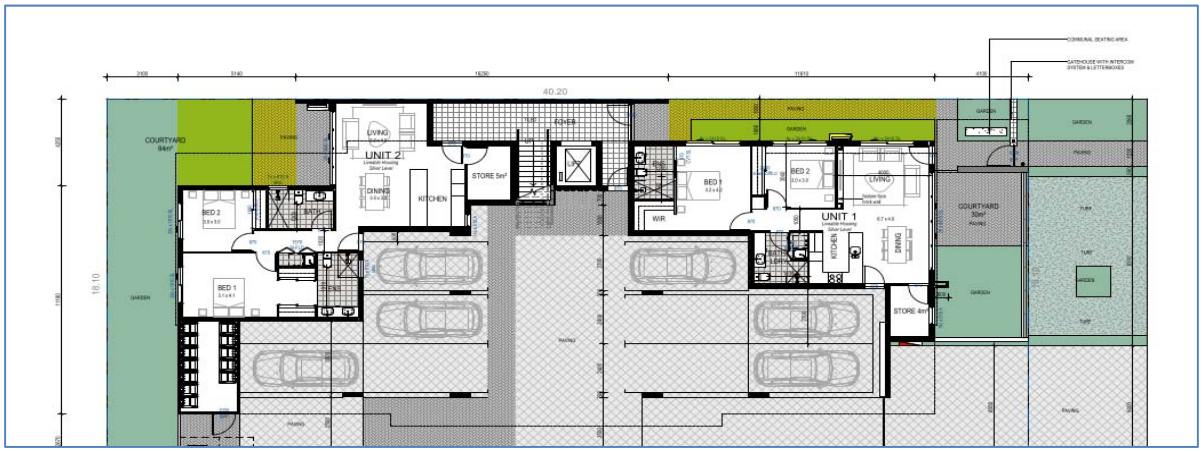


Figure 4 – Proposed ground floor plan towards north east boundary

Plot Ratio

The proposed plot ratio of 0.69 in lieu of 0.6 is considered acceptable in the context of the development site and is considered to meet the element objectives of Clause 2.5 *Plot Ratio* of SPP7.3 - Volume 2 for the following reasons:

- The proposal is considered to be of a bulk and scale which is consistent with the applicable density code of R40. The building height at predominantly two storeys is less than the permissible height under the *Local Planning Policy 1.9 Height of Building,* and this limits the overall scale. Consequently the resultant impact on the adjoining properties is considered to be acceptable.

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

- The development is contained within the expected building envelope complying with setbacks, building height, depth and open space provisions, whilst still comfortably integrating sufficient building elements and service areas that are not included within the plot ratio calculation.
- The plot ratio sought results in an additional 65.52 square metres of floor area across the entire site when compared with the acceptable outcome requirements of SPP7.3 – Volume 2. This is considered to be a modest floor area addition which does not have a material impact on the bulk and scale of the building;
- While the proposed development will introduce apartment style living into an area traditionally dominated by single houses and grouped dwellings, the diversity in housing that will result is consistent with both the state and local planning framework which aims to deliver diversity, density, and affordability within and adjacent to activity centres and along transport corridors. The proposed development is considered to be consistent with this stated strategic planning objective as the site is located within close proximity to the Melville City Activity Centre, is supported by the zoning of the site at R40, and provides the desired built form for the area, without compromise to visual or residential amenity.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council may choose to refuse the development application and provide a reason for doing so. If the Council chooses to refuse the application, the applicant may choose to seek a review of the decision through the State Administrative Tribunal.

CONCLUSION

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

At 8:25pm Cr Mair withdrew her Reject and Replace for P20/3841 - Six Multiple Dwellings at Lot 235 (5) Grimsay Road, Ardross WA 6153.

OFFICER RECOMMENDATION (3841)

APPROVAL

At 8:26pm Cr Robins moved, seconded Cr –

1. The development the subject of this approval must comply with the approved plans at all times unless otherwise approved in writing by the City.

2. All stormwater generated on site is to be retained on site.

3. Prior to the initial occupation of the development, all unused crossover(s) shall be removed and the kerbing and road verge reinstated at the owners cost to the satisfaction of the City.

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

4. The development shall be serviced by a concrete or brick paved vehicle crossover with:

- **a maximum width of 4.5m;**
- **located a minimum of 2m away from the outside of the trunk of any street tree; and**
- **a minimum of 1m from any existing street infrastructure.**

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

5. Unless otherwise approved in writing by the City, all street tree/s shall be protected throughout construction via the installation of a Tree Protection Zone (TPZ). Each TPZ shall be installed prior to commencement of development, in accordance with the following criteria to the satisfaction of the City:

- **A free-standing mesh fence erected around each street tree with a minimum height of 1.8m and a 2m minimum radius measured from the outside of the trunk of each tree.**
- **If an approved crossover, front fence, footpath, road or similar is located within the 2m radius, the TPZ fencing shall be amended to be the minimum distance necessary to allow the works to be completed.**
- **Fixed signs are to be provided on all visible sides of the TPZ fencing clearly stating 'Tree Protection Zone – No Entry'.**
- **The following actions shall <u>not</u> be undertaken within any TPZ:**
  - **Storage of materials, equipment fuel, oil dumps or chemicals**
  - **Servicing and refuelling of equipment and vehicles**
  - **Attachment of any device to any tree (including signage, temporary service wires, nails, screws, winches or any other fixing device)**
  - **Open-cut trenching or excavation works (whether or not for laying of services)**
  - **Changes to the natural ground level of the verge**
  - **Location of any temporary buildings including portable toilets**
  - **The unauthorised entry by any person, vehicle or machinery**
- **No unauthorised pruning of the canopy or roots of any Street Tree is permissible under the City of Melville's Street Tree Policy CP-029. Pruning may only be undertaken by the City's approved contractors following a written submission to and approval by the City.**

6. Prior to the initial occupation of the development, the boundary wall/s shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the City.

7. Prior to the initial occupation of the development, the external surface of the retaining wall/s which are visible from the adjoining properties shall, as a minimum, be finished to a clean face brick standard, to the satisfaction of the City.

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

8. Temporary structures, such as prefabricated or demountable offices, portable toilets and skip bins necessary to facilitate storage, sales, administration and construction activities are permitted to be installed within the property boundaries of the subject site(s) for the duration of the construction period. These structures are to be located so not to obstruct vehicle sight lines of the subject site, the adjacent road network or of adjoining properties to the satisfaction of the City and are to be removed prior to initial occupation of the development.

9. Where a driveway meets the street, walls or fencing within sight line areas are to meet the requirements contained under clause 5 of Local Planning Policy *LPP3.1 Residential Development*, to the satisfaction of the City.

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

11. Any roof mounted or freestanding plant or equipment shall be located and/or screened so as not to be visible from the surrounding street(s) prior to the initial occupation of the development to the satisfaction of the City.

LAPSED FOR WANT OF SECONDER

Motion

At 8:36pm Cr Woodall moved, seconded Cr Mair –

That the Council rescind the decision associated with Item P20/3841 - Six Multiple Dwellings at Lot 235 (5) Grimsay Road, Ardross WA 6153, and that it be recommitted.

At 8:38 Cr Barber left the meeting and returned at 8:40pm

At 8:39pm, following discussion, Cr Woodall withdrew his motion to rescind due to the lapsing of the item not being a rescindable decision.

COUNCIL RESOLUTION

At 8:39pm Cr Woodall moved, seconded Cr Sandford –

That the Council suspend the *City of Melville Meeting Procedures Local Law 2017* for the purpose discussion of the implications of the lapsed motion and the way forward.

At 8:41pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

Motion Without Notice

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

That the Council provides the following reasons for refusing the Grimsay Road Development Approval (by allowing it to lapse), so that the officers can present the Council's view should the item go to the State Administrative Tribunal.

At 8:41pm the Mayor adjourned the meeting.
At 8:56pm the Mayor resumed the meeting.
At 8:59pm as a result of the discussion during the adjournment, Cr Mair acknowledged that the motion without notice was not required and withdrew the motion.

During discussion, Elected Members provided the following views relating to the Grimsay Road Development Application (by allowing it to lapse) so the City Administration can present the Council's view should the item go before the State Administrative Tribunal in an application for review of a potential deemed refusal:

- Lack of due regard to the petition by 100 local residents and their concerns in relation to the following provisions of:

    - Regulation 67 of the Planning and Development (Local Planning Schemes) Regulations:

        (m) the compatibility of the development with its setting including the relationship of the development to development on adjoining land or on other land in the locality including, but not limited to, the likely effect of the height, bulk scale, orientation and appearance of the development.

        (n) the amenity of the locality including the following-
        (i) Environmental impacts of the development
        (ii) The character of the locality
        (iii) Social impacts of the development

        (t) the amount of traffic likely to be generated by the development, particularly in relation to the capacity of the road system of the locality and the probably effect on traffic flow and safety.

    - Regulation 68 the Planning and Development (Local Planning Schemes) Regulations:

        (x) the impact of the development on the community as a whole, notwithstanding the impact of the development on particular individuals; and
        (y) any submissions received on the applications.

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

- Lack of due regard to the petition by 100 local residents and their concerns in relation to the following provisions of Regulation 67 of the Planning and Development (local
- Plot ratio of 0.69 is too high for R40 development area when it should be 0.6.
- The building envelope is being pushed out too much by an additional 11.5%
- The plot ratio of 0.69 results in an additional 65.52 square metres of floor area which is a 15% increase over the allowable 436.8 square metres.
- The 65.52 square metres represents almost the same size of one of the smaller units which is 79 square metres.
- That Side and Rear Setbacks are non compliant.
- That the six multiple dwellings proposed for the site will potentially go to SAT since it requests a greater than allowable building bulk.

COUNCIL RESOLUTION

At 9:00pm Cr Kepert moved, seconded Cr Barber –

That the provisions of the *City of Melville Meeting Procedures Local Law 2017* be reinstated.

At 9:00pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

14.1 ITEMS FROM THE FINANCIAL MANAGEMENT, AUDIT, RISK AND COMPLIANCE COMMITTEE MEETING 9 MARCH 2019

LATE ITEM M20/5741 – FRAUD AND CORRUPTION CONTROL PLAN (REC) (ATTACHMENT)

Ward	:	All
Category	:	Operational
Subject Index	:	Fraud, Misconduct or Corruption
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	:	N/A
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Corrine Newman Governance Coordinator

AUTHORITY / DISCRETION

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

LATE ITEM M20/5741 – FRAUD AND CORRUPTION CONTROL PLAN (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- This report presents to the Council the City of Melville Fraud and Corruption Control Plan.
- The City's Fraud and Corruption Prevention Policy and Plan (Plan) applies to all employees whether by way of permanent appointment, secondment, contract, temporary or labour hire agency arrangement, volunteering, work experience or trainees and all Elected Members.
- The Fraud and Corruption Control Plan was considered by the Financial Management, Audit, Risk and Compliance Committee meeting held 9 March 2020.
- The recommendation is the Plan be adopted by the Council.

BACKGROUND

The Council has adopted Council Policy CP-062 Fraud and Corruption Prevention Policy, which states that the City will ensure that systems and procedures are in place to prevent, detect, report and investigate incidents of fraudulent or corrupt behaviour or activities and will ensure that staff and Elected Members are trained in, and are aware of their responsibilities in respect to the prevention, detection, reporting and investigation of fraudulent or corrupt behaviour.

The Fraud and Corruption Control Plan (Plan), which is a requirement of the above mentioned Policy, has been reviewed and was presented to the Financial Management, Audit, Risk and Compliance Committee for noting and support. The Plan is designed to assist the City in ensuring that thorough, up-to-date policies and procedures are in place to mitigate the risk of fraud and corruption occurring in the organisation.

As the Plan refers to, and applies to Elected Members in respect to reporting any allegation of fraud or corruption, the Plan is presented to the Committee for information purposes and will be referred to the Council to be noted and support by all Members.

5741 Fraud and Corruption Control Plan

DETAIL

At the City of Melville it is recognised that fraud and corruption is not only illegal, contrary to the City's organisational values but also potentially debilitating. In view of this, a proactive stance is taken to ensure incidences of fraudulent or corrupt activities or behaviours do not occur. Whilst the City aims to foster a culture which upholds trust and honesty as part of its core values, it is acknowledged that not everyone affiliated with the organisation may share those values. As such, the City will ensure that the effective prevention of fraud and corruption is an integral part of its operating activities.

LATE ITEM M20/5741 – FRAUD AND CORRUPTION CONTROL PLAN (REC) (ATTACHMENT)

Whilst the Chief Executive Officer has overall responsibility to ensure proper controls are in place to prevent fraud and corruption from occurring and to monitor fraud and corruption risks, all employees, Elected Members, contractors and volunteers are accountable for and have a role to play in fraud and corruption prevention and control.

The City encourages all parties to report actual or suspected fraudulent or corrupt activity. When identified, any suspected fraudulent or corrupt activity will be promptly and thoroughly investigated, and where appropriate, legal remedies available under the law will be pursued. Where appropriate, the City will protect the anonymity of those responsible for reporting the activity.

The City has systems and procedures in place to prevent, detect, report and investigate incidents of fraudulent or corrupt behaviour or activities and an Ethical Behaviour Training Program is being developed to ensure that staff are trained in and are aware of their responsibilities in respect to the prevention, detection, reporting and investigation of fraudulent or corrupt behaviour.

The success of the policy and this Plan will be determined by the staff and Elected Members at the City being aware of their responsibilities in relation to fraud and corruption prevention and controls.

The Ethical Behaviour Training Program will consist of Level One training on Code of Conduct that will be delivered to all staff by in-house resources. It is proposed that Level Two Ethical Behaviour Training will be delivered to all staff that have a high risk exposure, with further training to be provided to the leaderships teams (MLT and ELT) by an outside provider. Staff with specific responsibilities, such as Fraud Control Officers, have been consulted through this process and are aware of their responsibilities as described in the Plan.

The Plan is underpinned by a commitment from senior management and Elected Members to be role models and demonstrate ethical and accountable behaviour by their actions.

In relation to Elected Members the Plan outlines;

- that newly Elected Members will receive initial training during the induction process,
- members will be refreshed on the Elected Members Code of Conduct via the Elected Members Bulletin,
- examples of the types of City services that could be exposed to fraud or corruption risk,
- how allegations of fraud or corruption can be registered and recorded, and
- what allegations and breaches are to be reported to other relevant external agencies.

Allegations that are substantiated will be recorded in the Fraud and Corruption Register by the relevant Fraud Control Officers and the Register will be tabled at the FMARC Committee meeting on a six monthly basis by the Process Improvement Auditor as a confidential attachment to their Internal Audit activity report.

LATE ITEM M20/5741 – FRAUD AND CORRUPTION CONTROL PLAN (REC) (ATTACHMENT)

The Fraud and Corruption Control Plan was considered by the Financial Management, Audit, Risk and Compliance Committee meeting held 9 March 2020, where the following was resolved:

> **"That the Financial Management, Audit, Risk and Compliance Committee notes the Fraud and Corruption Control Plan and recommend the Plan to the Council for endorsement."**

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

No external consultation has been carried out.

II. OTHER AGENCIES / CONSULTANTS

No external consultation with other agencies has been carried out.

STATUTORY AND LEGAL IMPLICATIONS

The *Local Government Act 1995* and *Local Government (Rules of Conduct) Regulations 2007* prescribe legislation in relation to the requirement to have a Codes of Conduct for staff and Elected Members, the appropriate use of information, disclosure of interests and gifts, the receipt of election gifts, as well as provisions for reporting major and minor breaches etc.

FINANCIAL IMPLICATIONS

The Ethical Behaviour Training Program is currently being developed, as outlined in the requirements of the Plan, which will be delivered to the organisation. Other than the possible appointment of external providers to assist with delivering the training program, there are no other financial implications for the Council associated with adopting and implementing the Plan.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk	Risk Mitigation Strategy
Parties not being trained in, or aware of their responsibilities with regard to identifying and reporting allegations or instances of fraud or corruption.	Minor consequences which are possible, resulting in a **Medium** level of risk	Endorsement and implementation of the Fraud and Corruption Control Plan will raise awareness within the organisation of mitigation and reporting avenues.

LATE ITEM M20/5741 – FRAUD AND CORRUPTION CONTROL PLAN (REC) (ATTACHMENT)

POLICY IMPLICATIONS

The Council has an adopted policy that relates to Fraud and Corruption Prevention, Council Policy CP-062. This Policy is adopted by the Council, also applied to Elected Members and is due to be reviewed along with other Management Services Policies.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

No alternative options are suggested in relation to the Plan.

CONCLUSION

As outlined in the Plan, the City is committed to an organisational culture that advocates for a zero tolerance standard for breaches of integrity and accountability by demonstrating professional behaviours that are consistent with our role and values, and provides clear direction in supporting an effective risk management strategy including fraud and corruption risk. The Fraud and Corruption Control Plan was considered by the Financial Management, Audit, Risk and Compliance Committee meeting held 9 March 2020, where the Committee resolved to recommend to the Council that the Plan be endorsed.

COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION (5741) NOTING

At 9:01 Cr Woodall moved, seconded Cr Mair –

That the Council endorses the City of Melville Fraud and Corruption Control Plan 5741 Fraud and Corruption Control Plan.

At 9:03pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

LATE ITEM M20/5742 - COMPLIANCE AUDIT RETURN 2019 (REC) (ATTACHMENT)

Ward	:	All
Category	:	Operational
Subject Index	:	Audits – Compliance
Customer Index	:	Department of Local Government
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item M19/5666 - Compliance Audit Return 2018 - Ordinary Meeting of Council 19 March 2019
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Corrine Newman Governance Coordinator

AUTHORITY / DISCRETION

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

LATE ITEM M20/5742- COMPLIANCE AUDIT RETURN 2019 (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- All Western Australian Local Authorities are required to undertake a Compliance Audit Return (the Return) and submit their findings to the Department of Local Government, Sport and Cultural Industries (the Department) by 31 March each year.
- This year's Compliance Audit Return contain 104 questions, with 102 questions receiving a positive response
- 98% compliance was achieved.
- The 2019 Compliance Audit Return was considered at the Financial Management, Audit, Risk and Compliance Committee meeting held 9 March 2020.
- It is recommended that the Compliance Audit Return 2019 be adopted.

BACKGROUND

A Compliance Audit Return was conducted covering the period 1 January 2019 to 31 December 2019. The completed Compliance Audit Return forms part of the Attachments to the Agenda **5742 Compliance Audit Return 2019.**

It is a requirement that the Compliance Audit Return is presented to the Council for adoption. A copy of the Council report and a certified copy of the return are required to be endorsed by the Mayor and Chief Executive Officer and submitted to the Department of Local Government, Sport and Cultural Industries by 31 March 2020.

DETAIL

The 2018 return had 95 questions and there were 104 questions on the 2019 return. Being an election year there were two questions on elections, three additional questions on disclosure of interests, two additional questions on tenders and two questions removed relating to finance.

The Compliance Audit Return only assesses compliance against the *Local Government Act 1995* and associated Regulations. The responses of Officers to the 104 audit questions have been audited by the Process Improvement Auditor who has included his comment in this report. This year's audit has in the opinion of Officers provided 98% compliance. The City has taken this additional audit examination approach for some years. During the audit examination some minor potential improvements in the City's current practices was identified and will be actioned in 2020.

The 2018 Compliance Audit Return continues in a reduced format with the Department only testing those areas considered to be high risk in this Return. The questions relate to:

The Local Government Act 1995;
The Local Government (Administration) Regulations 1996;
The Local Government (Function and General) Regulations 1996; and
The Local Government (Audit) Regulations 1996.

LATE ITEM M20/5742- COMPLIANCE AUDIT RETURN 2019 (REC) (ATTACHMENT)

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

The areas that the return relates to and the changes from previous year is below

Section number	Area of legislation	Number of questions	Additional questions to previous year
1	Commercial Enterprises by Local Government	5	
2	Delegation of Power/Duty	13	
3	Disclosure of Interest	19	3
4	Disposal of Property	2	
5	Elections	2	2
6	Finance	14	-2
7	Integrated Planning and Reporting	7	
8	Local Government Employees	5	
9	Official Conduct	6	
10	Optional Questions	4	
11	Tenders for Providing Goods and Services	27	2

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

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

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

It is pleasing to note that there is an ongoing increase in Officer knowledge of compliance matters and where possible, systems have been amended to assist with compliance requirements.

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

The City's Compliance Calendar was introduced in 2008 and this is a major improvement to assist management of all compliance matters and is considered to be best practice in the local government industry. The Calendar is updated monthly which enables a management response should a matter require attention.

LATE ITEM M20/5742- COMPLIANCE AUDIT RETURN 2019 (REC) (ATTACHMENT)

The Process Improvement Auditor's comments

The Compliance Audit Return for 2019 has 104 questions, and answers to all questions were checked for correctness.

Findings

Non Compliances

Disclosure of Interest Section

Section 5.75(1) of the Local Government Act 1995 requires a relevant person (a council member or an employee with delegated authority) to lodge with the CEO a primary return within three months of the start day.

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

Two non compliances were noted in this Section. One relates to a non filing of a Primary Return by a designated employee breaching Section 5.75(1) due to an oversight by the Corporate Administration Team. A Primary Return was not sent to the designated employee therefore, no such return was completed.

The other relates to a non filing of an annual return by an Elected Member due to personal circumstances breaching Section 5.76(1) and this case was reported to Corruption and Crime Commission as required by the legislation. After considering the circumstances the CCC advised no further action would be undertaken.

Improvement Actions
The Governance Team will review the reporting and monitoring processes and conduct quarterly checking to ensure full compliance.

LATE ITEM M20/5742- COMPLIANCE AUDIT RETURN 2019 (REC) (ATTACHMENT)

Opportunity for Improvement

Integrated Planning and Reporting Section

Regulation 19DA of the Local Government (Administration) Regulations 1996 states the following:

19DA. Corporate business plans, requirements for (Act s. 5.56)

(1) A local government is to ensure that a corporate business plan is made for its district in accordance with this regulation in respect of each financial year after the financial year ending 30 June 2013.

(2) A corporate business plan for a district is to cover the period specified in the plan, which is to be at least 4 financial years.

(3) A corporate business plan for a district is to —

(a) set out, consistently with any relevant priorities set out in the strategic community plan for the district, a local government's priorities for dealing with the objectives and aspirations of the community in the district; and

(b) govern a local government's internal business planning by expressing a local government's priorities by reference to operations that are within the capacity of the local government's resources; and

(c) develop and integrate matters relating to resources, including asset management, workforce planning and long-term financial planning.

(4) A local government is to review the current corporate business plan for its district every year.

Improvement Actions
Whilst the Council 'ensures' the corporate business plan is still relevant as part of the review of the community annual report process, it is considered better practice if the corporate business plan is reviewed each year by Council as a separate item to ensure its appropriateness. It is also considered better practice if the annual review of the corporate business plan includes matters relating to asset management, workforce planning and long term financial planning as specified in 19 DA(3)(c) above.

The CEO has indicated that the City's corporate business plan is set at a high strategic level and the Executive Leadership Team continues to ensure its relevance. Nevertheless the CEO has agreed that the current process can be further enhanced and the corporate business plan including matters relating to asset management, workforce planning and long term financial planning will be reviewed by Council as part of the budgeting process every year going forward. The first review is scheduled to take place in late 2020.

LATE ITEM M20/5742- COMPLIANCE AUDIT RETURN 2019 (REC) (ATTACHMENT)

The Department of Local Government Compliance Audit Return 2019 was considered by the Financial Management, Audit, Risk and Compliance Committee meeting held 9 March 2020, where the following was resolved:

> **"That the Financial Management, Audit, Risk and Compliance Committee recommends to the Council that the Compliance Audit Return for the period 1 January 2019 to 31 December 2019 5738_Compliance_Audit_Return_2019 be adopted and following certification by Mayor Honourable G Gear and the Chief Executive Officer, be forwarded to the Department of Local Government, Sport and Cultural Industries."**

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

No external consultation has been carried out.

II. OTHER AGENCIES / CONSULTANTS

No external consultation with other agencies has been carried out.

STATUTORY AND LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

Risk Statement	Level of Risk	Risk Mitigation Strategy
The Compliance Audit Return is a statutory requirement and if the Return was not submitted, the Department of Local Government might take adverse action on the City.	Minor consequences which are possible, resulting in a **Medium** level of risk	Complete and submit the Return by the due date.

LATE ITEM M20/5742- COMPLIANCE AUDIT RETURN 2019 (REC) (ATTACHMENT)

POLICY IMPLICATIONS

There are no specific policy implications, except where it can be determined that a matter may be subject to policy change where it does not currently comply with legislative requirements. There are no such instances identified in the return.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

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

CONCLUSION

The City is compliant in 98% of the 104 questions that have been examined for their accurate statutory completion. The Compliance Audit Return was considered by the Financial Management, Audit, Risk and Compliance Committee meeting held 9 March 2020, where the Committee resolved to recommend to the Council that the Return be adopted.

COMMITTEE RECOMMENDATION AND COUNCIL RESOLUTION (5742) APPROVAL

At 9:03pm Cr Mair moved, seconded Cr Barton –

That the Council endorses the Compliance Audit Return for the period 1 January 2019 to 31 December 2019 5742 Compliance Audit Return 2019 and following certification by His Worship the Mayor and the Chief Executive Officer, the Return be forwarded to the Department of Local Government, Sport and Cultural Industries.

At 9:04pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

P20/3838 - REQUEST FOR SCHEME AMENDMENT - HIGHER DENSITY CODING AT KINTAIL ROAD, APPLECROSS (REC) (ATTACHMENT)

Item brought forward
See page 31

Procedural motion

COUNCIL RESOLUTION

At 9:05pm Cr Wheatland moved, seconded Cr Mair-

That Item P20/3840 – Review of Local Planning Policy 1.1 'Planning Process and Decision Making' be deferred to the April 2019 Ordinary Meeting of Council.

At 9:08pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

P20/3840 - REVIEW OF LOCAL PLANNING POLICY 1.1 'PLANNING PROCESS AND DECISION MAKING' (REC) (ATTACHMENT)

Ward	:	All
Category	:	Policy
Application Number	:	Not applicable
Property	:	Not applicable
Proposal	:	Review of Local Planning Policy 1.1 ' Planning Process and Decision Making'
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	:	P17/3747 - Review Of Local Planning Policy LPP 1.1 Planning Process And Decision Making. M19/5723 December 2019 Ordinary Meeting of Council - Summary Of Legal Advice On Withdrawal Of Delegated Authority To Submit Responsible Authority Reports To Joint Development Assessment Panel Item 16.3 December 2019 Ordinary Meeting of Council - Motion With Notice - Cr Barton – Planning Process and Decision Making Policy LPP 1.1 (Withdrawn)
Responsible Officer	:	Peter Prendergast Manager Statutory Planning

P20/3840 - REVIEW OF LOCAL PLANNING POLICY 1.1 'PLANNING PROCESS AND DECISION MAKING' (REC) (ATTACHMENT)

AUTHORITY / DISCRETION

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

P20/3840– REVIEW OF LOCAL PLANNING POLICY 1.1 'PLANNING PROCESS AND DECISION MAKING' (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- Local Planning Policy 1.1 'Planning Process and Decision Making' was most recently reviewed by Council in 2017.
- At the December 2019 Ordinary Council Meeting, it was resolved to change the process for dealing with development applications which will be determined by the Development Assessment Panel.
- 'Local Planning Policy 1.1 'Planning Process and Decision Making' is required to be updated to reflect these changes.
- It is also proposed to change 'Local Planning Policy 1.1 'Planning Process and Decision Making' to ensure that terminology used is consistent with the Planning and Development (Local Planning Schemes) Regulations 2015, to modify the DAU call up procedure and to clarify the advertising requirements for 'Major Developments'.
- The amendments are considered to be minor in nature and do not require formal consultation under the provisions of the Planning and Development (Local Planning Schemes) Regulations.

BACKGROUND

In Western Australia the planning framework is set by the state government, via the Planning and Development Act 2005. This sets out the system of land use planning and development in the State. There are several sets of regulation which sit under the Planning and Development Act such as the Planning and Development (Local Planning Schemes) Regulations 2015 and the Planning and Development (Development Assessment Panel) Regulations 2011.

Planning and Development (Local Planning Schemes) Regulations 2015 are particularly detailed. This document sets out the process for dealing with various planning matters such including development applications, subdivision and changes to the planning framework. The regulations are very specific, providing significant amounts of details with regard to every process. By consolidating the process into one document the State Government has attempted to ensure there is consistency across local governments. The process for dealing with DAP application is set out in the DAP Regulations, however this is largely the same as for standard DA's,

Subsequent to these regulations there are multiple State Planning Policies, planning bulletins, development control polices and position statements produced by the Department of Planning Lands and Heritage. Finally the Local Planning Scheme and Local Planning Policies need to be taken into consideration.

Local Planning Policy 1.1 'Planning Process and Decision Making' has the following policy objectives:

- To promote a consistent approach by the City in the assessment and public advertising of development applications.
- To facilitate community input into the decision making process.
- To provide information to both applicants and submitters regarding the planning application assessment process.

P20/3840– REVIEW OF LOCAL PLANNING POLICY 1.1 'PLANNING PROCESS AND DECISION MAKING' (REC) (ATTACHMENT)

At the December 2019, Ordinary Council Meeting (OCM), it was resolved that changes would be made to the process for dealing with Development Assessment Panel (DAP) applications. Specifically, this resolution requires that the CEO does not provide the Responsible Authority Report (RAR) to the JDAP where the RAR is the subject of a call up to Council for its information.

At the December 2019 OCM, a Notice of Motion was proposed by Cr Barton which called for all development application to go through the Development Advisory Unit process as described in Local Planning Policy 1.1 'Planning Process and Decision Making' (LPP1.1). A decision on this Notice of Motion was deferred pending discussion at an Elected Members Information Session, to take place ahead of the March 2020 OCM.

After discussions with Officers, Cr Barton withdrew the Notice of Motion on the basis that changes would be proposed to LPP 1.1 to streamline the DAU to Council call up procedure. This change would essentially remove the need for Elected Members to justify any call up request, as is required by the current policy provisions, also removing the need for a meeting to take place with the Director Urban Planning and/or the Manager Statutory Planning to discuss the nature of and associated reasons for the call up request.

DETAIL

At the December Ordinary Council Meeting it was resolved to put the following procedures in place in relation to the way the City deals with applications which will be considered by the JDAP:

1) The Council must be alerted to each development application to be determined by the JDAP as soon as it is received by the City, by means of circulating the details of the development application to all Elected Members, in order to facilitate the potential call up of the development application.
2) Where a development application is called up, the City's officers are to prepare the RAR in accordance with the statutory framework and submit it to a Special Meeting of Council for comment in sufficient time to meet the requirements of the JDAP statutory time period for the application.
3) Where a development application has been called up, the CEO may not submit the RAR to the JDAP until the Council has resolved that it be submitted, with dissenting comments from the Council attached if so resolved.
4) If a development application to be determined by the JDAP is not called up, the RAR may be prepared and submitted under delegated authority by the CEO in accordance with DA-020.

In order to formalise these changes, the City is required to update and add various subclauses in section under clause 3.7 'Development Assessment Panel' of LPP1.1. The changes ensure that Elected Members will be alerted to the details of a development application soon after it is lodged with the City via a notice in the EMB, a Major Development Briefing and the Melville Talks page on the website. The changes also confirm that when a RAR is called up to Council for its information, City officers will prepare the RAR and submit it an appropriate meeting and the report will not be sent without Council endorsement.

P20/3840– REVIEW OF LOCAL PLANNING POLICY 1.1 'PLANNING PROCESS AND DECISION MAKING' (REC) (ATTACHMENT)

It was also resolved to amend the instrument of Delegated Authority DA-20 'Planning and Related Matters' to add the following limitation.

> 'Should a development application be called up by Council, the Chief Executive Officer may not make recommendations to the Joint Metro Central Development Assessment Panel without first seeking Council's comment on the application and the planning officer's recommendations in the Responsible Authority Report, and attaching to the RAR the Council's comments as approved by Council.'

This action has now been undertaken.

The following key changes are also proposed as a part of the current review:

1) Modify Clause 3.5.4 'Call Up of DAU applications for consideration by Council' so that Elected Members no longer need to justify in material planning terms why a DAU matter should be called up for the consideration and determination of Council. Rather, a simple request from an Elected Member to have a matter from the DAU called up to Council will suffice.
2) Modify Clause 1.7 to confirm Major Developments will be the subject of public consultation and to clarify the methods used to undertake this consultation.
3) Delete Clause 1.8 Major Developments as this clause is made redundant by the changes to Clause 1.7.
4) A number of grammatical changes to ensure the terminology used in the policy is consistent with the relevant planning framework and to provide greater clarity on the process where required.

A copy of the proposed policy is provided below with tracked changes to clearly demonstrate the modifications.

The proposed changes to LPP 1.1 are considered to be minor in nature and do not require advertising.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

The Regulations came into effect on 19 October 2015. Clause 5 of Schedule 2 of the Regulations contains requirements for amending a local planning policy. In accordance with Sub-Clause 5(1) the local government should advertise the changes to the Local Planning Policy in the same manner as it would for a new policy, described in Clause 4, unless the modifications are considered minor. In this instance it is considered that the recommended modifications are minor and formal advertising is not required.

P20/3840– REVIEW OF LOCAL PLANNING POLICY 1.1 'PLANNING PROCESS AND DECISION MAKING' (REC) (ATTACHMENT)

II. OTHER AGENCIES / CONSULTANTS

Clause 4(4) of Schedule 2 of the Regulations requires that the Council advises the Western Australian Planning Commission (WAPC) if it is of the opinion that the policy is inconsistent with any State Planning Policy. As there is no such inconsistency in this case, the WAPC need not be informed.

STATUTORY AND LEGAL IMPLICATIONS

The review of a Local Planning Policy, provided such a review is undertaken in accordance with the provisions of the Regulations, does not in itself have any statutory or legal implications.

The statutory and legal implications of withdrawing delegation to submit an RAR to the JDAP were outlined in detail at the December Ordinary Council meeting (Item **M19/5723).** These implications remain.

If a RAR is not submitted in the required timeframe, the JDAP has the power to request separate technical advice from the City's planning officers or to determine an application without a RAR.

FINANCIAL IMPLICATIONS

There are no financial implications identified as a part of this review

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The strategic, risk and environmental implications of withdrawing delegation to submit an RAR to the JDAP were outlined in detail at the December Ordinary Council meeting (Item M19/5723). These implications remain.

POLICY IMPLICATIONS

Local Planning Policy LPP 1.1 Planning Process and Decision Making enable a consistent approach by the City in relation to the assessment and public advertising of development applications.

P20/3840– REVIEW OF LOCAL PLANNING POLICY 1.1 'PLANNING PROCESS AND DECISION MAKING' (REC) (ATTACHMENT)

COMMENT

At the December Ordinary Council Meeting it was resolved to put the following procedures in place in relation to the way the City deals with applications which will be considered by the JDAP. The procedures are outlined below along with a brief comment regarding how this has been achieved.

1) The Council must be alerted to each development application to be determined by the JDAP as soon as it is received by the City, by means of circulating the details of the development application to all Elected Members, in order to facilitate the potential call up of the development application.

   Clause 3.7.6 has been updated to confirm Elected Members will be made aware of the details of the DAP application via the Elected Members Bulletin, and further detail will be provided at a Major Development Briefing and on Melville Talks once the advertising period begins. Clause 3.7.8 has also been updated to confirm that Elected Members will be provided with a summary of the submissions received at the end of the consultation process. Notification to Elected Members of the receipt of a DAP application, briefings to Elected Members on DAP applications and notification to Elected Members of the outcomes of community consultation is already occurring as a part of the assessment process, it is considered that the changes to the LPP will provide Elected Members with more comprehensive information about DAP applications at an earlier stage.

2) Where a development application is called up, the City's officers are to prepare the RAR in accordance with the statutory framework and submit it to a Special Meeting of Council for comment in sufficient time to meet the requirements of the JDAP statutory time period for the application.

   Clause 3.7.9 has been updated to confirm this will occur. The Clause clarifies that the RAR will be presented to either an Ordinary Council Meeting or a Special Council meeting if this is appropriate.

3) Where a development application has been called up, the CEO may not submit the RAR to the JDAP until the Council has resolved that it be submitted, with dissenting comments from the Council attached if so resolved.

   Clause 3.7.10 has been updated to confirm that if the application has been called up to Council. the RAR must not be submitted without Council endorsement.

4) If a development application to be determined by the JDAP is not called up, the RAR may be prepared and submitted under delegated authority by the CEO in accordance with DA-020.

Clause 3.7.12 has been added to LPP 1.1.

In respect of the Call Up procedure outlined in Clause 3.5.4 (a) the need for a call up request to be signed by two Elected Members and for consultation with the Director of Urban Planning or the Manager Statutory Planning has been removed. If an Elected Member wishes to call up a matter it is simply necessary to lodge the request with the CEO using the appropriate form.

P20/3840– REVIEW OF LOCAL PLANNING POLICY 1.1 'PLANNING PROCESS AND DECISION MAKING' (REC) (ATTACHMENT)

In respect of Clause 1.7.7 - Extent of Advertising, several clauses were used to describe the consultation methods to be used by the City. These clauses have now been consolidated. Clause 1.7.7 has also been amended to confirm that Major Developments will be the subject of wider consultation. If valid submissions are received during the consultation period the submissions will be dealt with in accordance with Clause 1.9 'Submissions and Petitions'. On the basis of this change Clause 1.8 has been deleted.

A number of minor changes have been made to the policy to ensure that it is consistent with the relevant planning framework. These changes include;

- Changes to the policy objectives to better reflect the purpose of the policy;
- The term planning approval updated to development approval throughout the document;
- Clarification on the statutory timeframe for dealing with applications;
- Clarification that a performance assessment is required having regard to the relevant planning framework;
- Update to reflect current clauses of the R-Codes;
- Changes to sentence structure to improve the flow of the document and to remove any areas of uncertainty or un-necessary repetition.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council may resolve not to proceed with the changes outlined above or determine that further changes to the policy are required.

CONCLUSION

In conclusion, it is recommended that LPP 1.1, Planning Process and Decision Making, be amended as outlined by this report. As stated previously, it is considered that, if approved by Council, the changes proposed can be implemented without the need for further community consultation.

If Council resolve to endorse the changes, a notice will be published in the local newspaper as required by the Regulations. The City will also provide details of the changes including a copy of this report on its website.

OFFICER RECOMMENDATION (3840) **APPROVAL**

That the Council pursuant to Clause 4, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015* adopts the changes to Local Planning Policy LPP1.1 Planning Process and Decision Making as detailed in the attachment 3840_LPP1.1_Planning_Process_and_Decision_Making

P20/3841 - SIX MULTIPLE DWELLINGS AT LOT 235 (5) GRIMSAY ROAD, ARDROSS WA 6153 (REC) (ATTACHMENT)

Item brought forward
See page 40.

T20/3842 – TECHNICAL SERVICES POLICY REVIEW (REC) (ATTACHMENT)

Ward	:	All
Category	:	Policy
Subject Index	:	BMS – Council Policies
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	:	T17/3769 – Technical Services Policy Review
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Mick McCarthy Director Technical Services

AUTHORITY / DISCRETION

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

T20/3842 – TECHNICAL SERVICES POLICY REVIEW (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- The policies within the responsibility of the Director Technical Services have been reviewed and brought forward with amendments for consideration and adoption.
- Policies that are defined as Council Policy require the approval of the Council whereas Operational Policies are approved by the Chief Executive Officer.
- It is recommended that the ten policies reviewed by the Director Technical Services be approved.

BACKGROUND

A two year review cycle has been implemented to ensure all Council Policies remain current.

The Policies presented in this report have been reviewed by staff with significant and minor changes undertaken to reflect updated information, standards or changes in legislation.

DETAIL

All policies are held under one of two categories being, Council Policies or Operational Policies. The policies that are required to be approved by Council relate to:

- Strategic Positioning of Council
- Executive Functions
- Legislative Functions
- Chief Executive Officer and Senior Officer Appointments
- Termination payments in excess of contracts of employment or Award provisions.

All other policies are considered to be operational in nature and have therefore been designated as Operational Policies. Operational Policies are those which are made in relation to the functions of the Chief Executive Officer (CEO) as prescribed by Section 5.41 of the *Local Government Act 1995* (The Act) as follows:

Management of the day to day operations of the local government:

- The employment, management supervision, direction and dismissal of other employees (subject to Section 5.37(2) of The Act) in relation to senior employees;
- Ensuring that records and documents of the Local Government are properly kept for the purposes of The Act and any other written law; and
- Policy on powers and duties delegated by the Council within the limitations as set by Section 5.43 of The Act.

T20/3842 – TECHNICAL SERVICES POLICY REVIEW (REC) (ATTACHMENT)

This report provides comment on the Council Policies from the area of responsibility of the Director Technical Services and includes:

CP_001_Citizenship_Ceremonies_Policy
CP_029 Tree Policy
CP_031_Asset_Management_Policy
CP_033_Path Policy
CP_034_Road_Safety_Audit_Policy
CP_035_School_Parking_Policy
CP_036_Waste_Minimisation_Policy
CP_086_Verge_Treatment_Policy
CP_102_Urban Forest and Green Spaces Policy
CP_110_Crossover Policy

Changes in the Policies are outlined below:

CP-001 – Citizenship Ceremonies Policy

No changes to this Policy.

CP-029 – Tree Policy

A number of minor changes to the wording and formatting of the Policy were made to improve clarity and readability. In particular, information that was previously included in the Policy was removed as it is referenced in Australian Standard 4970 or advice notes.

To provide improved clarity when requests are received by property owners who are willing to install a street tree at their own cost, the following has been added:

2.1 Authorised Tree Planting

If appropriate residents may be able to plant a tree on their adjacent verge if written approval is received from the City prior to any works or ordering being undertaken.

If approval is given to a resident to plant on City land, it is on the understanding that:

- *The City shall approve the species and location;*
- *The tree shall be planted in alignment with the requirements provided by the City;*
- *Any tree planted shall become a City asset and managed accordingly*.

The following dot point has been added to 3.3 Tree Removal where a tree will be considered for removal if the tree is:

"Not in keeping with the overall streetscape aesthetics as determined by the City."

Subsequent to the Elected Member Information Session held Monday on 10 February 2020, and discussions with the Mayor, additional changes to the Policy related to decision making process for tree removal requests include the following:

T20/3842 – TECHNICAL SERVICES POLICY REVIEW (REC) (ATTACHMENT)

An expansion of the last dot point in 3.3. Tree Removal to include

> *"Where consensus cannot be reached by the Mayor, Ward Councillors, and Director of Technical Services regarding tree retention or removal, a report shall be prepared and presented to Council for final determination."*

It is noted that the report to Council in the change recommended in 3.3 above regarding unresolved tree removal requests would include a notification to local residents seeking feedback on the tree removal request as part of the City's community consultation process.

CP-086 – Verge Treatment Policy

A number of minor changes to the wording and formatting of the Policy were made to improve clarity and readability.

The major change to note is in the previous Policy it was stated that;

> *"Where there is no footpath, ensure a pedestrian has safe and clear access immediately adjacent to the road."*

This will now read:

> *"Where there is no footpath, ensure a pedestrian has safe and clear access immediately adjacent to the road. The City has a preference for this space to be 2 metres wide, however the allowance for this space may be less than 2 metres wide can be determined at the City's discretion."*

A new addition to the Policy is Section 5.1 Activity Centres/Precincts which reads;

> *"To allow for the urban form to be renewed consistently, the City has several designated areas known as Activity Centres or Precincts as determined in the Local Planning Scheme. Designs for these areas shall be submitted for approval to the City to meet the guidelines/ masterplans/ or visions for verges and streetscapes within these areas."*

Subsequent to the Elected Member Information Session held Monday on 10 February 2020, additional changes to the Policy includes:

Item 5.0 General

> *"Cover a maximum of 50% of the verge including the crossover."*

This will now read:

> *"Cover a maximum of 50% of the verge including the crossover with the exception of property access driveways (e.g. battle-axe lots)."*

T20/3842 – TECHNICAL SERVICES POLICY REVIEW (REC) (ATTACHMENT)

CP-031 – Asset Management Policy

Minor editorial changes to the policy, including clarifying the definition of Renewal to include replacement with modern materials as per Accounting Standards.

Subsequent to the Elected Member Information Session held Monday on 10 February 2020, additional changes to the Policy includes:

Additional wording to reference the Capital Works Program and Long Term Financial Plan.

> *"Ensure budgeting priority be given to the maintenance and renewal of existing assets and services".*

This now reads:

> *"Ensure budgeting priority be given to the maintenance and renewal of existing assets and level of service with funding from the annual Capital Works Program and Long Term Financial Plan."*

New sentence added to make reference to the Sustainability Policy.

> *"Manage our assets in accordance with the Sustainability Policy (CP-057), objectives and requirements."*

CP-110 –Crossover Policy

The previous combined Crossover and Path Policy has been split into a separate Crossover Policy and a separate Path Policy.

A new addition is a reference to the City's Crossover Guidelines and Specifications:

> *All crossovers shall be constructed to the City's Guidelines and Specifications for Crossovers. Crossover construction, renewal and maintenance shall be in accordance with the City's Guidelines and Specifications where practical. Where it is not practical, the City may approve a non-standard crossover. Where this occurs, the City shall document its reasons.*

There are new references that address common questions related to crossover construction and maintenance:

> *Crossover renewal and maintenance is the responsibility of the property owner.*
>
> *The visual and physical continuity of any new and/or existing path shall be maintained (or reinstated) through the crossover as per the City's Guidelines and Specifications for Crossovers.*
>
> *If a crossover is redundant, it shall be removed at owners cost.*
>
> *The compliance of crossovers shall be determined by the crossover policy in place at the time of construction.*

T20/3842 – TECHNICAL SERVICES POLICY REVIEW (REC) (ATTACHMENT)

Subsequent to the Elected Member Information Session held Monday on 10 February 2020, additional clarification has been added to the Policy Statement.

> *"A standard crossover is 3m in width constructed in grey concrete and a length from the property line to the edge of the road."*

This now reads:

> *"A standard crossover is 3m in width constructed in grey concrete and a length from the property line to the edge of the road, with the maximum width allowable at 6 metres."*

CP-033 – Path Policy

The previous combined Crossover and Path policy has been split into a separate Crossover Policy and a separate Path Policy.

The language covering the intersection of paths and crossovers has been aligned:

> *The path shall be continued (or reinstated) through the crossover as per the City's Crossover Guidelines and Specifications. All path users shall have priority over vehicles on crossovers.*

A number of path detailed specifications have been moved to the Path Guidelines and Specifications document including the priority ranking scheme and the capital works program:

> *"Path construction, renewal and maintenance shall be in accordance with the City's Path Guidelines and Specifications where practical. Where it is not practical, the City may construct, renew or maintain a non-standard path. Where this occurs, the City shall document its reasons."*

CP-034 – Road Safety Audit Policy

Minor edit to update reference to Austroads Guide to Road Safety Part 6: Managing Road Safety Audits and Austroads Guide to Road Safety Part 6a: Implementing Road Safety Audits.

CP-035 – School Parking Policy

Very minor edit to improve readability.

T20/3842 – TECHNICAL SERVICES POLICY REVIEW (REC) (ATTACHMENT)

CP-036 – Waste Minimisation Policy

Updated to reflect the 3-bin FOGO waste management system and the State Government's Waste Avoidance and Resource Recovery Strategy 2030 document.

Subsequent to the Elected Member Information Session held Monday on 10 February 2020, additional changes to the Policy includes an additional sentence added to the Policy Statement:

> *"Residents can request additional bin capacity which will initiate an audit and evaluation process to determine waste management requirements."*

Extra wording added to clarify that local recyclables processing means within Australia.

> *"Support the local processing of recyclable material and the establishment of local recycling industries and markets in the region."*

This will now read:

> *"Support the local processing of recyclable material in Australia, and in accordance with Council of Australian Government (COAG) recycling commitments and the establishment of local recycling industries and markets in the region."*

CP-102 - Urban Forest and Green Spaces Policy

There are no changes to this Policy.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not Applicable

II. OTHER AGENCIES / CONSULTANTS

Not Applicable

STATUTORY AND LEGAL IMPLICATIONS

The policies are consistent with the current *Local Government Act 1995* and relevant Regulations.

FINANCIAL IMPLICATIONS

Policies set out various strategic positions of the Council. The commitments of the Council as identified in Council Policies will be reflected in future Capital and Operational Programs which will be presented as part of the formal budget setting process.

T20/3842 – TECHNICAL SERVICES POLICY REVIEW (REC) (ATTACHMENT)

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The process of policy review will serve to minimise both strategic and risk management implications by ensuring policies are consistent with current legislation.

Risk Statement	Level of Risk	Risk Mitigation Strategy
Administration undertakes functions delegated by the Council in a manner not in accordance with the Council's objectives causing reputational risk.	**Minor** to **Major** depending on issue.	Ensure sound Council policies are in place that provides clear guidance to the administration.
Policies are not in compliance with legislative requirements or contemporary standards.	Minor consequences which are possible, resulting in a **Medium** level of risk	Periodic review mitigates against outdated legislative or other relevant references.

POLICY IMPLICATIONS

Should the Council resolve to adopt the policies as presented within this report, then these will replace the previous polices.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

There are no alternative options presented as part of this report.

CONCLUSION

The individual polices have been reviewed by senior officers and their amendments are consistent with the current provisions of the *Local Government Act 1995* and relevant Regulations.

T20/3842 – TECHNICAL SERVICES POLICY REVIEW (REC) (ATTACHMENT)

OFFICER RECOMMENDATION (3842) **APPROVAL**

At 9:08pm Cr Robartson moved, seconded Cr Barber –

That the Council:

1. **approves the ten policies as reviewed by the Director Technical Services and as contained in the following attachments:**

   CP_001_Citizenship_Ceremonies_Policy
   CP_029 Tree_Policy
   CP_031_Asset_Management_Policy
   CP_033_Path Policy
   CP_034_Road_Safety_Audit_Policy
   CP_035_School_Parking_Policy
   CP_036_Waste_Minimisation_Policy
   CP_086_Verge_Treatment_Policy
   CP_102_Urban Forest and Green Spaces Policy
   CP_110_Crossover Policy

2. **notes that changes to the Tree Policy requiring Council determination for unresolved tree removal requests to include notification of local residents seeking feedback on request for tree removal as part of the City's community consultation process.**

T20/3842 – TECHNICAL SERVICES POLICY REVIEW (REC) (ATTACHMENT)

The mover of the motion, with the consent of the seconder requested the following words "and approves the policy with the other changes recommended by the Director Technical Services included." be included at the end of the amendment to point 2.

Amendment

COUNCIL RESOLUTION

At 9:09pm Cr Robins moved, seconded Cr Fitzgerald –

That the Council:

- **In point 1 of the officer recommendation, replaces "ten" with "following nine" and deletes "CP 029 Tree Policy".**
- **Deletes point 2 of the officer recommendation and replaces it with the following:**

  2. amends CP 029 Tree Policy by adding the following sentence at the end of clause 3.3 of the policy:

  "If agreement cannot be reached by the Mayor, the relevant ward Councillors and the Director of Technical services, a report which outlines the advantages and disadvantages of removing the tree is to be presented to the Council in order for the Council to determine whether or not the tree will be removed. This report is to include the results of notification of local residents seeking feedback on request for tree removal as part of the City's community consultation process."

  and approves the CP 029 Tree Policy with the other changes recommended by the Director Technical Services included .

At 9:31pm the Mayor declared the motion

CARRIED (9/3)

Vote Result Summary	
Yes	9
No	3

Vote Result Detailed	
Cr Barber	Yes
Cr Barton	Yes
Cr Fitzgerald	Yes
Cr Macphail	Yes
Cr Robartson	Yes
Cr Robins	Yes
Cr Sandford	Yes
Cr Wheatland	Yes
Mayor Gear	Yes
Cr Kepert	No
Cr Mair	No
Cr Woodall	No

T20/3842 – TECHNICAL SERVICES POLICY REVIEW (REC) (ATTACHMENT)

Reasons for the Amendment as provided by Cr Robins

When agreement on the removal of a tree cannot be reached between officers and Elected Members, it is appropriate for the Council to be the final decision maker on the matter.

It is unlikely this change will result in a high volume of requests coming to the Council for a final decision. Many requests for removal result in everyone agreeing on the outcome. Only when agreement cannot be reached will the Council need to intervene.

At 9:13pm Cr Barton left the meeting and returned at 9:19pm.
At 9:18pm Cr Barber left the meeting and returned at 9:19pm.

At 9:24pm Cr Woodall foreshadowed an amendment

During the discussion and debate the mover requested the inclusion of the words ", approved by the Council," this was consented to by the seconder.

Amendment

COUNCIL RESOLUTION

At 9:32pm Cr Woodall moved, seconded Cr Mair –

That the following additional wording be included at the end of Clause 3.3 of the policy:

> **"Any tree removal, approved by the Council, is to be paid for by the person seeking the removal (applicant) as if the tree was authorised for removal under Clause 6.4 of the policy."**

At 9:49pm the Mayor declared the motion

CARRIED (11/1)

Vote Result Summary	
Yes	11
No	1

Vote Result Detailed	
Cr Barber	Yes
Cr Barton	Yes
Cr Kepert	Yes
Cr Fitzgerald	Yes
Cr Macphail	Yes
Cr Mair	Yes
Cr Robartson	Yes
Cr Sandford	Yes
Cr Wheatland	Yes
Cr Woodall	Yes
Mayor Gear	Yes
Cr Robins	No

T20/3842 – TECHNICAL SERVICES POLICY REVIEW (REC) (ATTACHMENT)

Substantive Motion as Amended

At 9:08pm Cr Robartson moved, seconded Cr Barber –

That the Council:

1. **approves the following nine policies as reviewed by the Director Technical Services and as contained in the following attachments:**

   CP 001 Citizenship Ceremonies Policy
   CP 031 Asset Management Policy
   CP 033 Path Policy
   CP 034 Road Safety Audit Policy
   CP 035 School Parking Policy
   CP 036 Waste Minimisation Policy
   CP 086 Verge Treatment Policy
   CP 102 Urban Forest and Green Spaces Policy
   CP 110 Crossover Policy

2. **amends CP 029 Tree Policy by adding the following sentence at the end of clause 3.3 of the policy:**

   "If agreement cannot be reached by the Mayor, the relevant ward Councillors and the Director of Technical services, a report which outlines the advantages and disadvantages of removing the tree is to be presented to the Council in order for the Council to determine whether or not the tree will be removed. This report is to include the results of notification of local residents seeking feedback on request for tree removal as part of the City's community consultation process."

3. **That the following additional wording be included at the end of Clause 3.3 of the policy:**

   "Any tree removal, approved by the Council, is to be paid for by the person seeking the removal (applicant) as if the tree was authorised for removal under Clause 6.4 of the policy."

   and approves the CP 029 Tree Policy with the other changes recommended by the Director Technical Services included.

At 9:52pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

CD20/8125 – TOMPKINS PARK REDEVELOPMENT REVIEW (REC) (ATTACHMENT)

Item Brought Forward
See Page 13.

M20/5724 DELEGATION OF AUTHORITY TO APPOINT APPROVED AND AUTHORISED OFFICERS FOR THE PURPOSES OF THE CRIMINAL PROCEDURE ACT 2004 (REC) (ATTACHMENT)

Ward	:	All
Category	:	Operational
Subject Index	:	Delegated Authority 5.15P
Customer Index	:	Building Services Environmental Health Services
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item A99/1004 – Appointment of Authorised Persons - Ordinary Meeting of Council June 1999 Item P16/3733 - Appointment of Authorised Officers under Public Health Act 2016 - Ordinary Meeting of Council December 2016 Item M19/5724 – Delegation of Authority to Appoint Approved and Authorised Officers for the Purposes of the Criminal Procedure Act 2004 – Ordinary meeting of Council 10 December 2019
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Louis Hitchcock Executive Manager Governance and Legal Services

AUTHORITY / DISCRETION

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

M20/5724 DELEGATION OF AUTHORITY TO APPOINT APPROVED AND AUTHORISED OFFICERS FOR THE PURPOSES OF THE CRIMINAL PROCEDURE ACT 2004 (REC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- This item was presented to the 10 December 2019 Ordinary Meeting of Council for consideration and the Council resolved to defer the matter to an Elected Member Information Session (EMIS) for discussion prior to referral back to the Council;
- The matter was presented for discussion, and discussed at the EMIS held on 10 February 2020;
- Prescribed infringements under the Building Regulations 2012 and the Health (Asbestos) Regulations 1992 must be issued or withdrawn by officers appointed by the local government under the relevant regulations for the purposes of Part 2 of the *Criminal Procedure Act 2004.*
- Delegating to the CEO the appointment of authorised and approved officers for the purposes of the Criminal Procedure Act would improve the effectiveness of compliance functions by allowing infringement notices to be issued for prescribed offences under these Regulations.
- The CEO currently holds delegations to appoint authorised persons under the *Local Government Act 1995,* the *Public Health Act 2016* and the *Building Act 2011*, but these do not specify authority to appoint for the purposes of the Criminal Procedure Act
- To ensure clear accountability, the Council is requested to delegate to the CEO the ongoing authority to appoint authorised and approved officers for the purposes of Part 2 of the Criminal Procedure Act under the Health (Asbestos) Regulations and the Building Regulations.

BACKGROUND

Legislation providing for offences may allow for some of those offences to be prescribed for the purposes of dealing with them through infringement notices and modified penalties. Infringement notices can be an effective enforcement tool when dealing with a minor offence involving straightforward matters of law and readily ascertainable facts. They are an incentive for behaviour change when education and notices of direction have proven ineffective but the matter does not justify the costs or consequences of formal prosecution for an offence provided for in legislation.

Most legislation provides for infringements to be issued for prescribed offences by officers authorised under that legislation. However, the Health (Asbestos) Regulations 1992 and the Building Regulations 2012 require officers issuing or withdrawing infringements to be appointed for the purposes of Part 2 of the *Criminal Procedure Act 2004,* in addition to their delegated powers or their appointment as authorised officers under other legislation.

Exercising existing delegated authority, the CEO has appointed authorised officers under the:

- *Public Health Act 2016* for the purposes of that Act and the *Health (Miscellaneous Provisions) Act 1911* (and subsidiary legislation, including the Health (Asbestos) Regulations),
- *Building Act 2011* for the purposes of that Act and its regulations, and
- *Local Government Act 1995* for functions under that Act and local laws.

M20/5724 DELEGATION OF AUTHORITY TO APPOINT APPROVED AND AUTHORISED OFFICERS FOR THE PURPOSES OF THE CRIMINAL PROCEDURE ACT 2004 (REC) (ATTACHMENT)

However, none of these delegations specifically delegate the authority of the local government to appoint authorised and approved officers for the purposes of Part 2 of the

Criminal Procedure Act as specified in the Health (Asbestos) Regulations or the Building Regulations.

This item was presented at the 10 December 2019 Ordinary Meeting of Council for consideration and the Council resolved

> **That item M19/5724 Delegation of Authority To Appoint Approved And Authorised Officers For The Purposes Of The Criminal Procedure Act 2004 be deferred for a discussion at an Elected Member Information Session and the March 2020 Ordinary Meeting of Council**

The item was presented and discussed at the Elected Member Information Session held Monday 10 February 2020 and is now presented to the Council for consideration and adoption.

DETAIL

The *Criminal Procedure Act 2004* provides for regulations made under a prescribed Act to prescribe offences for which an infringement notice may be issued under Part 2 of the Criminal Procedure Act. This means that such infringement notices may only be issued by authorised officers appointed under the relevant regulations for the purposes of section 6(b) of that Act. Similarly, infringement notices may only be withdrawn by approved officers appointed under the relevant regulations for the purposes of section 6(a) of the Criminal Procedure Act.

The prescribed Acts listed in the Criminal Procedure Regulations 2005 that are relevant to the City of Melville are the *Building Act 2011*, the *Health (Miscellaneous Provisions) Act 1911* and the *Public Health Act 2016*, and the relevant regulations to date are the Health (Asbestos) Regulations 1992 and the Building Regulations 2012.

In these cases, appointment under the regulations as an authorised officer or an approved officer for the purposes of the Criminal Procedure Act is a requirement additional to any appointment or authorisation that the person may hold under the prescribed Act or other legislation.

Exercising delegated power, the CEO has appointed:

- Environmental Health Officers as authorised officers under section 24 of the *Public Health Act 2016* for the purposes of the Health (Asbestos) Regulations 1992. This entitles them to issue directions and take samples of material.
- Authorised persons under section 96(3) of the *Building Act 2011* which confers specified powers and duties under that Act and its Regulations.
- Authorised persons under section 9.10(1) of the *Local Government Act 1995* for the purposes of section 9.16 of the Local Government Act which confers the power to issue infringement notices for prescribed offences under subsidiary legislation made under the Local Government Act.

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These authorised officers and delegates may undertake a variety of functions under the respective legislation, but may not issue or withdraw infringement notices under the Health (Asbestos) Regulations or the Building Regulations unless they are also appointed under those regulations for the purposes of the Criminal Procedure Act. This restricts them to issuing warnings and directions notices and in cases of non-compliance, moving directly to prosecution. Issuing infringement notices provides a medium-level enforcement tool.

Note that a person appointed as an approved officer with the power to withdraw infringement notices may not also be appointed as an authorised officer with the power to issue infringement notices. Authorised officers are required to carry proof of their authorisation.

These appointments are an administrative matter involving discretion and suitable for delegation to the CEO. Such delegation would complement existing delegations to appoint authorised officers under the Public Health Act, Local Government Act and Building Act and facilitate the use of infringement notices to enforce the requirements of the legislation.

Council is requested to delegate to the CEO the local government's power under the Health (Asbestos) Regulations 1992 and the Building Regulations 2012 to appoint authorised and approved officers for the purposes of Part 2 of the Criminal Procedure Act.

This delegation complements existing delegations to appoint authorised officers/persons under the primary Acts and will facilitate the issuing of infringements for offences prescribed under those Regulations.

STAKEHOLDER ENGAGEMENT

Not applicable. This is an administrative efficiency measure to facilitate the efficient management and enforcement of existing legislative powers and duties.

STATUTORY AND LEGAL IMPLICATIONS

The CEO's functions set out in section 5.41 of the *Local Government Act 1995* include managing the day to day operations of the local government and being responsible for the employment, management, supervision, direction and dismissal of local government employees.

Appointing and authorising officers to fulfil the operational obligations of the local government under relevant legislation is part of the day to day operations of the local government and of managing employees.

Council has previously delegated to the CEO the power under section 9.10(1) of the Local Government Act to appoint persons or classes of persons for the purposes of performing particular functions and the power under section 24(1) of the Public Health Act to designate a person or class of persons as authorised officers for the purposes of that or another specified Act.

Under section 127 of the Building Act, a local government may delegate any of its powers or duties to a local government employee. Under section 26 of the Health (Miscellaneous

M20/5724 DELEGATION OF AUTHORITY TO APPOINT APPROVED AND AUTHORISED OFFICERS FOR THE PURPOSES OF THE CRIMINAL PROCEDURE ACT 2004 (REC) (ATTACHMENT)

Provisions) Act 1911, a local government may appoint a person to discharge all or any of its powers and functions under that Act and the regulations, local laws and orders made thereunder.

Regulation 15D(5) of the Health (Asbestos) Regulations 1992 provides that *"A local government may, in writing, appoint persons or classes of persons to be authorised officers or approved officers for the purposes of the Criminal Procedure Act 2004 Part 2"*, while Regulation 15D(6) requires the local government to issue each authorised officer with proof of authorisation.

Regulation 70(1) of the Building Regulations 2012 provides that "*A permit authority that is a local government may, in writing, appoint to be an approved officer for the purposes of the Criminal Procedure Act 2004 section 6(a), a specified employee of the local government."* A specified employee is one to whom the CEO's power to perform a function under section 9.19 (extend time for payment of modified penalty) and/or section 9.20 (withdraw infringement notice) is delegated.

Regulation 70(2) *of* the Building Regulations provides that "*A permit authority that is a local government may, in writing, appoint to be an authorised officer for the purposes of the Criminal Procedure Act 2004 section 6(b), a person appointed under the Local Government Act 1995 section 9.10(1) and authorised for the purpose of performing functions under section 9.16 of that Act."* Section 9.16 of the Local Government Act provides for the issuing of infringement notices. Regulation 70(3) requires each authorised officer to be issued with a certificate of appointment.

The Building Act and the Health legislation do not require that local government delegation be by absolute majority decision and they do not mandate annual reviews. However, the City for administrative efficiency lists all delegations in the register of delegations kept under s.5.46(1) of the Local Government Act and reviews them all annually.

FINANCIAL IMPLICATIONS

Insignificant. Use of infringement notices may avoid costly prosecution and may result in minor additional revenue on an occasional basis.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

This delegation will facilitate the use of infringement notices as a means of enforcing those provisions of the Health (Asbestos) Regulations and the Building Act that include prescribed offences. This may provide greater incentive for compliance with the law and reduce the community risk associated with non-compliance.

Asbestos is a serious environmental and health risk in locations where it is present in a form that could lead to contamination of land and air. The capacity to issue infringements will assist in managing this risk.

There are no strategic management implications.

M20/5724 DELEGATION OF AUTHORITY TO APPOINT APPROVED AND AUTHORISED OFFICERS FOR THE PURPOSES OF THE CRIMINAL PROCEDURE ACT 2004 (REC) (ATTACHMENT)

POLICY IMPLICATIONS

Not applicable. The relevant legislation is clear about the circumstances and processes for issuing and withdrawing infringement notices. An offence is only infringeable if the commission of the offence would be a relatively minor matter; only straightforward issues of law and fact would be involved in determining whether the offence was committed, and the facts in issue would be readily ascertainable. (Local Government Act section 9.16(2)(a) and (b)).

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The Council could choose not to delegate this appointment authority to the Chief Executive Officer but directly appoint persons or classes of persons to be authorised and approved officers for the purposes of the Criminal Procedure Act through Council resolution.

CONCLUSION

Infringements under the Health (Asbestos) Regulations 1992 and the Building Regulations 2012 may only be issued by authorised officers or withdrawn by approved officers appointed under those regulations for the purposes of the *Criminal Procedure Act 2004*, section 6. These appointments are in addition to any appointments, authorisations or delegations that the officers may hold under other legislation.

Appointing authorised and approved officers under the Health (Asbestos) Regulations and the Building Regulations for the purposes of the Criminal Procedure Act 2004 would streamline existing functions and improve compliance. Knowledge that infringements may be issued will strengthen the effectiveness of education of the community.

Delegation of the power to appoint such authorised and approved officers is consistent with the CEO's operational role and functions under subsections 5.41(d) and (g) of the Local Government Act. This delegation is consistent with the existing delegations to the CEO of powers to appoint authorised persons under the Local Government Act, the Public Health Act, the Building Act, the Cat Act and the Dog Act.

M20/5724 DELEGATION OF AUTHORITY TO APPOINT APPROVED AND AUTHORISED OFFICERS FOR THE PURPOSES OF THE CRIMINAL PROCEDURE ACT 2004 (REC) (ATTACHMENT)

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5724)

APPROVAL

At 9:52pm Cr Robartson moved, seconded Cr Woodall –

1. That the Council delegates to the Chief Executive Officer the authority to:

a. Appoint persons or classes of persons to be authorised officers or approved officers for the purposes of the *Criminal Procedure Act* 2004 Part 2 (section 6), in accordance with Regulation 15D(5) of the Health (Asbestos) Regulations 1992;

b. Appoint approved officers for the purposes of the *Criminal Procedure Act* 2004 section 6(a) in accordance with Regulation 70(1) of the Building Regulations 2012;

c. Appoint authorised officers for the purposes of the *Criminal Procedure Act* 2004 section 6(b) in accordance with Regulation 70(2) of the Building Regulations 2012,

2. That the Council notes that the above delegations are reflected in the attached instrument :

DA-123Appointment of Authorised and Approved Persons for the Purposes of the Criminal Procedure Act.

At 9:52pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

M20/5734 - ANNUAL GENERAL MEETING OF ELECTORS HELD 3 FEBRUARY 2020, MOTIONS CARRIED (REC)

Item withdrawn

C20/6173 - 2019-2020 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)

Ward	:	All
Category	:	Operational
Subject Index	:	Budgeting – Review
Customer Index	:	Not Applicable
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item C19/5688 Ordinary Meeting of Council held 18 June 2019 – Consideration and Adoption of the 2019-2020 Budget.
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Debbie Whyte Manager Financial Services

AUTHORITY / DISCRETION

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

C20/6173 - 2019-2020 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- A Mid Year Budget Review (the Review) is required to be undertaken in accordance with the *Local Government (Financial Management) Regulations 1996.*
- This report presents the results of the Review for the period 1 July 2019 to 31 December 2019 and highlights the significant positive and negative variations that require budget amendment.
- This report recommends that the Council notes the results of the Review, and by absolute majority, approves the recommended budget amendments required to the 2019-2020 Budget as a result of the Review.

BACKGROUND

The City of Melville reviews its actual versus budget position on an ongoing basis and a budget variation listing and budget variance report is submitted to Council in the monthly Statements of Financial Activity Report.

The Financial Management Regulations (33A) specify that Local Governments must at the least undertake a formal budget review between 1 January and 31 March each year, have it reviewed and adopted by the Council and submit the findings to the Department of Local Government, Sport and Cultural Industries. The City of Melville has undertaken the Review within this period based on the financial year to date revenue and expenditure position as at 31 December 2019.

DETAIL

A review of budgets has been undertaken by Budget Responsible Officers, and then reviewed by the Management Accounting team and Executive and Management Leadership Teams.

As presented, the amended financial position for the City as at 31 December 2019 will have a positive net budget variance of $734,397. This is the net result of both positive and negative variances across both operating and capital budgets and funds to be set aside and funds to be used from specific purpose reserve accounts.

C20/6173 - 2019-2020 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)

The following table is a summary of the 2019-2020 Mid Year Review results, with positive variances shown as $xxx and negative variances shown as ($xxx) i.e. in red parentheses:

	Variance between Revised Budget and Budget Review $
Net Operating Activities	
Governance	626,413
General Purpose Funding	660,326
Law, Order and Public Safety	90,729
Health	29,299
Education and Welfare	37,108
Community Amenities	(2,188,830)
Recreation and Culture	(5,902)
Transport	(53,910)
Economic Services	73,973
Other Property and Services	416,643
Net Operating Variance	**(314,151)**
Operating Activities Excluded from Budget - (Profit)/loss on asset disposals	**(2,150)**
Investing Activities	
Proceeds from disposal of assets	2,150
Purchase of furniture and equipment	305,130
Purchase of plant and equipment	4,160
Purchase of land and buildings	3,773,884
Purchase of infrastructure assets	(605,764)
Net Investing Variance	**3,479,560**
Financing Activities - Net Reserve Fund Transfers	**(2,794,970)**
Estimated amount to be raised from general rates	**366,107**
Net Variance as at 31 December 2019 surplus/(deficit)	**734,397**

An amount of $2,230,550 representing reserve funds used from the Rates Equalisation Reserve is included in the variance in the Net Reserve Fund Transfers which was specifically targeted at addressing the deficit that arose as a result of higher waste disposal and processing costs. The closing position would have been a deficit of $1,496,153 without the said increase to funds used from reserves.

Key findings are shown below and amendments are shown in line with the Adopted Annual Budget format in attachment: **6173A Mid Year Budget Review 2019-2020 Summary Amendments.**

Whilst the reporting levels adopted by the Council when adopting the 2019-2020 Budget, at its Ordinary Meeting of Council held on 18 June 2019, were 10% or $50,000 (whichever is greater), some commentary has been provided on variances less than these amounts where considered necessary to gain a full understanding of the amended net position resulting from the Mid Year Review.

C20/6173 - 2019-2020 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)

Key material findings in the Operating Budget:

Governance – $626,413 Net Positive Variance

- Reduction to employment costs budgets amounting to $250,714 – this amount predominantly represents savings from various vacant positions in the Community Development and Urban Planning Directorates that were identified during the period July to September 2019 and reallocated to the Corporate Services Directorate temporarily. This amount is now considered as excess to the current year's requirement.
- Reduction to legal fees budgets amounting to $40,459 due to reallocation from the CEO legal budgets to Statutory Planning Services to fund legal costs.
- Reduction to budget for Local Government Department enquiry costs by $125,000 due to being in excess of the current year's requirement. A balance of $150,000 remains in the budget to cover any expenses associated with the said enquiry and is funded from the Rates Equalisation Reserve.
- Reduction to CEO special project funding by $200,000 due to being in excess of the current year's requirement.
- Positive variance of $10,240 represented by other non material amounts.

General Purpose Funding (including estimated additional rates income) – $1,026,433 Net Positive Variance

- Increase to budget for investment income earned from reserve funds which is expected to be $937,000 higher as a result of more funds being held in reserves due to delays in the commencement of planned major projects. This amount has been transferred to Reserve Accounts.
- Reduction to budget for investment income earned from municipal funds since it is expected to be $490,000 lower due to a combination of lower amounts held as municipal funds and lower interest rates than budgeted.
- Increase to budget for income generated from residential and commercial rates by $366,107. This is mainly due to rates growth from 63 Kishorn Road, Mount Pleasant and 49 McGregor Road, Palmyra. The amount relating to the rates growth and 1% of the additional rates income earned over the original budget for rates income have been transferred to the Future Works Reserve and Public Open Space Reserve respectively.
- Increase to budget for late payment penalty interest income by $171,000 due to more interest being generated on outstanding rates accounts than anticipated – this being due to rates payments received being less than target.
- Positive variance of $42,326 represented by other non material amounts.

Law, Order and Public Safety – $90,729 Net Positive Variance

- Budget for income from Animal Control fees and charges increased by $140,000 due to residents opting for the lifetime registration of dogs and cats.
- Budgeted net income from community security services is expected to be $17,107 higher based on actual trend. This amount has been transferred to the Community Surveillance and Security Reserve.
- Budgeted net costs relating to fines enforcement are expected to be higher by $29,000 as a result of more infringements being issued and thereby requiring more follow up for unpaid amounts.
- Negative variance of $37,378 represented by other non material amounts.

C20/6173 - 2019-2020 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)

Health – $29,299 Net Positive Variance

- Budgets for employment costs were reduced by $34,001 in line with savings arising from vacant environmental health officer positions.
- Negative variance of $4,702 represented by other non material amounts in other Health and Preventative Services.

Education and Welfare - $37,108 Net Positive Variance

- Reduction to employment cost budgets by $26,173 in line with savings arising from vacant administrative officer positions during the period October to December 2019 in the Community Development directorate.
- Positive variance of $10,935 represented by other non material amounts.

Community Amenities – ($ 2,188,830) Net Negative Variance

- Sanitation
  - Income budgets were reduced by $79,612 to reflect an overall reduction in income from commercial waste due to commercial clients moving to alternate providers for refuse and recycling collection services.
  - Reduction by $68,998 to budgeted income mainly from non rateable properties in line with actual trend.
  - Increase to expenditure budgets for domestic waste disposal and processing costs by $2,230,550 due to the disposal and processing costs being higher than originally budgeted for. The original budget was based on the assumption that for domestic refuse collection, a lower disposal and processing cost per tonne of $150 would take effect following the introduction of the FOGO programme during the period January to June 2020; however, the actual cost per tonne has remained at $ 255.28 for all domestic waste and is expected to continue for the remainder of the financial year. Further, the domestic recycling collection costs were originally budgeted at a cost per tonne of $ 85.33, whereas the actual cost has increased to $ 134.83 per tonne over the period July to December 2019. This increase to budgets for domestic waste disposal and processing costs is offset by an increase of $2,230,550 to the budgeted funds used from the Rates Equalisation Reserve.
  - Reduction to the budgeted cost for the supply and delivery of waste bins by Mastec, in relation to the FOGO roll out by $200,000 in line with revised estimates. The cost of the one off supply and delivery of these waste bins for the FOGO roll out was approved to be funded from the Refuse Bin Reserve by council via council resolution 3792 on 16th October 2018. Therefore, the said reduction of $200,000 will be reflected as a reduction to budgeted funds used from the Refuse Bin Reserve.
  - Increase to expenditure budgets by $346,346 for costs other than waste disposal for domestic waste which mainly relates to additional funds required for bin liners and customer services internal allocations in connection with FOGO and increases to fleet charges in view of significant repair work to be carried out on waste fleet used for bulk verge collections.
  - Expenditure budgets for commercial refuse and recycling collection have increased by $28,871 due to increases in SMRC processing fees. This amount has been offset by an increase to budgeted funds used from the Commercial Refuse Reserve.

C20/6173 - 2019-2020 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)

- Town Planning and Regional Development
  - Reduction of employment cost budgets by $97,939 mainly due to savings arising from vacant positions during the period October to December 2019 in Strategic Urban Planning and Planning Services.
  - Budget for the John Connell Reserve Master Plan special project amounting to $70,000 has been removed and offset by a reduction to the budgeted funds used from the Special Projects Reserve.
- Protection of Environment
  Reduction of $179,871 to material and contracts cost budgets representing lower subscription costs for Corporate Emissions monitoring and management systems and lower costs in relation to Sustainability Initiatives.
- Positive variance of $17,738 made up of non material amounts within the overall Community Amenities Program.

Recreation and Culture – ($5,902) Net Negative Variance

- Budgeted income from Leisurefit Melville and Booragoon has been increased by $17,794 in line with the positive trend seen particularly on membership fees.
- Budgeted expenditure for Leisurefit Melville and Booragoon has been decreased by $46,850 and predominantly due to lower subscription costs.
- Budget for income mainly from reserve hire has been increased by $22,925 in line with actual trend.
- Creation of budget for timber asset maintenance of $60,000 in view of the increasing demand for nature play items leading on to increased maintenance of such items.
- Negative variance of $33,471 represented by various non material movements in the overall Recreation and Culture program.

Transport – ($53,910) Net Negative Variance

- Streets, Roads, Bridges and Depot
  - Reduction to budgeted income by $48,800. This reduction represents lower estimated income from tree vandalism fines due to fewer incidents which is partially offset by higher income from traffic management fees.
  - Budget for costs required for the completion of the traffic count program has been increased by $27,540. This shortfall is a result of a late invoice received in relation to work carried out in the previous financial year.
  - Budget for street lighting utility costs have been reduced by $16,340 due to savings arising from installation of LED's.
  - Reduction of budgets for Arboriculture costs by $20,000 to partly offset additional funding requested for timber asset maintenance in the Recreation and Culture program.
  - Reduction of budget for footpath maintenance by $25,000 due to a reallocation to the civil assets maintenance within the Recreation and Culture program to meet costs related to higher levels of tree root damage to paths in parks.
  - Reduction to budgets amounting to $26,650 represented by various non material movements.
- Budget for costs related to parking facilities were increased by $65,560 and mainly relates to additional costs arising from a new contract with the external service provider for more comprehensive maintenance of 60 parking meters inclusive of 10 new parking meters, as well as associated data costs.

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Economic Services – $73,973 Net Positive Variance

- Reduction to employment cost budgets in building control services amounting to $42,779 as a result of savings from vacant positions. Of this, the reduction relating to swimming pool inspection staff is $18,952 and has been off set by a reduction to funds used from the Private Swimming Pool Reserve.
- Positive variance of $31,194 represented by various non material amounts in the Economic Services Program.

Other Property and Services - $416,643 Net Positive Variance

- Budget for salary targeting of $285,000 has been removed from the budget due to being in excess of the requirement for the current year.
- Budget for income from insurance reimbursements was increased by $298,516 and relates to a good driver rebate and second instalment of the LGIS scheme credit already received, and the pending receipt of LGIS dividend of $233,100 which has already been claimed. The additional revenue will be transferred to the Risk Management Reserve.
- Increase to licensing cost budget by $39,238 as a result of unbudgeted amounts incurred in relation to Bibliotheca, Symphony, Aurion, Evanced Events and Commvault software licences.
- Net increase of $72,698 to employment cost budgets in relation to temporary position changes in IT services staff in order to cope with increase workload and projects.
- Increase of $99,747 to employment cost budgets in Customer Services in relation to additional staff required for the FOGO roll out.
- Other non material amounts with a net positive variance of $44,810.

Key material findings in the Capital Budget:

Purchase of Furniture and Equipment - $305,130 Net Positive Variance

- Sanitation
  - Reduction of budgeted cost by $104,333 for purchase of 240L mobile garbage bins. This decrease is offset by a decrease of the same amount to be used from the Refuse Bins Reserve.
  - Reduction of budgeted cost by $154,294 in relation to purchase of bin surrounds.

- IT Capital Equipment – budget reduced by $46,504 mainly due to underspends arising from replacement of back up media agent for data storage and recovery, and the removal of the budget for the online training system as it is included in the operating expenditure budgets.

Purchase of Plant and Equipment - $4,160 Net Positive Variance

- The reduction of the budget relates mainly to GPS subscription being costed directly to the assets.

C20/6173 - 2019-2020 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)

Purchase of Land and Buildings – $3,773,884 Net Positive Variance

- New Library Cultural Centre – Reduction of budget by $2,124,769 due to project being on hold pending discussions with Scentre Group and decision by Council.
- Melville City Centre Development Sites – Reduction of budget by $1,120,000 due to project being on hold pending discussions with Scentre Group and decision by Council.
- LeisureFit Booragoon – Leisure Pool/Staff - $666,683 reduction to the budget leaving sufficient funds to cover costs expected to be incurred in this financial year for design development, existing commitments and contingencies. This amount will be required for the same project during the next financial year and will be sought through the 2020-2021 Annual Budget process.
- Tompkins Park Redevelopment – Reduction of budget by $425,128 due to project being on hold pending Council's decision on the future of the project.
- Point Walter Staff Facilities Stage 2 – Increase to budget by $230,000 due to increased scope including air-conditioning and design development requirements.
- Bert Jeffery - Amenities Building – Increase to budget by $220,000 due to additional funds required to build the whole facility instead of taking the project in a staged approach. Construction commencement expected to take place in May 2020.

Purchase of Infrastructure Assets – ($ 605,764) Net Negative Variance

- Roads and Traffic Management projects negative variance of ($51,471) represented by;
  - Macleod Road (Kintail Rd - Macrae Rd) - increase in budget by $55,231 due to additional kerbing, traffic control and asphalt quantities in combination with increase in asphalt pricing.
  - Reynolds Road (Canning Hwy-Mackenzie Rd) - increase in budget by $138,000 for extra overnight works, additional civil works and traffic management.
  - Preston Point Rd - Install Refuge Island – reduction in budget by $80,000 due to deferral of the project due to a significant power pole relocation that needs to take place before commencement.
  - A reduction to expenditure budgets of $61,760 made up of non material items.

- Irrigation projects positive variance of $155,440 represented by;
  - Irrigation Renewal – Riseley Street - increase in budget by $100,000 due to more under road boring and traffic management requirements.
  - Irrigation In-field Renewal 19-20 – reduction of $200,000 due to cancellation and delays of various projects.
  - A reduction to expenditure budgets of $55,440 made up of non material items.

- Streetscapes negative variance of ($738,714) represented by;
  - Shirley Strickland Reserve Upgrade – increase in budget by $780,000 in line with current construction cost estimates - funded by the Public Open Space and Urban Forest Reserve. Invitation for tenders for construction is planned for April 2020.
  - A reduction to expenditure budgets of $41,286 made up of non material items.

- Paths positive variance of $12,751 represented by;
  - Crossfall Upgrades (Accessibility) – reduction of $184,918 to be reallocated to other projects.
  - Somerville Boulevard – creation of $86,000 budget since this was not included in the capital works program for 2019-2020.
  - Kintail Rd-Canning Beach Road to Moreau Mews – increase to budget by $52,887 due to the need to upgrade pavers to new precinct standard.

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- Pitt Way – increase budget by $51,886 in line with the additional crossover adjustments and drainage pit adjustments ensuing from change of scope to meet community needs.
- A reduction to expenditure budgets of $18,606 made up of non material items.

- Jetties and Boardwalks positive variance of $30,000 due to reduction of Deep Water Point and Point Walter Boat Ramp project since completed under budget.

- Park improvements negative variance of ($11,575) variance represented by;
  - South Eastern Play Space – Bob Gordon project - increase of $35,649 due to additional presentation works being required.
  - Willagee Community Centre Carpark Wall – reduction of $15,000 due to structural shoring not being required.
  - A reduction to expenditure budgets of $9,074 made up of non material items.

- Negative variance of ($2,195) comprising of non material adjustments across parking, storm water drainage and lighting projects.

A listing of material capital works program adjustments is included in attachment **6173B Significant Capital Works Project Budget Amendments 2019-2020.**

Key material findings in relation to Reserve Accounts:

Net Funds Used/Funds Set Aside – ($2,794,940) Net Negative Variance

- Community Facilities Reserve – ($369,757)
  Funds to be used reduced by $369,757 represented by net reductions in current year spend on reserve funded building renewal projects in the capital works program. A significant amount of this reduction relates to the reduction of the capital expenditure budget for the Tompkins Park Redevelopment project.

- Community Surveillance and Security Reserve – ($17,107)
  Funds to be used reduced by $17,107 due to a reduction in the expected deficit to be generated from the Community Safety Service operations as a result of employment cost savings arising from vacant positions.

- Commercial Refuse Reserve – $172,383
  - Funds to be set aside reduced by $130,369 to Nil since the commercial refuse and recycling operation is expected to result in a net deficit instead of a surplus.
  - Funds to be used increased by $42,014 and is a result of the commercial refuse and recycling operation being expected to generate a net deficit of $42,014, which would need to be funded from the Commercial Refuse Reserve. This is a result of significant reductions to revenue due to commercial clients moving to alternate suppliers as well as the application of higher processing fees.

C20/6173 - 2019-2020 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)

- Future Works Reserve – $60,033
  - Funds to be set aside has increased by $310,000 representing additional rates generated from growth in new properties at 63 Kishorn Road, Mount Pleasant and 43 McGregor Road, Palmyra.
  - Funds to be used increased by $370,033 and is represented by net increases in current year spend on reserve funded new and upgrade projects in the capital works program. A significant amount of this increase relates to the increase of the capital expenditure budget for the Bert Jeffery - Amenities Building project.

- Information Technology Reserve – ($46,504)
  Funds to be used reduced by $46,504 due to the reduction of the budget for the Online Training System and the creation of the budget for the Intranet Future vision Project, combined with tother non significant amendments to other capital IT expenditure.

- Infrastructure Asset Management Reserve – ($34,944)
  Funds to be used reduced by $34,944 and is represented by the net reduction to current year spend on reserve funded infrastructure renewal projects in the capital works program.

- Land and Property Reserve – ($3,244,769)
  Funds to be used reduced by $3,244,769 and represents reduction to budgets for the New Library and Cultural Centre and Melville City Centre Development Sites projects which are currently on hold.

- Private Swimming Pool Inspection Fee Reserve – ($42,662)
  Funds to be set aside increased by $42,662 due to a higher surplus than originally budgeted expected to be achieved from the Swimming Pool Inspection operation as a combination of higher inspection fee income and employment cost savings gained from vacant positions.

- Public Open Space and Urban Forest Reserve – $776,339
  - Funds to be set aside increased by $3,661 and represents 1% of the higher income expected to be generated from residential and commercial rates.
  - Funds to be used increased by $780,000 and represents the increase to the budget for the Shirley Strickland Reserve Upgrade project.

- Rates Equalisation Reserve – $2,230,550
  Funds to be used increased by $2,230,550 and represents the increase to the domestic waste disposal costs budgets. This is due to the budgeted savings in domestic waste disposal costs following the introduction of the FOGO program now not being expected to be realised in the current financial year.

- Recreation Centres Plant, Equipment Replacement Reserve – ($666,683)
  Funds to be used reduced by $666,683 and is represented by the deferral of Leisurefit Booragoon Leisure Pool project.

- Refuse Bin Reserve – ($304,333)
  Funds to be used reduced by $304,333 and represents a reduction to budgets required for the purchase of mobile garbage bins of $104,333 and a further reduction of $200,000 in relation to the reduced costs for the supply and delivery of waste bins by Mastec for the FOGO roll out.

C20/6173 - 2019-2020 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)

- Risk Management Reserve – ($298,516)
  Funds to be set aside increased by $ 298,516 and represents a good driver rebate and LGIS scheme credit instalment already received, and pending receipt of a LGIS dividend amounting to $233,100 that has already been claimed.

- Special Projects Reserve – ($72,000)
  Funds to be used reduced by $72,000 and represents the removal of the budget of $70,000 for the special urban planning project for the John Connell Reserve Master Plan and a reduction of $2,000 for a demolition project at 5 Wilcock Street in the capital works program.

- Reserve Interest – ($937,000)
  Funds to be set aside increased by $937,000 and represents the additional interest expected to be earned on reserve accounts, over and above that estimated in the annual budget.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not Applicable

II. OTHER AGENCIES / CONSULTANTS

Not Applicable

C20/6173 - 2019-2020 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)

STATUTORY AND LEGAL IMPLICATIONS

33A. Review of budget

(1) Between 1 January and 31 March in each financial year a local government is to carry out a review of its annual budget for that year.

(2A) The review of an annual budget for a financial year must —
(a) consider the local government's financial performance in the period beginning on 1 July and ending no earlier than 31 December in that financial year; and
(b) consider the local government's financial position as at the date of the review; and
(c) review the outcomes for the end of that financial year that are forecast in the budget.

(2) Within 30 days after a review of the annual budget of a local government is carried out it is to be submitted to the council.

(3) A council is to consider a review submitted to it and is to determine whether or not to adopt the review, any parts of the review or any recommendations made in the review.*

FINANCIAL IMPLICATIONS

After taking into account the various positive and negative variances and Reserve Funds adjustments, the mid year Budget Review has identified an overall net positive budget variance of $734,397 after Reserve transfers.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no specific strategic, risk and environmental management implications associated with the mid year Budget Review.

POLICY IMPLICATIONS

The Review has been conducted in accordance with the Accounting Policy CP-025 using the Programme and Sub Programme categories and Financial Sustainability – Forward Financial Planning and Funding Allocation Policy CP-008.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

After considering the review the Council is to determine whether or not to adopt the review, any parts of the review, or any recommendations in the review.

CONCLUSION

The Budget Review has identified a number of programs requiring budget amendments. Overall the net positive impact of the 2019-2020 Budget Review is represented by a surplus of $734,397 after Reserve transfers.

C20/6173 - 2019-2020 MID YEAR BUDGET REVIEW (AMREC) (ATTACHMENT)

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6173)
ABSOLUTE MAJORITY APPROVAL

At 9:53pm Cr Barton moved, seconded Cr Barber

That the Council:

1. **Notes the 2019-2020 Mid Year Budget Review and attachments 6173A Mid Year Budget Review Summary Amendments and 6173B Significant Capital Works Project Budget Amendments**

2. **By Absolute Majority decision adopts the budget review with the following amendments to be made to the Rate Setting Statement adopted in the 2019-2020 Annual Budget;**

	Variance between Revised Budget and Budget Review $
Net Operating Activities	
Governance	626,413
General Purpose Funding	660,326
Law, Order and Public Safety	90,729
Health	29,299
Education and Welfare	37,108
Community Amenities	(2,188,830)
Recreation and Culture	(5,902)
Transport	(53,910)
Economic Services	73,973
Other Property and Services	416,643
Net Operating Variance	**(314,151)**
Operating Activities Excluded from Budget - (Profit)/loss on asset disposals	**(2,150)**
Investing Activities	
Proceeds from disposal of assets	2,150
Purchase of furniture and equipment	305,131
Purchase of plant and equipment	4,160
Purchase of land and buildings	3,773,884
Purchase of infrastructure assets	(605,764)
Net Investing Variance	**3,479,560**
Financing Activities - Net Reserve Fund Transfers	**(2,794,970)**
Estimated amount to be raised from general rates	**366,107**
Net Variance as at 31 December 2019 surplus/(deficit)	**734,397**

At 9:53pm the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (12/0)

C20/6000 - INVESTMENT STATEMENTS FOR JANUARY 2020 (REC)

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

AUTHORITY / DISCRETION

DEFINITION

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

KEY ISSUES / SUMMARY

This report presents the investment statements for the period ending 31 January 2020 for the Council's information and noting.

C20/6000 - INVESTMENT STATEMENTS FOR 31 JANUARY 2020 (REC)

BACKGROUND

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

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

DETAIL

The following statement details the investments held by the City as at 31 January 2020.

CITY OF MELVILLE
STATEMENT OF INVESTMENTS
FOR THE PERIOD ENDING 31 JANUARY 2020

SUMMARY BY FUND		
Municipal		$10,939,348
Reserve		$192,782,319
Trust		$-
Citizen Relief		$219,651
TOTAL		**$203,941,317**
SUMMARY BY INVESTMENT TYPE		
11AM		$4,145,673
31Days at Call		$6,000,000
60Days at Call		$2,000,000
90Days at Call		$16,600,000
Term Deposit		$175,020,473
Units (Local Govt Hse)		$175,171
TOTAL		**$203,941,317**
SUMMARY BY CREDIT RATING		
AAA Category	AAA	
AA Category (AA+ to AA-)	AA-	$125,266,146
	A+	$46,500,000
A Category (A+ to A-)	A	
	A-	$2,000,000
BBB+ Category	BBB+	$30,000,000
Units (Local Government House)		$175,171
TOTAL		**$203,941,317**

C20/6000 - INVESTMENT STATEMENTS FOR JANUARY 2020 (REC)

Exposure to an individual institution is limited according to Council policy and in January 2020 the investments were within the acceptable limits.

Investment with financial institutions

Institution	Credit Rating	Credit Rating Category	Funds held at period end	Actual %	Limit Per Policy	
ANZ	AA-	AA Category	$ 6,000,000	2.94%	30.00%	✓
AMP	BBB+	BBB+ Category	$ -	0.00%	25.00%	✓
Bankwest	AA-	AA Category	$ 3,000,000	1.47%	30.00%	✓
Bank of Queensland	BBB+	BBB+ Category	$ 27,000,000	13.24%	15.00%	✓
ING Bank	A-	A Category	$ 2,000,000	0.98%	25.00%	✓
Bendigo & Adelaide	BBB+	BBB+ Category	$ 3,000,000	1.47%	15.00%	✓
CBA	AA-	AA Category	$ 6,500,000	3.19%	30.00%	✓
Macquarie	A+	A Category	$ 3,000,000	1.47%	25.00%	✓
NAB	AA-	AA Category	$ 51,024,586	25.02%	30.00%	✓
St George	AA-	AA Category	$ -	0.00%	30.00%	✓
Suncorp	A+	A Category	$ 42,500,000	20.84%	25.00%	✓
Westpac	AA-	AA Category	$ 59,741,560	29.29%	30.00%	✓
Units in Local Govt House	NA	NA	$ 175,171	0.09%	100.00%	✓
		TOTAL	**$ 203,941,317**	**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 January 2020.

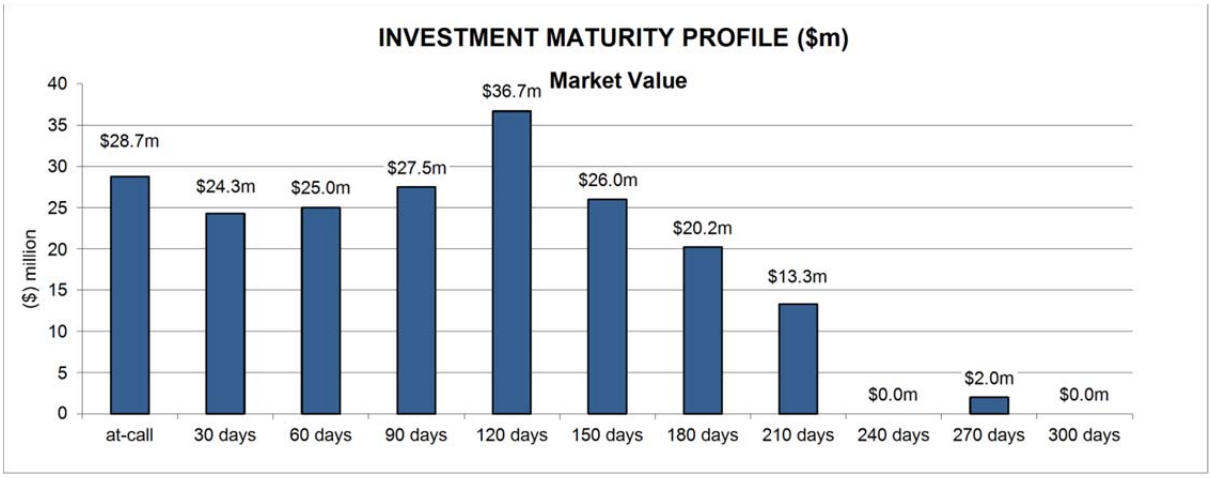
Maximum Percentage of Average Investment Portfolio Balance

Long Term Rating	Funds held at period end $	Actual %	Limit Per Policy	
AAA Category	$ -	0%	100%	✓
AA Category (AA+ to AA-)	$ 125,266,146	61%	80%	✓
A Category (A+ to A-)	$ 48,500,000	24%	50%	✓
BBB+ Category	$ 30,000,000	15%	25%	✓
Units in Local Govt House	$ 175,171	0%	100%	✓
TOTAL	**$ 203,941,317**	**100%**		

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

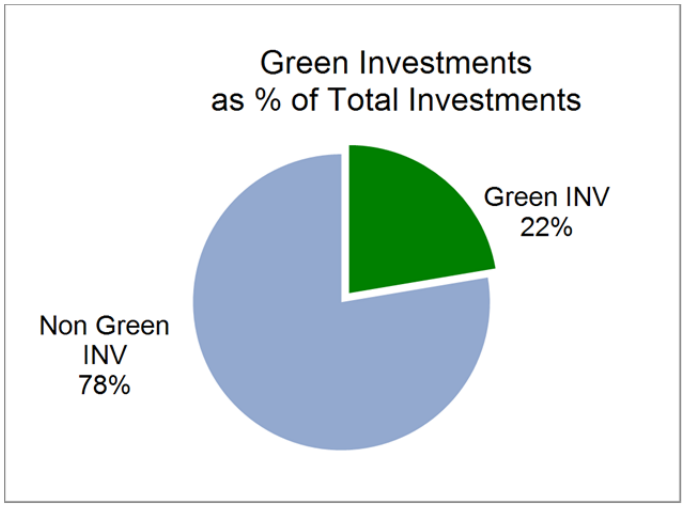
C20/6000 - INVESTMENT STATEMENTS FOR JANUARY 2020 (REC)

The below graph summarises the maturity profile of the City's investments at market value as at 31 January 2020. The immediacy of the demand for funds depends on the particular Fund or Reserve Account(s) of the City. The maturity profile provided in the table above meets the liquidity requirements of the Council policy.



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

The total investment in authorised institutions that do not lend to industries engaged in the exploration for, or production of, fossil fuels, as at 31 January 2020 was $45,500,000 or 22% of total investment holdings being in non-fossil fuels institutions, compared to $45,500,000 (23%) in December 2019. The total investments holding for January and December were $203,941,317 and $200,837,204 respectively.



C20/6000 - INVESTMENT STATEMENTS FOR JANUARY 2020 (REC)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

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

II. OTHER AGENCIES / CONSULTANTS

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

STATUTORY AND LEGAL IMPLICATIONS

The following legislation is relevant to this report:

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

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

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

C20/6000 - INVESTMENT STATEMENTS FOR JANUARY 2020 (REC)

FINANCIAL IMPLICATIONS

For the period ending 31 January 2020:

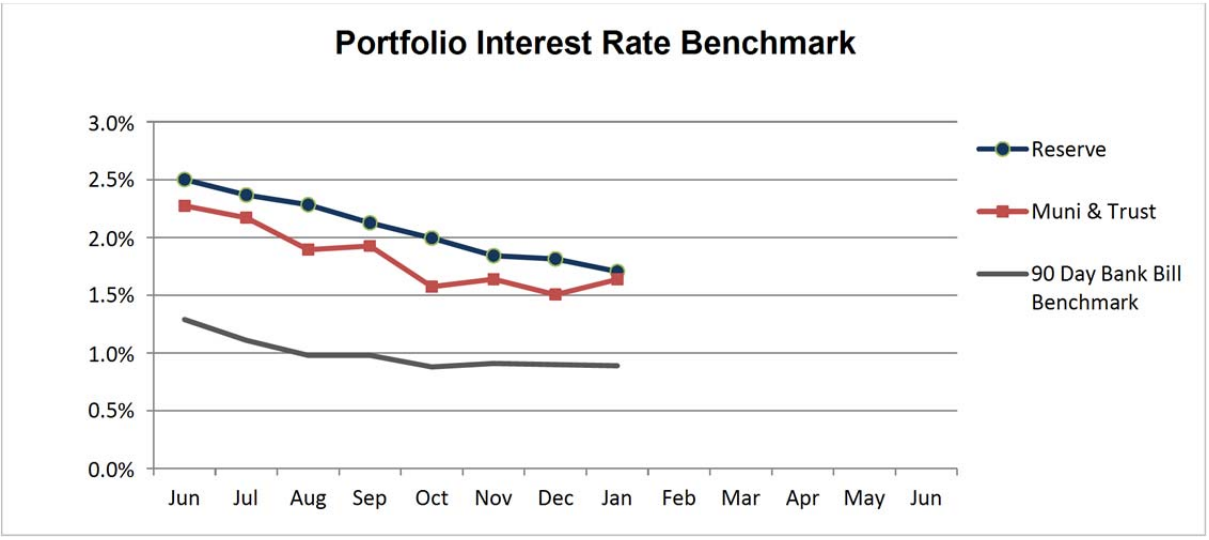
- Investment earnings on Municipal and Trust Funds were $216,630 against a year to date budget of $434,583 representing a negative variance of $217,953.

  The weighted average interest rate for Municipal and Trust Fund investments as at 31 January 2020 was 1.64% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.89%.

- Investment earnings on Reserve accounts were $2,215,540 against a year to date budget of $1,808,333 representing a positive variance of $407,207. The variance is a result of planned Capital Projects being deferred resulting in larger reserve balances than anticipated.

  The weighted average interest rate for Reserve account investments as at 31 January 2020 was 1.71% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.89%.

The positive and negative actual vs budget year to date variances will be addressed via the mid-year budget review process.



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 2016-2020.

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

C20/6000 - INVESTMENT STATEMENTS FOR JANUARY 2020 (REC)

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

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable as this report only presents information for noting.

CONCLUSION

The City's investment portfolio is invested in highly secure investments with a low level of risk yielding a weighted average rate of return of 1.64% to 1.71% which exceeds the benchmark three month bank bill swap (BBSW) reference rate of 0.89%.

22% of the City's investment portfolio is invested in authorised deposit taking institutions that do not lend to industries engaged in the exploration for, or production of, fossil fuels. This compared to 23% in December 2019.

Future investment earnings will be determined by the cash flows of the City and movements in interest rates on term deposits.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6000)

NOTING

At 9:53pm Cr Kepert moved, seconded Cr Wheatland –

That the Council notes the Investment Report for the period ending 31 January 2020.

At 9.53pm the Mayor declared the motion

CARRIED (12/0)

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

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

AUTHORITY / DISCRETION

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

KEY ISSUES / SUMMARY

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

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

BACKGROUND

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

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

DETAIL

The Schedule of Accounts Paid for January including Payment Register numbers, Cheques: 739-743, Electronic Funds Transfers batches: 621-626, Trust Payments, Card Payments and Payroll was distributed to the Elected Members of the Council on 28 February 2020.

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

SCHEDULE OF PAYMENTS MADE
JANUARY 2020

Payments made under Delegated Authority DA-035

MUNICIPAL FUNDS - DIRECT CREDITOR PAYMENTS		
Cheques	Chq Payment Register No. 739 to 743	$79,978.13
	Chq Payment on Restricted Funds Register No.	$0.00
	Less Cancelled Cheques	($1,640.18)
Electronic Funds Transfers	EFT Payment Register No. 621,623,625 and 626	$7,022,655.44
	EFT Payment on Restricted Funds Register No.100, 622 and 624	$165,871.85
	Less Cancelled EFTs	($3,474.65)
		$7,263,390.59
Direct Debits	Bank Fees	$24,457.95
	Caltex Fuel	$90,836.90
Direct Payments		$8,355.93
	Total Direct Creditor Payments	***$14,650,431.96***
Payroll	Total Pay 14 and 15	$3,563,146.67
	Total Payroll	***$3,563,146.67***
Cards	Corporate Cards	$10,946.61
	Purchase Cards	$42,697.31
	American Express	$9,952.73
	Total Card Payments	**$63,596.65**
	Total Direct Creditor Payments from Municipal Account	***$18,277,175.28***

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

Schedule of Payments Made continued.

INTERFUND & INVESTMENT TRANSACTIONS			
Interfund Transfers			
Loan			$0.00
Citizen Relief Trust			$0.00
Citizen Relief Operating			$0.00
Municipal			$5,623,697.62
Reserve			($5,623,697.62)
Trust			$0.00
		Total Interfund Transers	**$0.00**
New Municipal Investments			
ANZ Bank	2/01/2020		$2,000,000.00
Westpac Bank	2/01/2020		$3,000,000.00
ANZ Bank	3/01/2020		$1,000,000.00
Westpac Bank	8/01/2020		$1,500,000.00
		Total New Investments	**$7,500,000.00**
		Grand Total	**$25,777,175.28**

Details of the payments are shown in attachment **6001 January 2020.**

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

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not applicable.

II. OTHER AGENCIES / CONSULTANTS

STATUTORY AND LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

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

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable as this report presents information for noting only.

CONCLUSION

The Schedule of Payments for the month totals $25,777,175.28.

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

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6001)

NOTING

At 9:53pm Cr Barton moved, seconded Cr Barber –

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

At 9:54pm the Mayor declared the motion

CARRIED (12/0)

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

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

AUTHORITY / DISCRETION

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

KEY ISSUES / SUMMARY

This report presents:

- The Statements of Financial Activity by Program, Sub-Program and Nature and Type, for the period ending 31 January 2020 and recommends that they be noted by the Council.
- The variances for the month of January 2020 and recommends that they be noted by the Council.
- The Budget amendments required for the month of January 2020 and recommends that they be adopted by Absolute Majority decision of the Council.
- Proposed Fees and Charges amendments for the Canning Bridge Library Car Park and Raffles Underground Parking Station.

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

BACKGROUND

The Statements of Financial Activity for the period ending 31 January 2020 have been prepared and tabled in accordance with the *Local Government (Financial Management) Regulations 1996*.

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

The mid-year budget review process has been completed and a number of budget amendments will be presented to the council for adoption in March 2020.

Variances

EXTRACT OF RATE SETTING STATEMENT FOR VARIANCE OVER $50,000
for the Period 1 July 2019 to 31 January 2020

	November Actual $	*YTD Rev. Budget $*	*YTD Actual $*	*Variance $*	*Variance %*	*Annual Budget $*	*Annual Rev. Budget $*
OPERATING ACTIVITIES							
Revenue from operating activities (excluding rates and non-operating grant, subsidies and contributions)							
General Purpose Funding	438,903	3,985,967	4,301,161	315,193	8%	11,320,811	8,082,694
Law, Order, Public Safety	38,232	2,530,589	2,693,838	163,249	6%	2,549,172	2,549,172
Community Amenities	102,194	3,346,549	3,423,214	76,665	2%	3,957,404	4,364,478
Transport	166,273	1,016,594	1,073,989	57,395	9%	1,599,343	1,599,343
Economic Services	479,399	5,477,415	5,718,426	241,011	4%	3,038,466	6,276,583
Other Property and Services	242,181	657,849	458,515	(199,335)	-30%	321,201	1,285,350
	2,212,673	22,786,301	23,481,839	695,538		32,199,974	33,577,846
Expenditure from operating activities							
Governance	(395,274)	(3,437,354)	(3,188,793)	248,561	-7%	(6,152,018)	(7,320,408)
Health	(83,969)	(628,309)	(568,287)	60,021	-10%	(1,128,413)	(1,089,822)
Education & Welfare	(243,474)	(1,727,380)	(1,612,991)	114,388	-7%	(3,067,314)	(3,068,608)
Community Amenities	(3,011,729)	(16,590,648)	(16,710,257)	(119,609)	1%	(26,222,531)	(27,132,464)
Recreation and Culture	(2,849,806)	(21,034,610)	(20,189,584)	845,026	-4%	(36,049,663)	(36,102,306)
Transport	(1,595,322)	(10,455,965)	(10,387,962)	68,003	-1%	(17,962,135)	(18,977,636)
Economic Services	(244,937)	(3,348,563)	(3,484,522)	(135,959)	4%	(2,347,582)	(6,107,588)
Other Property and Services	(1,090,354)	(7,138,082)	(6,946,879)	191,203	-3%	(12,673,457)	(12,220,728)
	(9,935,319)	(67,476,144)	(66,145,660)	1,330,484		(114,996,552)	(117,154,176)
Investing Activities							
Non-operating grants, subsidies and contributions	0	1,844,566	1,985,635	141,069		18,305,085	4,226,085
Proceeds from Disposal of Assets	82,163	384,925	258,727	(126,198)	-33%	435,500	914,700
Purchase of Furniture & Equipment	(105,253)	(808,347)	(408,957)	399,390	-49%	(1,427,145)	(2,381,441)
Purchase of Plant & Equipment	(156,851)	(1,851,081)	(1,164,572)	686,509	-37%	(1,811,477)	(3,516,811)
Purchase of Land & Buildings	(550,087)	(3,291,562)	(2,744,343)	547,219	-17%	(55,935,948)	(16,386,271)
Purchase of Infrastructure Assets	(1,681,066)	(8,077,451)	(6,889,395)	1,188,056	-15%	(31,028,602)	(29,755,354)
	(2,411,093)	(11,798,950)	(8,962,904)	2,836,046		(71,462,587)	(46,899,092)

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

A more detailed summary of variances and comments based on the Rate Setting Statement by Sub-Program is provided in attachments **6002C_Sub_Program_January_2020** and **6002H_January 2020**.

Revenue

$89.558 million in Rates was raised as at 31 January 2020 compared to a year to date budget of $89.072 million. There is a positive variance of $485,998 (0.54%) when compared to the year to date actual. This is due to growth in the rate base (mainly residential developments on Kishorn Road in Mt Pleasant and Riseley Street in Booragoon) subsequent to the budget setting.

Money Expended in an Emergency and Unbudgeted Expenditure

Disaster Appeal Response

In accordance with Council Policy CP-022 Disaster Appeals, Delegated Authority DA-45 Disaster Appeals Responses empowers the Chief Executive Officer (CEO) to grant a donation to a bona fide Australian based disaster relief agency to help alleviate the impact of a state or national disaster. Funding to support disasters under this delegation is restricted to the total allocated value in the annual budget, being $5,000.00 in 2019-2020.

On 7 January 2020 the CEO, following discussions with the Mayor, exercised the delegation to donate $5,000.00 to the Australian Red Cross Bushfire Appeal. The Australian Red Cross was chosen as the bona fide Australian based disaster relief agency by the City as they assisting with relief and recovery efforts across all states currently being heavily impacted by bushfires.

Budget Amendments

There were no budget amendments in January 2020 due to the recent completion of the mid-year budget review.

Rates collection

Rates, Refuse, Fire and Emergency Service Authority and Underground Power payments totalling $6,211,140 were collected over the course of the month. Rates collection progress for the month of January is 1.8% below the target of 82.8%. This represents a dollar value of $1,759,547. As at 31 January 81% of the 2019-2020 rates, including prior year arrears had been collected compared with 81.6% collected for the same time last year. Rates collection for 2019-2020 excluding prior year rate arrears is 85.4%.

Debtors Movement

Total sundry debtor balances decreased by $263,373 over the course of the month from $1,221,003 to $957,630 in January. The 90+ day's debtor balance decreased by $12,760 from $411,288 to $398,528.

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

Granting of concession or writing off debts owed to the City

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

There were no debts written off for the month of January 2020.

Fees and Charges

In order to achieve a more equitable use of parking facilities in the Canning Bridge Precinct, a number of fee changes are proposed for the Raffles Underground carpark (125 bays) and the Canning Bridge Library carpark (54 bays). The Raffles Underground carpark is currently under utilised, with patrons favouring the Canning Bridge Library carpark, which is intended to cater more for the users of the Library and Tivoli Theatre.

It is proposed to reduce the all day parking fees for the Raffles Underground carpark from $15.00 to $8.50, to make it more attractive for patrons particularly those seeking all day parking.

The Canning Bridge Library carpark is intended to cater more for short term parking. To enable this and accommodate the Library and Tivoli Theatre users, it is proposed to implement first three hours free, then increasing the hourly fee to $3.00 thereafter with no all day parking concession.

The outcome we are seeking is the shifting of all day parking from the Library carpark to the Underground Raffles carpark thus freeing up parking for the Library and Tivoli Theatre users. Engagement with the Library staff and Tivoli Theatre regarding the proposed changes has taken place.

ATTACHMENTS

The following attachments form part of the Attachments to the Agenda.

DESCRIPTION	LINK
Statement of Financial Activity By Nature and Type – January 2020	6002A_Nature_Type_January 2020
Rate Setting Statement by Program – January 2020	6002B_Program January 2020
Rate Setting Statement by Sub-Program – January 2020	6002C_Sub_Program_January 2020
Representation of Net Working Capital – January 2020	6002E_January 2020
Reconciliation of Net Working Capital – January 2020	6002F_January 2020
Notes on Rate Setting Statement reporting on variances of 10% or $50,000 whichever is greater – January 2020	6002H_January 2020

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

Details of Budget Amendments requested – January 2020	**6002J_January 2020**
Summary of Rates Debtors – January 2020	**6002L_January 2020**
Graph Showing Rates Collections – January 2020	**6002M_January 2020**
Summary of General Debtors aged 90 Days Old or Greater – January 2020	**6002N_January 2020**
2019-2020 Fees and Charges Amendments	**6002O_January 2020**

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not applicable.

II. OTHER AGENCIES / CONSULTANTS

Not applicable.

STATUTORY AND LEGAL IMPLICATIONS

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

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

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.

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

(3) The information in a statement of financial activity may be shown —
(a) according to nature and type classification; or
(b) by program; or
(c) by business unit.

(4) A statement of financial activity, and the accompanying documents referred to in sub-regulation (2), are to be —
(a) presented at an ordinary meeting of the council within 2 months after the end of the month to which the statement relates; and
(b) recorded in the minutes of the meeting at which it is presented.

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

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

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

6.16. Imposition of fees and charges

(3) Fees and charges are to be imposed when adopting the annual budget but may be —
(a) imposed during a financial year; and*
(b) amended from time to time during a financial year.*
** Absolute majority required.*

6.19. Local government to give notice of fees and charges
If a local government wishes to impose any fees or charges under this Subdivision after the annual budget has been adopted it must, before introducing the fees or charges, give local public notice of —
(a) its intention to do so; and
(b) the date from which it is proposed the fees or charges will be imposed.

FINANCIAL IMPLICATIONS

Variances

Variances are detailed and explained in attachment **6002H January 2020** (Notes on Statement of Variances in excess of $50,000 by Sub-Program).

Fees and Charges

The proposed changes to fees and charges are not expected to have a material impact on the 2019-2020 budget position.

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are no identifiable strategic, risks or environmental management implications arising from this report.

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable

CONCLUSION

The attached financial reports reflect a positive financial position of the City of Melville as at 31 January 2020 noting that the rates (including underground power charges) raised but yet to be received total $14.23 million.

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

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

At 9:54pm Cr Wheatland moved, seconded Cr –Woodall

That the Council:

1. **Notes the Rate Setting Statement and Statements of Financial Activity for the month ending 31 January 2020 as detailed in the following attachments:**

DESCRIPTION	LINK
Statement of Financial Activity By Nature and Type – January 2020	6002A_Nature_Type_January 2020
Rate Setting Statement by Program – January 2020	6002B_Program January 2020
Rate Setting Statement by Sub-Program – January 2020	6002C_Sub_Program_January 2020
Representation of Net Working Capital – January 2020	6002E_January 2020
Reconciliation of Net Working Capital – January 2020	6002F_January 2020
Notes on Rate Setting Statement reporting on variances of 10% or $50,000 whichever is greater – January 2020	6002H_January 2020
Details of Budget Amendments requested – January 2020	6002J_January 2020
Summary of Rates Debtors – January 2020	6002L_January 2020
Graph Showing Rates Collections – January 2020	6002M_January 2020
Summary of General Debtors aged 90 Days Old or Greater – January 2020	6002N_January 2020
2019-2020 Fees and Charges Amendments	6002O_January 2020

2. **By Absolute Majority Decision adopts the Fees and Charges amendments, as detailed in the attachment Fees and Charges Amendments 6002O January 2020.**

3. **Notes that the Fees and Charges amendments detailed in attachment 6002O January 2020 will be applicable from 30 March 2020 following a public notice to be published on 19 March 2020.**

At 9:54pm the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (12/0)

LATE ITEM T20/3843 - CIVIC CENTRE FIRE SERVICES UPGRADE WORKS (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	:	2019/2020
Funding	:	The project is fully funded from the 2019-2020 Capital Works Programme
Responsible Officer	:	Dean Anderson Facilities Coordinator

AUTHORITY / DISCRETION

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

LATE ITEM T20/3843 - CIVIC CENTRE FIRE SERVICES UPGRADE WORKS (REC) (CONFIDENTIAL ATTACHMENT)

KEY ISSUES / SUMMARY

To recommend the acceptance of a tender submitted for the Civic Centre Fire Services Upgrade Works.

BACKGROUND

The City of Melville ("City"), is seeking a suitably qualified and experienced Contractor to undertake the Civic Centre fire services upgrade works.

The services under the contract are as detailed in the appendices and generally include but are not limited to the provision of:-

- Modification to existing fire hydrant hose reel system
- System component fault monitoring
- Replacement of water storage tank liner
- Portable extinguishers
- Automatic fire detection and alarm system
- Multi point aspirating smoke detection system
- Emergency warning and intercom system
- Fire Detection Control and Indicating Equipment panel
- Smoke control system (FFCP and interface)
- Victaulic "Vortex" fire suppression system (I.T. Room)
- Fire and Emergency Evacuation Plans
- Testing and commissioning
- Operation & maintenance manual

The Contract Tender Advisory Unit met on 4 March 2020 to consider tenders submitted for these works.

DETAIL

The outcome of the tender process and the determination by the CTAU is included in the confidential attachments. Qualitative scores were achieved by joint agreement of the evaluation panel members at the evaluation meeting after each panel member had scored the submission individually. The City set five qualitative criteria for this Request, being:

- Demonstrated Experience,
- Key Personnel,
- Sustainable Procurement,
- Methodology; and
- Suitability of Products.

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.

LATE ITEM T20/3843 - CIVIC CENTRE FIRE SERVICES UPGRADE WORKS (REC) (CONFIDENTIAL ATTACHMENT)

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

The City has not engaged with the community in regards to this tender or scope of works.

II. OTHER AGENCIES / CONSULTANTS

Norman Disney & Young were engaged at various stages of the design development for the project

STATUTORY AND LEGAL IMPLICATIONS

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

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

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

FINANCIAL IMPLICATIONS

The project funding available in the 2019-2020 Capital Works Programme amounts to $400,000 sourced from the Future Works Reserve. Additional funds are to be sourced from various capital projects within the Facilities program. (Project Codes BCR03733, BCR03535 & BCR01924). There are therefore sufficient funds available to enter into the construction contract.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The following risks and associated mitigation strategies have been identified with the implementation of the project:

Risk Statement	Level of Risk	Risk Mitigation Strategy
Construction Works may damage existing building or infrastructure.	Low	The contractor is required to liaise with the City and prepare a detailed dilapidation report and Construction Plan outlining protection measures for existing City assets. The contract provisions require the contractor to make good any damage to the City's property.

LATE ITEM T20/3843 - CIVIC CENTRE FIRE SERVICES UPGRADE WORKS (REC) (CONFIDENTIAL ATTACHMENT)

Risk Statement	Level of Risk	Risk Mitigation Strategy
The contractor does not meet requirements and/or does not communicate well with City Of Melville	Low	The contract provisions include penalties, set-aside and termination clauses which will mitigate against contract under performance. A comprehensive evaluation was undertaken during the procurement process to choose a quality contractor with a proven track record in the provision of these services.
The construction works present potential OSH and Environmental Hazards.	Low	The contractor will be required to provide detailed OSH Management Plan and Environment Management Plans prior to commencement of works. The contractor is contractually bound to follow all OSH and Environmental legislation pertaining to the works.

POLICY IMPLICATIONS

Reference is given to several Council Policies that guide decision making by the Council with consideration to this report and including, but not limited to Council Policy CP-023 Procurement of Products or Services.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Given the age and condition of the existing systems there are no viable alternatives to upgrading to current compliance standards.

CONCLUSION

The CTAU is satisfied that the recommended Tenderer demonstrated that they have the relevant experience, key personnel, follow a methodology in line with the City's expectations and have proposed suitable products.

The confidential attachments are included in the Contract and Tender Advisory Unit Meeting Minutes of 4 March 2020 available on the Elected Members Portal.

LATE ITEM T20/3843 - CIVIC CENTRE FIRE SERVICES UPGRADE WORKS (REC) (CONFIDENTIAL ATTACHMENT)

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3843) APPROVAL

At 9:54pm Cr Robartson moved, seconded Cr Mair –

That the Council approves the Contract and Tender Advisory Unit's recommendation to;

1. **Accept the recommendation as contained in the Confidential Attachment – RFT192012 Contract and Tender Advisory Unit Minutes, and**

2. **Upon resolution the recommendation, directs that the successful respondents' names be inserted below this point 2, awarded;**

Wormald Australia Pty Ltd ABN 38 616 832 321

At 9:54pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

LATE ITEM M20/5730 - M MCLERIE – INDEPENDENT REVIEW – BUILDING RELATED AND CONSEQUENTIAL COMPLAINTS (REC)

Ward	:	All
Category	:	Operational
Subject Index	:	Governance Committee
Customer Index	:	Governance Committee
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item M19/5721 – Chief Executive Officer Performance Review, Ordinary Meeting of Council – 19 November 2019 Item M19/5726 – Chief Executive Officer Performance Review Process – Governance Committee – 2 December 2019. Item M20/5730 – Report of the Governance Committee Meeting held 5 February 2020, Ordinary Meeting of Council 18 February 2020.
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	L Hitchcock Executive Manager Governance and Legal Services

AUTHORITY / DISCRETION

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

LATE ITEM M20/5730 - M MCLERIE – INDEPENDENT REVIEW – BUILDING RELATED AND CONSEQUENTIAL COMPLAINTS (REC)

KEY ISSUES / SUMMARY

- At the Ordinary Meeting of the Council held 18 February 2020 the Council considered a recommendation from the Governance Committee with respect to the request from Mr McLerie for an "Independent Review of Building Related and Consequential Compliant and directed the CEO to schedule a Special Elected Members Information Session (SEMIS) so the Elected Members were fully conversant with the implications of any decision to be taken in respect to the matter.
- The Special Elected Members Information Session was held 26 February 2020, with the City's legal Advisor in attendance.
- As requested by the attending Elected Members at the SEMIS a letter dated 5 March was emailed to Mr McLerie on 6 March 2020 under the signature of the Mayor.
- A further motion from the 18 February 2020 Council meeting was that the CEO present a report to the Council by 13 March 2020 on the facilitation of the implementation of an independent review, as recommended by the Governance Committee.
- This report provides an update to the Council on the facilitation of that review, to date.

BACKGROUND

At the Governance Committee Meeting held 5 February 20
20, a Motion Without Notice was considered, with the Committee resolving:

"That, in response to the petition referred by Council on 19 November 2019 to the Governance Committee for consideration and report, the Governance Committee recommends to Council that:

1. *Council establishes a sub-committee of the Governance Committee which will consist of the Chairman, two members of the Governance Committee and the CEO to undertake investigations into Mr McLerie's building related complaints with the City of Melville that were the subject of the 19 November 2019 and the Chief Executive Officer of the City of Melville as members (Committee). [per Local Government Act 1995 s 5.8 and 5.9 and 5.10 (5)]*

2. *Council delegates all required powers that enables the Committee to:*

    a. *Scope, select and engage all relevant resources to assist the committee to fulfil its task, including but not limited to: administrative staff, consultants, technical experts and legal advisors.*
    b. *Directs the CEO to provide information and the manner in which that information shall be obtained and delivered to the committee or to anyone else that the committee deems appropriate (eg external consultant).*

3. *Council directs the CEO to make available appropriate funds and raise the relevant purchase orders to enable the Committee to be provided with the resources it requires to undertake this investigation.*

4. *The Committee may independently seek further advice from external State Government agencies and oversight bodies as it sees fit.*

LATE ITEM M20/5730 - M MCLERIE – INDEPENDENT REVIEW – BUILDING RELATED AND CONSEQUENTIAL COMPLAINTS (REC)

5. *Council directs the CEO to provide the committee an itemised summary of Mr McLerie's building related complaints including the City's position on each of the issues raised, by no later than 28 February 2020.*

6. *The Committee minutes, documentation, reports and recommendations shall remain confidential unless released by a decision of Council.*

7. *The Committee will provide a final report and recommendations to the Ordinary Meeting of Council immediately after the conclusion of its investigations or at a later date as determined by the Committee or Council."*

The Council considered this matter at its Ordinary Meeting of Council held 18 February 2020 and, in relation to this matter, resolved as follows:

That the Council:

1. **notes the information in relation to the Minutes of the 5 February 2020 Governance Committee;**

2. **directs the Chief Executive Officer to**
   - **schedule a Special Elected Members Information Session by 28 February 2020, subject to availability of the City's legal advisor, to present the legal advice received in relation to Item 8.1 – Motion Without Notice Independent Review – Mr McLerie (Building Related and Consequential Complaints) so that Elected Members are fully conversant with the implications of any decision to be taken in respect to this matter; and**
   - **present a report to the Council by 13 March 2020 on the facilitation of the implementation of an independent review, as recommended by the Governance Committee;**

3. **directs that the confidential attachment to Item M20/5730 – Report of the Governance Committee Meeting 5 February 2020 remain confidential until conclusion of the independent review.**

As resolved by the Council, a Special Elected Members Information Session (SEMIS) was held 26 February 2020, with the City's legal advisor in attendance, to discuss the legal advice dated 13 February 2020. This legal advice was distributed under confidential cover to the Elected Members only, in the Elected Members Bulletin of 14 February 2020 and was included as a confidential attachment to Item M20/5730 – Report of the Governance Committee Meeting held 5 February considered at the 18 February 2020 Ordinary Meeting of Council.

LATE ITEM M20/5730 - M MCLERIE – INDEPENDENT REVIEW – BUILDING RELATED AND CONSEQUENTIAL COMPLAINTS (REC)

DETAIL

The Elected Members in attendance at the SEMIS requested the Chief Executive Officer facilitated the drafting correspondence to Mr McLerie, by the City's legal advisor, requesting Mr McLerie to provide the City with a list of each of the complaints he would like investigated, and to clearly *"describe each complaint in sufficient detail to enable an assessment to be made, by each of those providing a quote to the City of what would be involved in investigating each complaint and in making findings and conclusions and any recommendations about each complaint."*

The correspondence was forwarded to all Elected Members for review and approval before being signed by the Mayor on 5 March 2020 and forwarded to Mr McLerie by email on 6 March 2020.

The correspondence also advised that this information was required "*for the purpose of engaging an independent person or organisation, in accordance with the relevant legislative requirements and the City's Procurement Policy, it is necessary to identify the nature and scope of the work that would be involved. One of the reasons why this is necessary is to enable those who are invited to provided quotations (in accordance with the requirements of the Procurement Policy) to know what work would be involved in investigating your complaints and providing a report to the Council.*"

No time period was stated in the letter for Mr McLerie to provide a response, and the City is currently waiting on a response with the details requested.

When received, the City will be in a position to further consider the steps required to facilitate a review process and develop a scope that allow the Council to determine the most appropriate budget, and specialist or independent investigative person, agency or agencies to undertake the Independent Review.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5730) **NOTING**

At 9:54pm Cr Barton moved, seconded Cr Woodall -

That the Council notes the interim report on the facilitation of the implementation of the Independent Review in relation to Mr McLerie's Building Related and Consequential Complaints and the further steps envisaged.

At 9:55pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

15. EN BLOC ITEMS

Nil.

16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

16.1 Cr Fitzgerald – Motion With Notice – Draft Prosecutorial Guidelines

At 9:55pm Cr Fitzgerald moved, seconded Cr Wheatland –

That the Council hereby resolves:

1. **To request the CEO to cause a proposed policy which sets out prosecutorial guidelines appropriate for the City of Melville and which take account of the issues noted in the attached reasons for this proposed notice of motion, to be drafted.**

2. **To request that the CEO cause the proposed draft policy to be presented to Council at an EMIS at a date to be fixed.**

At 9:56pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

Reasons provided by Cr Fitzgerald

Background

Presently, the City does not have a Council policy which sets out prosecutorial guidelines. The issue of such guidelines arose when changes to the *Criminal Procedure Act 2004* necessitated amendments to some delegated authorities are exercised by certain City officers. Specifically, those changes introduced a new capacity to deal with certain breaches relating to asbestos by issuing an infringement notice, rather than commencing prosecution.

Discussion by councillors suggested that officers would benefit from clear and specific guidelines about when such matters are appropriately dealt with by issuing an infringement notice, and when the appropriate response is to commence prosecution. The discussion further suggested that publication of a more general prosecution policy (as undertaken by other LGAs) may be desirable.

Current Policy/Procedures

While there is no present Council policy, Mr Hitchcock provided two documents which set out the City's current procedures with respect to prosecutions. Those were entitled **Directorate Procedure - Planning Compliance** and **Work Instruction - Planning Compliance**. Those documents do outline - briefly - some considerations with respect to prosecutions. However, those documents are addressed to planning, rather than the full suite of the City's regulatory compliance functions. Further, those documents are in the style of procedure manuals. That is, they lay out the general process which is to be followed in administering the compliance functions. There is limited - and in some cases no - consideration of the broader principles to be applied when exercising prosecutorial discretion. The relevant sections of those documents are set out at **Appendix I** below.

It is also worth noting that the current procedures do not contain considerations one would ordinarily expect to see in prosecutorial guidelines. To take one example, there is no guidance on dealing with conflicts of interest. Hypothetically, an officer might comply with the framework set out in the procedures by responding to a complaint that they themselves had raised.

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That is, the reactive compliance procedure set out in the **Work Instruction - Planning Compliance** document only excludes planning officers who have "recently been involved with the development (at the discretion of the Senior Planning Officers) (pg 4)" from undertaking the procedure, and hence exercising the relevant prosecutorial discretion. On the face of it, more robust procedural safeguards would assist by shielding officers from suggestions of the perception of bias.

To be clear, this is not to criticise the procedures set out in the documents. In general terms they are appropriately clear and reasonably adapted to the purpose of planning compliance actions. It may well be that the general workflow set out in those documents remains appropriate, though some reassessment may be necessary in specific areas. Nevertheless, there are opportunities to strengthen the overarching policy framework within which the City's officers operate.

Specific Issues

The present guidelines

1. relate only to planning matters.
2. notionally outsource the exercise of the City's prosecutorial discretion (Directorate Procedure 4.2.5 dot point 3).
3. explicitly favour prosecution through the Magistrates Court to resolve non-compliances (Directorate Procedure 4.2.5 dot point 4).
4. contain limited guidance for the exercise of prosecutorial discretion generally, and offer specific guidance only to compliance actions relating to building and planning matters (Directorate Procedure 4.3.1).
5. do not contain reference to considerations relevant to the exercise of prosecutorial discretion, eg. the public interest in prosecution, the nature of the risk created by the alleged non-compliance, etc.
6. do not contain an explicit procedure for reference to alternative methods of dispute resolution (negotiation, education, formal warnings, etc.) where appropriate.
7. in some cases notionally compel proceeding "directly to legal action" in a manner inconsistent with the requirement to exercise prosecutorial discretion in the public interest (Work Instruction dot point 4).
8. are formatted in a manner which makes reference to the provisions of the guidelines cumbersome (see above...).

It should be noted that other LGAs have adopted explicit prosecutorial guidelines as a policy of the council. For example, City of Albany (https://www.albany.wa.gov.au/documents/103/regulatory-compliance-policy-and-guideline) and the City of Vincent (https://www.vincent.wa.gov.au/documents/558/4122-prosecution-and-enforcement).

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Appendix I

The **Directorate Procedure - Planning Compliance** document notes, relevantly:

4.2.5 Legal Action

- Where no response has been received to the two letters requesting compliance, a further site visit is to be undertaken to check whether the offending structure has been removed (or use ceased).
- Where the breach still exists and no further correspondence has been received from the property owner / occupier, the Officer is to liaise with the Planning Services Coordinator and where necessary, the Manager Statutory Planning and Executive Manager Legal Services in relation to undertaking further compliance action.
- The City will proceed in accordance with the legal advice received. In general, the City generally favours prosecution through the Magistrates Court in order to resolve non-compliances.

4.2.6 Continued Non-Compliance following Prosecution

Where formal compliance action (Directions Notice or Prosecution) has been undertaken and the breach has not been rectified (i.e. structure not removed or modified to comply, or the use continues) during the course of the proceedings, the City may, upon legal advice, commence further compliance action without further warning.

4.3 General

4.3.1 Circumstances where the City may decide not to undertake compliance action

The City may exercise its discretion not to undertake compliance action where:
- The alleged breach is within building tolerance.
- The alleged breach has a negligible impact on adjoining properties or the streetscape.
- The modifications undertaken to a building still maintain compliance with all statutory requirements.
- It is unlikely that compliance action would be successful due to:
- The time period which has lapsed since the development was completed, or
- Lack of clarity in the approved plans or documents, or
- Lack of certainty at the time of development as to the legal status of the development or the requirement to obtain approval, or
- Any other legal consideration.

The **Work Instruction - Planning Compliance** document notes, relevantly:

Written Correspondence

(dot points 3-6)

- Where the breach is not able to be rectified by the submission of a DA, only one written letter is to be sent to the owner/occupier giving them 28 calendar days to comply. Failure to comply within this timeframe proceeds directly to legal action.

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Where no correspondence is received (including an application for Retrospective Planning Approval) at the conclusion of the 28 calendar day period, a follow up site visit is to be undertaken by the Officer within 7 calendar days to check the offending development (or use) has been removed. If the breach still exists, a follow up letter is to be sent requiring compliance within 14 days of the date of the letter.

- Where no correspondence is received within 14 calendar days, a follow up site visit is to be undertaken by the Officer within 7 calendar days to check the offending development (or use) has been removed. If the breach still exists, the Officer is to compile a file note detailing what has occurred to date.

- The Officer is to discuss the matter with the Planning Services Coordinator, and where relevant the Manager Statutory Planning and Executive Manager Legal Services, to determine how to proceed to achieve compliance.

Site Inspections

- Where it is suspected that unlawful activity is occurring (eg. brothel), the Officer should liaise with the local police station to undertake a combined site visit.

16. Motions of Which Previous Notice has Been Given, continued

At 9:57pm the Mayor relinquished the Chair, in order to present a Motion with Notice.
At 9:57pm Cr Barton assumed the Chair.

16.2 Mayor Gear – Motion With Notice – Review of Council Policy CP-014 Public Question Time at Council or Committee Meetings

During the discussion and debate on the Motion, the mover and the seconder accepted the inclusion of the words "and request the CEO to prepare amendments to the policy to achieve this and present a report to the May 2020 meeting of the Council," in the motion.

At 9:57pm Mayor Gear moved, seconded Cr Mair –

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

At 10:19pm the Presiding Member declared the motion

CARRIED (11/1)

Vote Result Summary	
Yes	11
No	1

Vote Result Detailed	
Cr Barber	Yes
Cr Barton	Yes
Cr Fitzgerald	Yes
Cr Kepert	Yes
Cr Macphail	Yes
Cr Mair	Yes
Cr Robins	Yes
Cr Sandford	Yes
Cr Wheatland	Yes
Cr Woodall	Yes
Mayor Gear	Yes
Cr Robartson	No

Reasons provided by the Mayor

The local government act stipulates that there has to be minimum of 15 minutes question time at ordinary council meetings. It is silent on how this is achieved.

It is proposed, that in addition to the existing method of submitting questions to Council and Committee meetings in writing, to provide the opportunity for residents and ratepayers to verbally ask questions at meetings.

The questioner will be invited to fill out a form giving name and address and if possible the question they will ask. The Presiding Officer will then invite each questioner to ask their question, with the Presiding Member determining who is best placed to provide the answered. If a sufficient answer is unable to be provided then the question will be taken on notice and an answer will be provided in the minutes of the next meeting.
If there are no questions from the floor then the meeting will move to the next agenda item. If there are more questions than 15 minutes will accommodate the presiding officer will determine when question time will end.

16. Motions of Which Previous Notice has Been Given, continued

At 10:20pm Cr Barton relinquished the Chair.
At 10:20pm the Mayor assumed the Chair

16.3 Cr Barton – Motion with Notice – Naming of Park in Murray Road, Bicton

During the discussion and debate on the Motion, the mover and the seconder accepted the change of the word "either" to "including" in the last line.

At 10:20pm Cr Barton moved, seconded Cr Barber –

That the CEO be requested to act immediately to expedite the process for naming the Park at 58-60 Murray Road, Bicton, the site purchased in 2012 from Western Power, according to the current policy CP-096 and using from the current schedule of names including John Duffield Park or Barbara Kernot Park.

At 10:27pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

Reasons provided by Cr Barton

1. Although Council resolved recently to review CP-096, Naming of Roads, Parks, Buildings and Infrastructure, the process of community consultation is likely to be time consuming and after the long struggle by the residents of Bicton first for the City of Melville to obtain this park and then to have it appropriately named, they deserve this final stage of the process to be accomplished urgently.

2. Over nine years ago, on 7 October 2010 after a long campaign by a large number of residents in Bicton (not limited to those in the immediate vicinity of the site) a Special Meeting of Electors unanimously passed the motion

   That the Council provide endorsement and active advocacy to secure "Bicton Park" as property of the City of Melville, and to be kept as public open space in perpetuity.

3. On 21 June 2011 the Bicton Park Community Action group submitted the following questions at the Meeting of Council:

   Question 1.
   At the Special Meeting of Electors held on 7th October 2010 6 Motions relating to Western Power's expansion in the City of Melville were passed and carried unanimously. In this respect please advise what active advocacy the City of Melville has undertaken with Western Power re a land swap or acquisition of the Bicton site?

   Question 2.
   What progress is being made by the City of Melville with Western Power and who is the City of Melville representative dealing with this matter?

   Question 3.
   Should Western Power be willing to sell this land, does the City of Melville have first option to purchase and would the City of Melville consider pursuing this option?

4. On 23 August 2011 then-CEO Dr Shayne Silcox wrote to the "Save Bicton Park" group as follows.

16.3 Cr Barton – Motion With Notice – Naming of Park in Bicton

To date this has not resulted in the City being able to acquire the properties in question, however this is due to Western Power not being able to determine its long term needs for this site and the issues around power provision in this area of Bicton at the time.
This has not dissuaded the Council from its position however and at its most recent Ordinary Meeting the City of Melville Council resolved;
That the Council:

1. *Formally approach Western Power with respect to 58-60 Murray Road Bicton, Certificate of Title 38/238A registering the City's interest in acquiring this property in the event that Western Power resolve to dispose of said property.*
2. *Seek to establish a preferred buyer status with Western Power so that the City is provided with the first option to purchase the said property in the event that Western Power resolve to dispose of the property.*
3. *Advise Western Power that this property is generally accepted by the community to be an open space reserve and whilst the property may be owned in freehold title by Western Power, in the event that the City should acquire the said property, its acquisition would be for the express purpose of the property being set aside as Local Open Space*.

5. In September 2012 after a continued sustained campaign by the residents, the City of Melville was able to announce the purchase of this land from Western Power for $2.2 million, making a strong statement on the preservation of public open space.

6. Two years later, in December 2014, CEO Silcox wrote to the community group which had expressed concern about the effect of the proposed transfer of Bicton to the City of Fremantle during local government reform.

   It is not the way we manage Melville in stopping processes to loyal residents from suburbs that may transition (unfortunately) to another Local Government - we will continue to represent our people right up to 1st July 2015 and on if necessary. With this said a report has been tabled at my Executive Management Team (EMT) in late 2014 proposing naming of Bicton Park. The EMT sought a review of the process used in naming roads, parks,etc to ensure it met the needs of the Community and Council. That task is near completion and a report on the naming of Bicton Park will be brought forward early in 2015 for finalisation (all going well) before reform legal day one.

7. More than 4 years after this, on 1 March 2019, I wrote to CEO Marten Tieleman as follows.

   I am regularly receiving enquiries from Bicton residents about the delay in the naming of the park unofficially described locally as "Bicton Park" and on the City of Melville website (https://www.melvillecity.com.au/things-to-do/find-venues-parks-and-reserves/bicton-substation) as "Bicton Substation", where it is described as "a small pocket park that is suitable for small family gatherings".

8. Nearly a year ago, on 20 May 2019, in response to my query about the naming of the Park, the then Governance and Compliance Coordinator Jeff Clark wrote to me:

   I have commenced the process and will inform you as it progresses. The City has a Council Policy CP-096 that advises the process that will be undertaken.

At 10:23pm Cr Woodall left the meeting and returned at 10:26pm.

17. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL

17.1 Cr Woodall - Response to Coronavirus: Community/Sporting Group Assistance.

Item Brought Forward
See Page 27

18. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

Nil.

19. CLOSURE

There being no further business to discuss, Mayor Honourable George Gear declared the meeting closed at 10:28pm.