

**MINUTES
OF THE
ORDINARY MEETING OF THE COUNCIL
6.30PM TUESDAY, 15 SEPTEMBER 2020
and
6.30PM TUESDAY, 22 SEPTEMBER 2020
and
6.30PM TUESDAY, 29 SEPTEMBER 2020**

COUNCIL CHAMBERS, MELVILLE CIVIC CENTRE

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

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

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

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

DISCLAIMER

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1. OFFICIAL OPENING

The Presiding Member welcomed those in attendance to the meeting and officially declared the meeting open at 6:30pm and invited Cr Tomas Fitzgerald to read the Acknowledgment of Country:

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

The Presiding Member advised of the meeting Disclaimer and that the meeting was being recorded for minute taking purposes.

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

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

WARD

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

3. IN ATTENDANCE

Mr M Tieleman
Ms C Young
Mr S Cope
Mr M McCarthy
Mr A Ferris
Ms K Johnson
Mr L Hitchcock
Mr J Rae
Mr B Taylor
Ms C Newman
Ms J Head

Chief Executive Officer
Director Community Development
Director Urban Planning
Director Technical Services
Director Corporate Services
Executive Manager Organisational Development
Executive Manager Governance and Legal Services
Strategic Land and Property Executive
Manager Governance and Property
Governance Coordinator
Governance Officer

At the commencement of the meeting, there were 41 members of the public in the Council Chambers and 1 representative from the press, 11 members of the public and 1 representative from the Press in attendance electronically.

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

Nil.

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.**

Elected Members expressed concern at the number of late amendments and reject and replace motions that were submitted and circulated to members.

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

Question 1

1. We refer to our questions put to the 18 August Ordinary Meeting of Council and the Administration's responses and recorded in the meeting minutes at 6.1.2 and 6.1.3:

1.1. *Do all Elected Members endorse the Administration's responses to all our questions?*

Response

The Administration cannot respond to this question. It is a question for each individual Elected Member to consider and respond.

Question 2

1.2. *Do all Elected Members understand the Administration's responses to our questions in relation to the City's FOI process performance and does each Councillor endorse the City's incomplete and obfuscatory responses?*

Response

The Administration cannot respond to this question. It is a question for each individual Elected Member to consider and respond.

Question 3

1.3. *When will we get a response to our question as given at 6.1.3.23, ie our question 5.3 When will Council respond to our 11 March 2020 letter?*

Response

The correspondence of 11 March 2020 was addressed to the Mayor, with all Elected Members cc'd in. The matter has been referred to the Mayor to respond, as advised in the response provided to the same question at the 18 August 2020 Council Meeting.

2. We refer to our questions put to the 21 July 2020 Ordinary Meeting of Council about the 29 June 2020 FLASHPOINT episode that made adverse comments about the City of Melville's (CoM) handling of approvals for a patio and the City's Administration's responses contained in the meeting minutes;

Question 4

2.1. *Are all Elected Members aware of the allegations that the City's responses to the questions are untruthful, misleading and/or obfuscatory?*

6. *Public Question Time cont'd – City of Melville Residents and Ratepayers Assoc Inc.*

Response

The Administration have reviewed the response provided and considers the responses to be accurate and correct. The Administration cannot respond to this question as it is directed to Elected Members. It is a question for each individual Elected Member to consider and respond to.

Question 5

- 2.2. *Why has Council done nothing to correct the Administration's responses and/or address the allegations?*

Response

The Administration cannot respond to this question. It is a question for each individual Elected Member to consider and respond.

Question 6

- 2.3. *What will Council do to ensure the Administration provides clear, honest and fulsome answers to questions?*

Question 7

- 2.4 *What is Council's policy and process to deal with any of the Administration's responses that are not acceptable to and/or not understood by any Elected Member; either before, during or after the Council meeting?*

Response to questions 6 and 7

If the Mayor is not satisfied with the responses provided to public question time, he will discuss this with the CEO. The Administration provide responses in accordance with current legislation, policy and Department of Local Government guidelines.

2. We refer to the South West Group's (SWG) recent ½ page advertisement offering free cybersecurity checks and online consultations, with Joanna.Ong@Melville.wa.gov.au accepting registrations (attached):

NOTE: These questions do not relate to the City of Melville and were referred to the South West Group for consideration, with their responses as follows:

Question 8

- 1.1. *What is the business case for this free service. That is, how does it fit with the SWG mandate, how much will it cost, what tangible quantifiable benefits will Melville residents receive, and how will the performance of the initiative be quantified?*

6. Public Question Time cont'd – City of Melville Residents and Ratepayers Assoc Inc.

Response

The cost of this program is \$5,500 or \$137.50 per business (the project is for 40 businesses). There are over 6,000 rate-paying businesses in the South West Group region contributing to a regional economy worth almost \$30 billion. Research from the Federal Government has shown that Cyber attacks cost small WA businesses \$7,000 per attack – one in eight WA businesses has been the subject of Cyber attacks. In total, Cyber attacks cost WA businesses \$150 million every year. The business case is very clear – if the program can assist only one business in the South West Group region to prevent a Cyber attack, it will achieve a positive Benefit Cost Ratio for the regional economy.

Question 9

- 1.2. *When and which City of Melville's SWG representatives endorsed this free offering?*

Response

This project is delivered under the South West Group's Smart Cities and Regions Program. Smart Cities and Region was endorsed by the Board as an ongoing program area of the Group – the Board is comprised of the Mayors and CEOs of the six member councils. The projects were negotiated by the South West Group Director in accordance with the delegated authority of that position and is within the budget allocation for the South West Group.

Question 10

- 1.3. *How do free cybersecurity services fit with SWG's stated mission to: "collaborate to maximise quality of life within the region by influencing and informing future planning and infrastructure delivery"?*

Response

The South West Group's stated mission and vision is as follows:

The South West Group partners and collaborates with State and Federal Government, industry, business and community on activities that benefit and facilitate further economic development in the South West Metropolitan Region.

The Vision for South West Metropolitan Region is to be the "Economic Gateway to the West.

The project has a clear link to economic development outcomes based on the business case outlined in response to Q1.1. It will also help businesses to protect critical infrastructure that could be at risk of a Cyber attack.

6. *Public Question Time cont'd – City of Melville Residents and Ratepayers Assoc Inc.*

Question 10

1.4. *How much has the City's participation in the SWG cost Melville residents over the last 2FYs in terms of:*

a) *Total direct payments made to the SWG?*

Response

It is important to understand that Local Government rates revenue also comes from rateable businesses and commercial property owners, not only residential rates. Collectively, commercial businesses and property owners pay over \$100 million in rates every year to the six member councils of the South West Group.

The funding provided to the South West Group to facilitate economic development and advocacy within the region is equivalent to one half of one percent of rates from businesses and commercial property owners.

The City contributes a direct financial contribution of \$99,735 for 2019-2020 and \$76,506 for 2020-2021 towards the South West Group. For your information, the City of Melville collects approximately \$16 million in commercial rates for this financial year

Question 11

b) *Total indirect or in-kind payments made to SWG, ie access printing, administrative support and facilities; office space rent of \$ 5,000 per year seems too cheap?*

Response

Office space is provided at commercial rates. All other costs such as photocopying are recorded and recovered by the City of Melville from the collective South West Group budget.

Question 12

c) *Staff time spent on participation on committees and other initiatives?*

Response

Officers from each of the South West Group Member Councils participate in a number of committees and initiatives. The CEO and Mayor attend Board meetings once every three months, with the CEO also attending the CEOs forum once every three months.

The Director Technical Services and Director Urban Planning also attend the quarterly Technical Directors Committee meetings, with other officers attending various other meetings and project related groups being coordinated by the South West Group. The actual officer time spent on attendance to these meetings is not recorded as it considered to be nominal.

6. *Public Question Time cont'd – City of Melville Residents and Ratepayers Assoc Inc.*

Question 13

- d) *Staff travel and entertainment expenses for participation in and SWG committee, initiative, tour or the like; whether paid for by the SWG direct or via the City of Melville?*

Response

The South West Group does not cover member Council expenses for attendance at Board or Committee meetings. There is no entertainment budget. Any catered meetings (e.g. sandwiches for lengthy meetings) are paid for from the collective South West Group budget.

Question 14

- e) *Elected Member time for participation in committees, events and other initiatives?*

Response

Elected Members attendance relates to the Mayor for Board meetings and attendance by an Elected Member in the South West Corridor Development and Employment Foundation (SWCDEF Inc.) meetings.

Question 15

- 1.5. *Do Elected Members, such as Cr Duncan MacPhail and Mayor Gear, derive any extra benefits, such as sitting fees, from attendance at the SGW committees or the like; if so, how much?*

Response

No. There are no sitting fees associated with the Mayor's attendance at Board meetings or Elected Member attendance at SWCDEF Inc. meetings

Question 16

- 1.6. *Exactly what quantifiable value does SWCDEF Inc deliver to Melville residents?*

Response

SWCDEF Inc. is an incorporated association that does not receive annual funding from any Local Government. Its management committee is comprised of a combination of Elected Members from the South West Group member councils and representatives from Local Chambers of Commerce, Training and Education Providers.

SWCDEF Inc. exists to apply for grant funding where Local Governments are ineligible, or where a united front is more appealing in attracting funding and other opportunities (e.g. strategic partnerships). SWCDEF Inc. is currently managing over \$100,000 in grant funding from non-Government sources for natural resource management projects (e.g. a grant of \$62,264 obtained from Myer Foundation) that benefit the City and the region.

6. *Public Question Time cont'd – City of Melville Residents and Ratepayers Assoc Inc.*

Question 17

- 1.7. *How much has it cost in total to send City representatives (Elected Members and officers) to the SWG tours or like, such as the March 2019 Smart City Summit & Expo, Taipei, either funded by the SWG, the City or Elected Members?*

Response

The costs of tours, such as the 2019 Smart Cities Summit and Expo in Taipei, was funded by the South West Group from funding provided by the Member Councils. This tour was a partnership with the Australian Federal Government's Austrade.

Question 18

- 1.8. *When will Council reconsider its SWG/SWCDef Inc participation given the SWG appears to be an unnecessary duplication of work being done by the City itself, other State Government agencies, the Westport Taskforce and the like. Surely it would be more cost effective for the City to just participate on collective initiatives on a well-defined as need basis vs maintaining what appears to be unnecessary cumbersome bureaucratic overheads.*

Response

The South West Group does not duplicate the work of member Councils or State and Federal Governments. The City has committed to the South West Group through its financial contribution in accordance the annual budget and signed Memorandum of Understanding.

6.2 Questions Received without Notice

Nil.

6.3 Questions Taken on Notice at Previous Meeting

6.3.1 Mr D Knowles , Bicton

Late Item T20_3872 –Beach Street Footpath Construction

Question 1

*Can the Council explain, why this Late Item has been submitted, recommending actions other than what what (sic) previously agreed within prior Council Minutes. The July 2020 motion proposed in Item 3 to **“resident’s be notified of the outcome of the discussions with Elected Members and invited to respond”**, then to be bought back to August Ordinary Meeting.*

As one impacted Resident, we have not received any notification nor feedback from any discussion nor matters. In fact, this Late Item submission is recommending “against” any prior discussions and engagement, so we seek to understand, how the residents will be notified and to what extent they will be invited to respond, as to now proposed standard crossovers and cut throughs to ALL crossovers in Beach St impacted, is not what was previous outlined nor discussion with residents during individual on site meetings.

6. *Public Question Time cont'd – Mr D Knowles.*

Response

The Late Item T20/3872 was submitted to the August 2020 Council Meeting in order to meet the requirements outlined in the July 2020 Council resolution (Item T20/3859 – Beach Street Crossover Review Results) and was late as it took some time to communicate with the affected residents and obtain their responses. The City took the view that the request to communicate with residents was in relation to those issues addressed at the onsite discussion. The City has spoken with the resident and he is happy with the final outcome.

7. AWARDS AND PRESENTATIONS

Nil.

**11. APPLICATIONS FOR NEW LEAVES OF ABSENCE
(standing item brought forward)**

At 6:32pm Cr Pazolli moved, seconded Cr Wheatland –

That the application for new leaves of absence submitted by Cr Woodall on 15 September 2020 be granted.

At 6:32pm the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

8. CONFIRMATION OF MINUTES**8.1 ORDINARY MEETING OF THE COUNCIL – 18 AUGUST 2020
Minutes 18 August 2020****COUNCIL RESOLUTION**

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

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

At 6:33pm the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

**8.2 NOTES OF AGENDA BRIEFING FORUM – 1 SEPTEMBER 2020
Notes 1 September 2020****COUNCIL RESOLUTION**

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

That the Notes of Agenda Briefing Forum held on Tuesday, 1 September 2020, be received.

At 6:33pm the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

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

Nil.

9.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT

- Mayor Gear – Late Item M20/5770 Melville Bowling Club Inc. New Lease Agreement and Petition. Impartiality Interest.
- Cr Sandford – Late Item M20/5770 Melville Bowling Club Inc. New Lease Agreement and Petition. Impartiality Interest.
- Cr Pazolli – Late Item M20/5770 Melville Bowling Club Inc. New Lease Agreement and Petition. Impartiality Interest/ Interest Under the Code
- Cr Barber – Late Item M20/5770 Melville Bowling Club Inc. New Lease Agreement and Petition. Impartiality Interest.
- Cr Wheatland – Late Item M20/5770 Melville Bowling Club Inc. New Lease Agreement and Petition. Impartiality Interest.
- Cr Robartson – P20/3871 - Response to Petition - Phil Ward Reserve, 11 Cottrill Street, Myaree – Financial Interest.
- Cr Robins – P20/3871 - Response to Petition - Phil Ward Reserve, 11 Cottrill Street, Myaree – Impartiality Interest.
- Cr Robartson – P20/3850 – Confidential Item - Ground Lease Agreement for Melville, Aged and Community Activity Centre – Financial Interest.
- Cr Sandford – Item P20/3867 Submission Report – Ground Lease Redevelopment Proposal 13 The Esplanade and 64 Kishorn Road, Mount Pleasant. Impartiality Interest.
- Cr Robartson – P20/3867 – Submissions Report – Ground Lease Redevelopment Proposal 13 The Esplanade and 64 Kishorn Road, Mt Pleasant. Financial Interest.

Inserted by
resolution
OMC
16/02/2021
pg 98.

10. DEPUTATIONS**10.1 Mr P Potter, Mr D James and Mr M Simms**

P20/3867 – Submissions Report – Ground Lease Redevelopment Proposal 13 The Esplanade and 64 Kishorn Road, Mount Pleasant

10.2 Mr S Burnell, Mr Andrew Watt and Mr M Lederer, CLE Town Planning

P20/3871 – Response to Petition – Phil Ward Reserve, 11 Cottrill Street, Myaree.

10.3 Mr S Green, Greater Melville Community Association

Late Item M20 – Melville Bowling Club Inc. New Lease Agreement and Petition

10.4 Mr T Smith and Mr C Ross, Melville Bowling Club Inc

Late Item M20 – Melville Bowling Club Inc. New Lease Agreement and Petition

12. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

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

- M20/5770 - Melville Bowling Club Inc. New Lease Agreement and Petition.
- M20/3850 - Confidential Item - Ground Lease Agreement for Melville, Aged and Community Activity Centre.

13. PETITIONS**13.1 Petition – Seeking Recreation Zoning for Phil Ward Park, 11 Cottrill Street, Myaree (additional signatures)**

A further page of the petition seeking recreational zoning for Phil Ward Park, 11 Cottrill Street, Myaree (originally considered at the 16 June 2020 Ordinary Meeting of Council) has been received on 27 August 2020, signed by 5 residents of the City of Melville and 4 non-residents as follows:

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

- 1) *Refuse to allow Opal Myaree, or any other service provider or proponent/applicant, to commence Community engagement, or obtain development approval, as to the development of aged care or any other residential or commercial development on Phil Ward Park at 11 Cottrill Street, Myaree;*
- 2) *Instruct the CEO to arrange for the rezoning of Phil Ward Park land from residential R40 to such zoning as will preserve its use as a park and public open space for recreational purposes only in perpetuity;*
- 3) *Instruct the CEO to arrange for the amenity of Phil Ward Park to be improved by installing reticulation, seating benches and play equipment following community consultation as to the nature thereof.”*

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**APPROVAL**

At 6.34pm Cr Kepert moved, seconded Cr Barton –

That the additional 9 signatures to the petition seeking Recreational Zoning for Phil Ward Park, 11 Cottrill Street, Myaree, be acknowledged and be dealt with in conjunction with Item P20/3871 – Response to Petition – Phil Ward Reserve 11 Cottrill Street, Myaree to be considered later in this meeting.

At 6.35pm the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

At 6:34pm Ms Head left the meeting and returned at 6:40pm.

13.2 Petition – Opposition to Proposed Kardinya Park Activity Centre Plan

A petition signed by 398 residents of the City of Melville and 1 non-resident was received on 2 September 2020 and reads as follows:

“We the undersigned, all being electors of the City of Melville and living within or adjacent to the boundaries of the area proposed for rezoning, respectfully request that the Council take note that we strongly oppose the Kardinya District Centre Activity Centre Plan and associated urbanisation of this part of our suburb. The proposed rezoning of R codes will significantly impact on the character of our suburb and adversely affect the welfare of Kardinya residents. We have major concerns about the proposed plan in regards to the rezoning of residential areas, the height of buildings, increased traffic flow on small suburban roads, adverse changes to the character and demographics of the suburb. We request that the City of Melville oppose the proposed Kardinya District Activity Centre Plan in its report to the Western Australian Planning Commission.”

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**APPROVAL**

At 6:39pm Cr Robins moved, seconded Cr Wheatland –

That the petition opposing the Proposed Kardinya Park Activity Centre Plan signed by 398 residents and one non-resident be acknowledged and a report be prepared.

At 6:39pm the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

The Mayor advised that a further page associated with the petition below had been received with an additional 12 signatures from residents and the total was amended from 165 to 177 residents of the City of Melville.

13.3 Petition – Rescind Council Decision to Grant 50 year Lease to Melville Bowling Club

Further pages of the petition to rescind the Council decision to grant a 50 year lease to the Melville Bowling Club (originally considered at the 18 August 2020 Ordinary Meeting of Council) have been received on 14 September 2020 signed by 177 residents of the City of Melville and 17 non-residents and reads as follows:

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

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

Rescind the Council decision on 21 July 2020 to grant a 50 year lease to the Melville Bowling Club (MBC) and replace it with a new term & conditions, in accordance with points 1 to 4 below:

- 1. The term of the lease to be determined by the professionally qualified staff of the City, but be no longer than 10 years in duration.*
- 2. All other lease conditions to be determined by the City’s staff, within a reasonable time frame as stipulated by the staff, to ensure the conditions provide benefit consistent with other similar clubs & sporting organisations.*
- 3. Noting support provided to Mayor Gear by the MBC during the October 2019 Local Government Election & his ongoing membership with the club, the Mayor acknowledges his interest, leaves the Chamber during the debate & refrains from voting on this item.*
- 4. All other elected members duly re-consider their own interests and, where appropriate, leave the Chamber during the debate & refrain from voting on this item.”*

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION

APPROVAL

At 6:39pm Cr Barber moved, seconded Cr Barton –

That the additional 194 signatures to the petition seeking to rescind the Council decision of 21 July 2020 to grant a 50 year lease to the Melville Bowling Club, be acknowledged and be dealt with in conjunction with Late Item M20/5770 – Melville Bowling Club Inc. New Lease Agreement and Petition, to be considered later in this meeting.

At 6:40pm the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

At 6:40pm Cr Mair tabled a petition in relation to the Lease Agreement for the Mount Pleasant Bowling Club.

13.4 Petition – Lease Mount Pleasant Bowling Club

A petition signed by 749 residents of the City of Melville and 249 non-residents was tabled and reads as follows:

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

- 1. Extend and vary the current Lease agreement with the Mount Pleasant Bowling Club (MPBC) to provide an extended lease period of 21 years with a 21 year option; and*
- 2. Renovate and extend the Clubhouse to update the facilities including the provision of facilities for the disabled and vary the conditions of use to allow wider community usage; and*
- 3. Completely waive any outstanding debts or liabilities owed by the MPBC to the City of Melville.*

The reasons are that the MPBC is a valued community facility that has provided a service to the community for nearly 60 years and because of increased densification and a growing population, this community facility that provides indoor and outdoor recreation that suits all ages is vital and must be retained and improved so that it continues to provide services into the future.”

COUNCIL RESOLUTION

APPROVAL

At 6:41pm Cr Mair moved, seconded Cr Sandford –

That the Petition regarding Mt Pleasant Bowling Club seeking to extend and vary the current Lease Agreement with the Council bearing 997 signatures be tabled and acknowledged and a report be prepared.

At 6:41pm the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

14. REPORTS OF THE CHIEF EXECUTIVE OFFICER

Disclosures of Interest

Member	Mayor Gear
Type of Interest	Impartiality Interest/ Interest under the Code of Conduct
Nature of Interest	Social Member of Melville Bowling Club
Request	Stay, Discuss and Vote
Decision	Stay, Discuss and Vote
Member	Cr Sandford
Type of Interest	Impartiality Interest
Nature of Interest	Former Social Member and Husband is a Member of Melville Bowling Club
Request	Stay, Discuss and Vote
Decision	Stay, Discuss and Vote
Member	Cr Barber
Type of Interest	Impartiality Interest
Nature of Interest	Former Social Member of Melville Bowling Club
Request	Stay, Discuss and Vote
Decision	Stay, Discuss and Vote
Member	Cr Wheatland
Type of Interest	Interest under the Code of Conduct
Nature of Interest	Support from community group Alfred Cove Action Group in the 2017 Local Government Election
Request	Stay, Discuss and Vote
Decision	Stay, Discuss and Vote
Member	Cr Pazolli
Type of Interest	Impartiality Interest/ Interest under the Code of Conduct
Nature of Interest	Referenced Melville Bowls Club in 2019 Local Government Election Flyer and Electoral Statement
Request	Leave
Decision	Leave

At 6:41pm having declared an interest in the item Cr Pazolli left the meeting.

At 6:41pm Mayor Gear brought forward Late Item M20/5770 – Melville Bowling Club Inc. New Lease Agreement for the convenience of the public gallery.

At 6:42pm Mr McCarthy left the meeting and returned at 6:43pm

At 6:43pm Mr S Green representing Greater Melville Community Association entered the Chambers for the purpose of making a deputation in relation to Late Item M20/5770 – Melville Bowling Club Inc. New Lease Agreement. The presentation concluded at 6:53pm.

At 7:04pm Mr Green departed the Council Chambers.

At 6:58pm Mr L Hitchcock left the meeting and returned at 6:59pm.
At 7:00pm Ms Johnson left the meeting and returned at 7:04pm.

At 7:04pm Mr T Smith and Mr C Ross representing Melville Bowling and Recreation Club entered the Chambers for the purpose of making a deputation in relation to Late Item M20/5770 – Melville Bowling Club Inc. New Lease Agreement. The presentation concluded at 7:14pm.

At 7:20pm Mr Smith and Mr Ross departed the Council Chambers.

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

Ward : Bicton/Attadale
 Category : Strategic
 Subject Index : Community
 Customer Index : Melville Bowling Club Inc.
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Item 16.4 Motion with Notice – Melville Bowling and Recreation Club – Lease Agreement – 21 and 22 July 2020 Ordinary Meeting of Council
 Item 13.1 Petition – Rescind Council Decision to grant 50 year Lease to Melville Bowling Club – 18 August 2020 Ordinary Meeting of Council
 Works Programme : Not Applicable
 Funding : Not Applicable
 Responsible Officer : Marten Tieleman – Chief Executive Officer

AUTHORITY / DISCRETION

DEFINITION

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

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)****KEY ISSUES / SUMMARY**

- At the 21 July 2020 Council Meeting the Council resolved to grant the Melville Bowling Club Inc. a new lease at the existing club location at 592 Canning Hwy, Alfred Cove for an initial term of 50 years.
- The decision by Council further directed the CEO to conclude negotiations, sign and execute a lease agreement for the site and clubrooms with the Melville Bowling Club within 28 days (by 18 August 2020) for an initial term of 50 years, with other terms to be agreed, and, if not agreed, to be decided by Council by no later than the September 2020 Ordinary Meeting of Council (15 September 2020).
- A signed petition from 159 residents and 7 non-residents of the City of Melville was received on 13 August 2020 and presented to the Council at the 18 August 2020 meeting. The petition that is considered in this report, requested that the Council rescind the decision to grant a 50 year lease to Melville Bowling Club.
- The Club provided a copy of the City's standard lease agreement that was significantly modified. A legal opinion was obtained relating to the implications of the amendments made to the lease, which sited significant concerns for the City.
- The CEO and the President of Melville Bowling Club were unable to come to agreement on essential lease terms in the agreement and in accordance with Council's decision the recommended lease is hereby brought back to Council for a decision.
- A copy of the confidential legal opinion and the City's recommended Lease Agreement are provided.

BACKGROUND

On 21 July 2020 Council Meeting, a Motion with Notice was presented and supported by the Council. The motion is as follows:

"That the Council directs the Mayor and Chief Executive Officer to conclude negotiations, sign and execute a lease agreement for the site and clubrooms with the Melville Bowling and Recreation Club within 28 days for an initial term of fifty years, with other terms to be agreed, and, if not agreed, to be decided by Council by no later than the September 2020 Ordinary Meeting of Council"

A discussion was held between the Acting CEO and the President of the Melville Bowling Club on 3 August 2020. The Acting CEO advised the President that:

- The resolution from Council on 21 July 2020 requires the CEO and Mayor to negotiate the initial lease within 28 days. The 28 days ends on the 18th of August which is the August Ordinary Council meeting night.
- The City will work on a report for that Council meeting which meets this requirement.
- New lease terms and conditions proposed by the Melville Bowling Club were outside the normal acceptable lease arrangements the City has with similar sporting and recreation clubs. Ultimately it will up to Council to determine their position in regard to these terms and conditions subject to advice from the City's CEO and solicitors.

A final draft lease with amendments was presented by the Club on 4 August 2020.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

The CEO wrote to the President of the Melville Bowling Club on 11 August 2020 detailing the terms and conditions proposed by the Club which the City could not accept and the reasons why the City could not accept the proposed amendments.

In addition, the City sought legal advice from its solicitors to review the lease agreement amendments proposed by the Club.

On the 12 August 2020 the Club advised that they did not agree to the comments and changes proposed by the City. The Club attached a Deed of Extension and Variation of the Lease which they were willing to sign. This was contrary to the Council resolution and the existing lease had expired and was in a holding over period and could not be varied.

The Club wrote to the CEO on 13 August 2020 and requested the CEO to not unduly delay the signing of the lease by obtaining legal advice. The President also indicated he was happy to meet prior to the 18 August to sign their Deed of Extension and Variation of lease.

The legal opinion received on Friday 14 August 2020, strongly supported the City's position not to accept the Club's proposed amendments.

A copy the confidential legal advice (confidential attachment) and the draft lease proposed by the City [5770 COM Final Lease Subject to Solicitors Review](#) are attached. A legal review of the City's draft lease has not been undertaken at this stage, as it is considered direction from the Council should be obtained before further legal expenditure is incurred.

Elected Members were provided with an update of the negotiations in the Elected Member Bulletin of 21 August 2020.

DETAILS**Petition – Rescind Council Decision to Grant 50 Year Lease to Melville Bowling Club**

A petition received on 13 August 2020 requested the Council to rescind the Council decision of 21 July 2020 to grant a 50 year lease to the Melville Bowling Club (MBC) and replace it with a new terms & conditions, as follows:-

1. *The term of the lease to be determined by the professionally qualified staff of the City, but be no longer than 10 years in duration.*
2. *All other lease conditions to be determined by the city's staff, within a reasonable time frame as stipulated by the staff, to ensure the conditions provide benefit consistent with other similar clubs & sporting organisations.*
3. *Noting support provided to Mayor Gear by the Melville Bowling Club during the October 2019 Local Government Election & his ongoing membership with the Club, the Mayor acknowledges his interest, leaves the Chamber during the debate & refrains from voting on this item.*
4. *All other Elected Members duly re-consider their own interests and, where appropriate, leave the Chamber during the debate & refrain from voting on this item.*

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

In order to consider the petition the Council may wish to give consideration to parts 1 and 2, however, parts 3 and 4 of the petition do not relate to terms and conditions of a lease. These are matters for the Mayor and each Elected Member to seek advice, if required and to determine if they have any conflict of interest in a matter and declare accordingly.

In relation to part 1 of the petition the Council could rescind the decision from the 21 and 22 July 2020 Meeting and offer the Club and lease with an initial term of 10 years with a further option of 10 years, to be consistent with other non commercial City leases and licences.

Part 2 of the petition is addressed in this report as the draft lease presented to the Council for consideration, and has been prepared following the receipt of independent legal advice and is based on the City's standard lease document for non-commercial entities.

Lease Agreement Terms Not Agreed Between the City and Melville Bowling Club

The City recognises that the Club has operated continuously from its current home at 592 Canning Highway for over 60 years and that guaranteeing secure tenure on the site is critical for the Club's future and aspirations. By agreeing to a new lease with the Club, the City is required to ensure that the lease agreement is consistent both in format and with legal effect with the City's other sporting club and association lease agreements.

The City's lease agreements are prepared by and on advice from the City's solicitors to ensure the City retain legal rights and protection over its assets, as landlord, and complies with its statutory obligations and duty of care for its residents and ratepayers.

The City has reviewed the Club's proposed amendments to the City's standard lease agreement and whilst the Club's motivation for the proposed amendments is acknowledged, the proposed amendments made by the Club are not recommended for the following reasons:

1. Alterations (Clause 5.4)
The City as Lessor cannot provide consent to the building of new premises on the land without first seeing the plans and proposal as the City has a responsibility as owner of the land to ensure it is satisfied with and agrees to these plans. It would be irresponsible for the City to agree to something for which it has no knowledge of the details. There is a community expectation that the Council will ensure such oversight.
2. Signs (Clause 5.7)
The City is required to retain control, via consent, over the approval to erect or exhibit signage on all building and land assets subject to lease by the City. This is a safety net to prevent the use of the City's public owned property from being used for inappropriate purposes outside the uses permitted under the lease.
3. Redevelopment (Clause 14.1)
Whilst the City has no current or future plans to redevelop the Melville Bowls Club leased premises, the City requires this clause to be retained in the lease agreement to allow for the contingency should the City's plans for the premises change after the lease term has expired.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

4. Car-parking License (Schedule 1 Item 12)
The existing public carpark adjacent the Melville Bowls Club lease area is available to the public and is provided to meet the needs of, not only the Club members but also, other sporting clubs at Tompkins Park and the general public. By agreeing to grant a license to the Club over this car park would in affect grant exclusive use rights to a public asset and this could deny the public from free access to the parking amenity.
5. Financial Reporting Obligation By Lessee
It is in the interest of openness and transparency that the City requires the Club (as with all clubs and associations who lease public assets from the City) to provide annual financial reports to the City to enable it complete its annual due diligence functions on City owned assets. This is also in the interest of the Lessees which ensures the City is in a position to consider financial assistance to Clubs and Associations that may require it from time to time during the lease term.

Other associated matters include:

- The Lease Area within the portion of Lot 39, designated in the former Deed of Lease dated 1 July 2012 between the City and the Melville Bowls Club will apply to the new lease agreement. The area of public parking to the east of the Club will remain outside the Lease Area and will not be made subject to an irrevocable license to the Club for the term of the lease.
- As the proposed new lease is for the purpose of Bowls Club and the Club is an incorporated association, the City will not charge the Club annual rent under the lease. Instead, the City will apply an Annual Administration Fee payable by the Club under the lease agreement. The current annual administration fee is \$681 excluding GST and is reviewed by City in its Annual Budget approved by Council and is indexed to the annual CPI change.

The Club was advised of the above by letter dated 11 August 2020. In the letter of response from the Club dated 12 August 2020 the Club commented on the City's position on the proposed amendments and at that point agreement could not be reached.

STAKEHOLDER ENGAGEMENT**I. COMMUNITY**

Not Applicable.

II. OTHER AGENCIES / CONSULTANTS

Not Applicable.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)****STATUTORY AND LEGAL IMPLICATIONS**

A legal opinion has been obtained in relation to the lease presented by the Club. The Council should consider the legal opinion in its deliberations on this matter.

Elected Members also need to consider whether or not they have a declarable interest financial, proximity or impartiality in this matter.

FINANCIAL IMPLICATIONS

Costs to date have been incurred on the legal review of the lease presented by the Club and it is recommended that the City's draft lease be further reviewed by the City's external legal advisors prior to being forwarded to the Club for signing.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

The Melville Bowling Club's proposed terms represented both a significant departure from the standard terms which the City adopts for all of its other sporting and recreational club leases. It also represents a significant risk to the City in relation to its ability as land owner and lessor to control the land use by the Melville Bowling Club. In essence, if the City accepted the Club's proposed lease terms, it would be akin to granting the Club freehold and redevelopment rights to the land for 99 years.

POLICY IMPLICATIONS

The City has delegated to the CEO the functions in relation to the leasing of properties (DA-007 Leasing/Licensing of Property). The delegation is limited to the *"disposal of an interest in land/property by leasehold or licence or a hire agreement to an annual property rental value of \$100,000 per annum (excl. GST) and a maximum lease term of ten years."*

Sub-delegation is limited to disposal of property by way of lease/licence or hire agreement to a value of \$50,000 per annum (excl. GST) and a maximum term of five years."

The Council resolution to offer a 50 year lease, takes this matter outside of the scope of that delegation.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)****ALTERNATIVE OPTIONS AND THEIR IMPLICATIONS**

Alternative options for the Council are to:

- Continue with the existing expired lease on a holding over basis as currently exists. This is not supported as a decision on the future use and leasing of the site is required.
- Support the Part 1 and/or Part 2 of the 13 August 2020 petition that:
 - 1 *The term of the lease to be determined by the professionally qualified staff of the City, but be no longer than 10 years in duration.*
 - 2 *All other lease conditions to be determined by the City's staff, within a reasonable time frame as stipulated by the staff, to ensure the conditions provide benefit consistent with other similar clubs & sporting organisations.*
- Support the terms and conditions as presented by the Club. This option is not supported based on the independent legal advice received.
- Determine the specific terms and conditions to be included in the lease.

It should be noted that if an alternative options is supported Regulation 11(da) of the *Local Government (Administration) Regulations* requires that the minutes of meeting include written reasons for a decision that is 'significantly' different from the relevant written officer recommendation. This requirement does not apply when a recommendation is 'noted' or returned for further consideration.

CONCLUSION

The obtaining of legal advice and the final agreement of the terms and conditions to the lease could not be achieved within the instructions as per the Council resolution from the 21 and 22 July 2020 Ordinary Meeting of Council. The advice sought by the CEO from the City's senior officers and confirmed by the City's solicitors affirms the City's draft lease terms and conditions.

As the Club and the City could not agree the terms and conditions of the lease, the CEO was unable to conclude the lease negotiations by the 18 August 2020 as per the Council resolution. In accordance with the resolution it is now for the Council to decide the terms and conditions of the lease to the Melville Bowling Club.

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**OFFICER RECOMMENDATION (5770)****APPROVAL**

That the Council:

1. Notes and considers the petition requesting Council to rescind its previous decision on 21 July 2020 to grant a 50 year lease term to Melville Bowling Club, and advises the lead petitioner of this resolution.
2. Notes the privileged and confidential legal advice from MinterEllison in relation to their review of the proposed lease and terms requested by the Melville Bowling Club Inc. as per the confidential attachment 1.
3. Directs the Chief Executive Officer to, after having submitted the lease to the City's legal advisors for a final review, present the City's Lease Agreement [5770 COM Final Lease Subject To Solicitors Review](#) to the Melville Bowling Club for signing.

ATTACHMENTS

City of Melville (Lessor) and Melville Bowling Club Inc. (Lessee) Deed of Lease for the Portion of Lot 39, 592 Canning Highway, Alfred Cove.

CONFIDENTIAL ATTACHMENT

Privileged and Confidential Review of Proposed Lease to Melville Bowling Club by MinterEllison dated 14 August 2020.

Reject and Replace Motion

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

That the Council:

1. Notes the petition requesting Council to rescind its previous decision on 21 July 2020 to grant a 50 year lease term to Melville Bowling Club and advises the lead petitioner of this resolution.
2. Notes the privileged and confidential legal advice from MinterEllison as per the confidential attachment 1 in relation to their review of the proposed lease and terms requested by the Melville Bowling Club Inc. (Proposed Lease).
3. In relation to the Proposed Lease reviewed by the City's solicitors, and the five "Lease Agreement Terms Not Agreed Between the City and Melville Bowling Club", as listed on pages 4 & 5 in Late Item M20-5770, resolves as follows:
 - 3.1 Alterations (Clause 5.4).

In accordance with the officer's advice, the standard Clause 5.4 in the City's Lease Agreement 5770 COM Final Lease (City's Lease) be used in the Proposed Lease except, being in the nature of a ground lease, for the deletion of the words "under the supervision and" from the last line of the standard Clause 5.4, and the previous Clause 5.4 be deleted as per the tracked changes to clause 5.4 of the attached amended Proposed Lease.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

- 3.2 Signs (Clause 5.7)**
In accordance with the officer's advice, the standard Clause 5.7 in the City's Lease be used to replace the previous Clause 5.7 in the Proposed Lease as per the tracked changes to clause 5.7 of the attached amended Proposed Lease.
- 3.3. Redevelopment (Clause 14.1)**
That Clause 14 in the City's Lease not be included in the attached amended Proposed Lease.
- 3.4 Car-parking Licence (Schedule 1. Item 12)**
That a non-exclusive car parking licence be retained as a Special Condition in Schedule 1 of the Proposed Lease, with the addition of the word "non-exclusive" before the word "licence" in the first line as per the tracked changes to Item 7.5 of the attached amended Proposed Lease.
- 3.5 Financial Reporting Obligation by Lessee (Schedule 1. Item 8 -City's Lease)**
In accordance with the officer's advice, that Item 8 of the City's Lease Schedule 1 be included in the Proposed Lease Agreement as per the tracked changes at Item 7. 7 of the attached amended Ground Lease.
- 4. Directs the Chief Executive Officer, after making the amendments listed in sub-paragraphs 3.1 to 3.5 above to the Proposed Lease, as already reviewed by Minter Ellison, to present the amended Proposed Lease to the Melville Bowling Club Inc. for signing on or before 30 September 2020.**

At 7:26pm Cr Woodall left the meeting and returned at 7:29pm.

COUNCIL RESOLUTION

At 7:27pm Cr Barton moved, seconded Cr Mair –

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

At 7:27pm the Mayor declared the motion

CARRIED UNANIMOUSLY (11/0)

At 7:48pm Cr Fitzgerald foreshadowed an amendment to the Reject and Replace motion.

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**Amendment**

At 7:50pm Cr Robins moved,

That the Council amend Cr Sandford's Reject and Replace Motion by inserting a new point 3.6 as follows:

3.6 Term (clauses 4.1 and 4.2 of Schedule 1)

- a) in Schedule 1, Clause 4.1 of the Proposed Lease replace "Fifty (50)" with "Ten (10)" and replace "2070" with "2030"
- b) in Schedule 1, Clause 4.2 of the Proposed Lease, replace "Forty Nine (49)" with "Ten (10)"

At 7:53pm The Mayor deemed the amendment out of order.

COUNCIL RESOLUTION

At 7:53pm Cr Woodall moved, seconded Cr Wheatland –

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

At 7:53pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

At 7:54pm Cr Sandford left the meeting and returned during the adjournment.

At 7:56pm the Mayor adjourned the meeting.

At 8:04pm the Mayor resumed the meeting.

COUNCIL RESOLUTION

At 8:04pm Cr Kepert moved, seconded Cr Barton –

That clause 9.12 of the *City of Melville Meeting Procedures Local Law 2017* be suspended to allow Elected Members to speak more than once.

At 8:05pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

At 8:44pm Ms Newman left the meeting and returned at 8:51pm.

At 8:44pm CEO left the meeting and returned at 8:47pm.

At 8:44pm Cr Mair left the meeting and returned at 8:48pm.

At 8:44pm Cr Woodall left the meeting and returned at 8:46pm.

At 8:44pm Cr Wheatland left the meeting and returned at 8:47pm.

At 8:46pm Cr Barton left the meeting and returned at 8:48pm.

At 8:50pm Mr Taylor left the meeting and returned at 8:51pm.

COUNCIL RESOLUTION

At 8:52pm Cr Wheatland moved, seconded Cr Mair –

That the Meeting reinstates Clause 9.12 of City of Melville Meeting Procedures Local Law 2017.

At 8:52pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

COUNCIL RESOLUTION

At 8:52pm Cr Kepert moved, seconded Cr Robins –

That the meeting comes out from behind closed doors.

At 8:52pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**Reject and Replace Motion**

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

That the Council:

1. Notes the petition requesting Council to rescind its previous decision on 21 July 2020 to grant a 50 year lease term to Melville Bowling Club and advises the lead petitioner of this resolution.
2. Notes the privileged and confidential legal advice from Minter Ellison as per the confidential attachment 1 in relation to their review of the proposed lease and terms requested by the Melville Bowling Club Inc. (Proposed Lease).
3. In relation to the Proposed Lease reviewed by the City's solicitors, and the five "Lease Agreement Terms Not Agreed Between the City and Melville Bowling Club", as listed on pages 4 & 5 in Late Item M20-5770, resolves as follows:
 - 3.1 **Alterations (Clause 5.4).**
In accordance with the officer's advice, the standard Clause 5.4 in the City's Lease Agreement 5770 COM Final Lease (City's Lease) be used in the Proposed Lease except, being in the nature of a ground lease, for the deletion of the words "under the supervision and" from the last line of the standard Clause 5.4, and the previous Clause 5.4 be deleted as per the tracked changes to clause 5.4 of the attached amended Proposed Lease.
 - 3.2 **Signs (Clause 5.7)**
In accordance with the officer's advice, the standard Clause 5.7 in the City's Lease be used to replace the previous Clause 5.7 in the Proposed Lease as per the tracked changes to clause 5.7 of the attached amended Proposed Lease.
 - 3.3. **Redevelopment (Clause 14.1)**
That Clause 14 in the City's Lease not be included in the attached amended Proposed Lease.
 - 3.4 **Car-parking Licence (Schedule 1. Item 12)**
That a non-exclusive car parking licence be retained as a Special Condition in Schedule 1 of the Proposed Lease, with the addition of the word "non-exclusive" before the word "licence" in the first line as per the tracked changes to Item 7.5 of the attached amended Proposed Lease.
 - 3.5 **Financial Reporting Obligation by Lessee (Schedule 1. Item 8 -City's Lease)**
In accordance with the officer's advice, that Item 8 of the City's Lease Schedule 1 be included in the Proposed Lease Agreement as per the tracked changes at Item 7. 7 of the attached amended Ground Lease.
4. Directs the Chief Executive Officer, after making the amendments listed in sub-paragraphs 3.1 to 3.5 above to the Proposed Lease, as already reviewed by Minter Ellison, to present the amended Proposed Lease to the Melville Bowling Club Inc. for signing on or before 30 September 2020.

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

At 8:55pm, with the consent of the seconder Cr Sandford withdrew the Reject and Replace motion.

OFFICER RECOMMENDATION (5770)**APPROVAL**

At 9:02pm Cr Fitzgerald moved, seconded Cr Barton–

That the Council:

1. **Notes and considers the petition requesting Council to rescind its previous decision on 21 July 2020 to grant a 50 year lease term to Melville Bowling Club, and advises the lead petition of this resolution.**
2. **Notes the privileged and confidential legal advice from MinterEllison in relation to their review of the proposed lease and terms requested by the Melville Bowling Club Inc. as per the confidential attachment 1.**
3. **Directs the Chief Executive Officer to, after having submitted the lease to the City’s legal advisors for a final review, present the City’s Lease Agreement [5770 COM Final Lease Subject To Solicitors Review](#) to the Melville Bowling Club for signing.**

Rescission Motion

At 9:05pm Cr Macphail presented a rescission motion signed by five Elected Members, Cr Macphail, Cr Robins, Cr Wheatland, Cr Robartson and Cr Woodall.

At 9:05pm Cr Macphail moved, seconded Cr Robartson,

That the Council

1. **Rescinds its previous decision on 21 July 2020 to grant a lease agreement for an initial term of 50 years.**
2. **That the Deed of Lease be amended in the relevant section 4.1 Initial Term to a period of ten (10) years and 4.2 further term to be amended to 10 Years.**

At 9:05pm The Mayor deemed the Rescission Motion out of order under the requirements of the provisions of section 18.3(1)(f) and 6.4(2) of the *City of Melville Meeting Procedures Local Law 2017*.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

Procedural Motion

At 9:05pm Cr Macphail moved, seconded Cr Wheatland –

Motion of dissent to the Mayor’s ruling that the Rescission Motion is out of order.

At 9:06pm the Mayor declared the motion

LOST (5/7)

Vote Result Summary	
Yes	5
No	7

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

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**Amendment**

At 9:07pm Cr Sandford moved, seconded Cr Mair

That the Council amend the officer recommendation to read:

1. Notes the petition requesting Council to rescind its previous decision on 21 July 2020 to grant a 50 year lease term to Melville Bowling Club and advises the lead petitioner of this resolution.
2. Notes the privileged and confidential legal advice from MinterEllison as per the confidential attachment 1 in relation to their review of the proposed lease and terms requested by the Melville Bowling Club Inc. (Proposed Lease).
3. In relation to the Proposed Lease reviewed by the City's solicitors, and the five "Lease Agreement Terms Not Agreed Between the City and Melville Bowling Club", as listed on pages 4 & 5 in Late Item M20-5770, resolves as to amend the lease contained in the officer's report to effect the following outcomes:
 - 3.1 Alterations (Clause 5.4).

In accordance with the officer's advice, the standard Clause 5.4 in the City's Lease Agreement 5770 COM Final Lease (City's Lease) be used in the Proposed Lease except, being in the nature of a ground lease, for the deletion of the words "under the supervision and" from the last line of the standard Clause 5.4, and the previous Clause 5.4 be deleted as per the tracked changes to clause 5.4 of the attached amended Proposed Lease.
 - 3.2 Signs (Clause 5.7)

In accordance with the officer's advice, the standard Clause 5.7 in the City's Lease be used to replace the previous Clause 5.7 in the Proposed Lease as per the tracked changes to clause 5.7 of the attached amended Proposed Lease.
 - 3.3 Redevelopment (Clause 14.1)

That Clause 14 in the City's Lease not be included in the attached amended Proposed Lease.
 - 3.4 Car-parking Licence
That a non-exclusive car parking licence be retained as a Special Condition in Schedule 1 of the Proposed Lease, with the addition of the word "non-exclusive" before the word "licence" in the first line as per the tracked changes to Item 7.5 of the attached amended Proposed Lease as follows:
 - 3.5 Financial Reporting Obligation by Lessee (Schedule 1. Item 8 -City's Lease)

In accordance with the officer's advice, that Item 8 of the City's Lease Schedule 1 be included in the Proposed Lease Agreement as per the tracked changes at Item 7. 7 of the attached amended Ground Lease.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

4. Directs the Chief Executive Officer, after making the above amendments and taking such further advice as necessary in relation to consequential and not substantive amendments to present the amended Proposed Lease to the Melville Bowling Club Inc. for signing on or before 30 September 2020.

At 9:15pm, during discussion and debate, the amendment was amended with the consent of the mover and seconder.

Amendment

At 9:07pm Cr Sandford moved, seconded Cr Mair

That the Council amend the officer recommendation to read:

1. Notes the petition requesting Council to rescind its previous decision on 21 July 2020 to grant a 50 year lease term to Melville Bowling Club and advises the lead petitioner of this resolution.
2. Notes the privileged and confidential legal advice from Minter Ellison as per the confidential attachment 1 in relation to their review of the proposed lease and terms requested by the Melville Bowling Club Inc. (Proposed Lease).
3. In relation to the Proposed Lease reviewed by the City's solicitors, and the five "Lease Agreement Terms Not Agreed Between the City and Melville Bowling Club", as listed on pages 4 & 5 in Late Item M20-5770, resolves as to amend the lease contained in the officer's report to effect the following outcomes:
 - 3.1 Alterations (Clause 5.4).

In accordance with the officer's advice, the standard Clause 5.4 in the City's Lease Agreement 5770 COM Final Lease (City's Lease) be used in the Proposed Lease except, being in the nature of a ground lease, for the deletion of the words "under the supervision and" from the last line of the standard Clause 5.4, and the previous Clause 5.4 be deleted as per the tracked changes to clause 5.4 of the attached amended Proposed Lease.
 - 3.2. Redevelopment (Clause 14.1)

That Clause 14 in the City's Lease not be included in the attached amended Proposed Lease.
 - 3.3 Car-parking Licence
That a non-exclusive car parking licence be retained as a Special Condition in Schedule 1 of the Proposed Lease, with the addition of the word "non-exclusive" before the word "licence" in the first line as per the tracked changes to Item 7.5 of the attached amended Proposed Lease as follows:
4. Directs the Chief Executive Officer, after making the above amendments and taking such further advice as necessary in relation to consequential and not substantive amendments to present the amended Proposed Lease to the Melville Bowling Club Inc. for signing on or before 30 September 2020.

At 9:22pm Cr Kepert left the meeting and returned at 9:27pm.

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

At 9:47pm, during discussion and debate, the amendment was further amended with the consent of the mover and seconder.

Amendment

COUNCIL RESOLUTION

At 9:07pm Cr Sandford moved, seconded Cr Mair

That the Council amend the officer recommendation to read:

- 1. Notes the petition requesting Council to rescind its previous decision on 21 July 2020 to grant a 50 year lease term to Melville Bowling Club and advises the lead petitioner of this resolution.**
- 2. Notes the privileged and confidential legal advice from Minter Ellison as per the confidential attachment 1 in relation to their review of the proposed lease and terms requested by the Melville Bowling Club Inc. (Proposed Lease).**
- 3. In relation to the Proposed Lease reviewed by the City's solicitors, and the five "Lease Agreement Terms Not Agreed Between the City and Melville Bowling Club", as listed on pages 4 & 5 in Late Item M20-5770, resolves as to amend the lease contained in the officer's report to effect the following outcomes:**
 - 3.1 Alterations (Clause 5.4).**

In accordance with the officer's advice, the standard Clause 5.4 in the City's Lease Agreement 5770 COM Final Lease (City's Lease) be used in the Proposed Lease except, being in the nature of a ground lease, for the deletion of the words "under the supervision and" from the last line of the standard Clause 5.4, and the previous Clause 5.4 be deleted as per the tracked changes to clause 5.4 of the attached amended Proposed Lease.
 - 3.2. Redevelopment (Clause 14.1)**

That Clause 14 in the City's Lease not be included in the attached amended Proposed Lease.
 - 3.3 Car-parking Licence**

That a non-exclusive car parking licence be retained as a Special Condition in Schedule 1 of the Proposed Lease, as follows:

"That the Lessee grants the Lessee an irrevocable non-exclusive licence for the Term of the Lease for the Lessee and visitors/ clients/ members of or to the Lessee's premises to use without limitation in terms of time or cost the car parking bays in the existing public carpark adjoining the eastern boundary of the Premises (outlined in yellow on the attached plan) and the Lessor further undertakes to maintain the carpark in good condition."

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

- 4. Directs the Chief Executive Officer, after making the above amendments and taking such further advice as necessary in relation to consequential and not substantive amendments to present the amended Proposed Lease to the Melville Bowling Club Inc. for signing on or before 30 September 2020.**

At 9:49pm the Mayor declared the motion

CARRIED (7/5)

Vote Result Summary	
Yes	7
No	5

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

Reasons for the amendments as provided by Cr Sandford

A Resolution 3.1 Alterations (Clause 5.4)

The resolution provides that the Melville Bowling Club (Club) must obtain the prior written consent of the City to make any alterations or build any structure on the Premises in accordance with clause 5.4 of the City's Lease.

As the parties intend for this to be a ground lease, and not a standard sporting club lease, any buildings or improvements to the Premises will be built at the Lessee's cost. Therefore, the Premises will become the sole responsibility of the Lessee, even to the extent that clause 5.15 of the Proposed Lease (which mirrors most of the same clauses as the City's Lease) enables the City to require demolition of the premises at the end of the Lease Term.

If the City becomes involved in the supervision of the building process, the City would unnecessarily take on the responsibility for the quality of the workmanship during construction. That is a risk which should not be assumed by the City or the Community, as the Lessee is solely responsible for compliance with all building standards and approvals in any event.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)****B Resolution 3.3 Redevelopment (Clause 14.1)**

The Council resolution on 21 July 2020 granted the Club an Initial Lease Term of 50 years. The proposed Redevelopment Clause 14.1 contradicts and undermines the Council's majority decision. If included, this clause could result in the City effectively rescinding the Council decision and limiting the Lease Term to only 10 years.

The 50 year Wave Park Lease, and the City's long-term commercial leases of 90 years or so which have been presented to Council since October 2019, do not contain any redevelopment clauses.

The officer's report confirms that the City has no current or future plans to redevelop the Premises.

The City's Lease clause 14.1 (c)(ii) exempts the City from any liability to pay compensation to the Club for early termination of the Lease for redevelopment, or to relocate the Club to an alternative site, which would be illegal if this were a retail shop lease, is highly disruptive and uncommercial, and unfair at best.

It is also a breach of a tenant's fundamental right to "peaceably hold and enjoy" the Premises for the Term without any interruption by the landlord, pursuant to clause 6.1 of the City's Lease, for the City to be able to terminate the Lease without default by the Tenant after only 10 years, especially given Club's need to raise and expend substantial funds to upgrade the 62 year old clubhouse.

Therefore the clause 14.1 redevelopment clause should not be included.

C. Resolution 3.4 Non-Exclusive Car Parking Licence (Schedule 1. Item 12)

The location of the Premises requires that access must be granted through the existing carpark. The grant of a non-exclusive licence does not grant the Club any greater rights of access than is currently shared between the Club and the many other users of Tompkins Park. As the Club proposes to make considerable improvements to the Premises, which will enhance its community facilities, certainty of access and availability of parking is a reasonable and essential request.

D. Resolution 4 Signing of Amended Lease

After 10 months have transpired since negotiations by the Club with the City began in November 2019, the City now proposes to have the standard City's Lease marked "subject to legal review" reviewed by its solicitors. It was due to the City's request for a ground lease that the Club amended the City's Lease to include ground lease terms. The attached amended Proposed Lease now mirrors most of the clauses in the City's Lease. The officer's recommendation for further legal review of the City's Lease would require unnecessary further amendments to be made to the City's Lease, which is why the Club provided its Proposed Lease to the City in the first place.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

The City has already expended community funds on a legal review of the Club's Proposed Lease, which has been specifically tailored by the Club as a ground lease and, as a result of the legal review by the City's solicitors, has identified 5 specific issues of concern and disagreement.

Council has reviewed these 5 issues of disagreement and, in accordance with the Council Resolution made on 21 July 2020, has made further resolutions to accept, modify or reject the issues of disagreement. Consequently, as the City has not specified any other disputed lease clauses in the Proposed Lease, and as the Proposed Lease has already been legally reviewed by the City's solicitors and has been specifically tailored as a ground lease, it is unnecessary to expend further community funds on additional legal expenses.

Amendment

At 9:51pm Cr Woodall moved, seconded Cr Robartson –

That the following words being included at the end of clause 5.6(c) of the proposed lease:

including but not limited to gambling, betting, wagering or gaming except as set out under sections 103, 107 and 108 of the *Gaming and Wagering Commission Act 1987*.

Reasons for the amendment as provided by Cr Woodall

It is inappropriate for community facilities to be used for commercial gambling as a source of club revenue, particularly given the negative impacts problem gambling has on the community. An exception to this is low value minor raffles, chocolate wheels etc. which are covered by sections 103, 107 and 108 of the Gaming and Wagering Commission Act 1987 (i.e. typical club fundraisers).

Procedural Motion**COUNCIL RESOLUTION**

At 9:57pm Cr Wheatland moved, seconded Cr Fitzgerald –

That this item lay on the table.

At 9:58pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

At the time of the Council Resolution for this matter to lay on the table. The amendment moved by Cr Woodall and seconded by Cr Robartson had moved to debate with the following speakers:

Mover of the motion	Cr Woodall
Secunder to the motion	Cr Robartson
Against the motion	Cr Kepert

At 9:59pm Cr Pazolli returned to the meeting.

At 9:59pm the Mayor brought forward items

- M20/5767 – Adoption of Strategic Community Plan and Corporate Business Plan
- M20/5000 – Common Seal Register
- C20/6000 – Investment Statements July 2020
- C20/6001 – Schedule of Accounts Paid July 2020
- C20/6002 – Statements of Financial Activity for July 2020

Officers advised that updated versions of the Corporate Business Plan and Strategic Community Plan were provided on the City's website.

M20/5767 - ADOPTION OF STRATEGIC COMMUNITY PLAN AND CORPORATE BUSINESS PLAN (AMREC) (ATTACHMENT)

Ward : All
 Category : Strategic
 Subject Index : Strategic Planning
 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 : CD16/8086 – Adoption of Strategic Community Plan and Corporate Business Plan – 20 September 2016
 Works Programme : Not Applicable.
 Funding : Not Applicable.
 Responsible Officer : Jag Walia, Sustainability Coordinator

AUTHORITY / DISCRETION

DEFINITION

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

M20/5767- ADOPTION OF STRATEGIC COMMUNITY PLAN AND CORPORATE BUSINESS PLAN (AMREC) (ATTACHMENT)

KEY ISSUES / SUMMARY

- A full review of the ten year Strategic Community Plan is legislatively required to occur every four years, whilst the Corporate Business Plan has a minimum four year timeframe and a major review required every four years.
- The current Strategic Community Plan 2016-2026 and Corporate Business Plan 2016-2020 are both due for a major review.
- A range of engagement opportunities have been used to inform the review of the Strategic Community Plan, and a strong Elected Member and Executive Leadership Team strategic planning process was undertaken to review the Corporate Business Plan which outlines Council direction for the organisation.
- It is acknowledged that the COVID-19 pandemic had an impact on restricting the types of engagement forums that could be used during specific periods.
- The Council is required under the *Local Government (Administration) Regulations 1996* (the Regulations) to adopt the proposed Strategic Community Plan and Corporate Business Plan by absolute majority decision.

BACKGROUND

The *Local Government (Administration) Regulations 1996* requires each local government to adopt a Strategic Community Plan and a Corporate Business Plan.

Figure 1.1



Reference: <https://www.dlgsc.wa.gov.au/integrated-planning-and-reporting>

M20/5767- ADOPTION OF STRATEGIC COMMUNITY PLAN AND CORPORATE BUSINESS PLAN (AMREC) (ATTACHMENT)

The last major review of our Strategic Community Plan and Corporate Business Plan occurred in 2016 as per legislative requirements. Since that period the Council has taken proactive steps to align with an internationally benchmarked sustainability reporting framework through the United Nations Sustainable Development Goals. The Council Sustainability Policy adopted in December 2018 defines sustainability as:

Delivering to the needs and aspirations of current and future generations through integration of environmental protection, social advancement and economic prosperity, ensuring excellence in governance and best value for money.

During this period progress has also occurred on developing a Community Outcome Reporting dashboard which is available on the website. This information was a key input in to an evidence based review of community issues and needs.

DETAIL

The Strategic Community Plan outlines the community's long term (ten plus years) vision, values, aspirations and priorities, with reference to other local government plans, information and resourcing capabilities. The Strategic Community Plan is not static. A full review is required every four years.

The Strategic Community Plan:

- Establishes the community's vision for the local government's future, including aspirations and service expectations;
- Drives the development of local government area/place/regional plans, resourcing and other informing strategies, e.g. workforce, asset management and services, and
- Will ultimately be a driver for all other planning.

The City has conducted a review of community aspirations previously identified in People, Places and Participation 2016 – 2026, the Strategic Community Plan for the City of Melville. It is acknowledged that the COVID-19 pandemic had an impact on restricting the types of engagement forums that could be used during specific periods. A wide range of engagement has however occurred previously and this provides broader information.

The process for the review was informed by the City's Stakeholder Engagement Policy and the International Association for Public Participation (IAP2) Quality Assurance Standard for Community and Stakeholder Engagement.

In conjunction with this review, a structured strategic planning process involving the Elected Members and Executive Leadership Team has been undertaken which has consolidated the key priority actions for the next four years that are central to the proposed Corporate Business Plan.

The integration of asset, service and financial plans helps match the local government's resource capabilities to the community's needs.

M20/5767- ADOPTION OF STRATEGIC COMMUNITY PLAN AND CORPORATE BUSINESS PLAN (AMREC) (ATTACHMENT)

The Corporate Business Plan has a minimum four year timeframe and identifies the City's priorities, strategies and activities for dealing with the aspirations and objectives of the Strategic Community Plan. It also states the service, operations and projects that a local government will undertake, the method for delivering these, and the associated costs.

The development of the Corporate Business Plan was undertaken through a strong Elected Member and Executive Leadership Team strategic planning process to finalise a Corporate Business Plan which outlines Council direction for the organisation.

The attached revised draft [5767 City of Melville Strategic Community Plan 2020 - 2030](#) and [5767 City of Melville Corporate Business Plan](#) is now presented to the Council for consideration.

STAKEHOLDER ENGAGEMENT**I. COMMUNITY**

Arrangements for a detailed review of the City's current Strategic Community Plan 2016 – 2026 were due to be undertaken prior to the COVID-19 pandemic. Due to these circumstances extensive person to person sessions with the community had been planned but could not be carried out.

It was therefore determined that 'checking in' with the community via an online survey would give some indication as to whether their priorities had changed since 2019. Direct emails were the primary method used to inform the community of their opportunity to participate, with over 13,000 households randomly selected from the City's databases. The opportunity to participate was also shared via e-newsletters and on social media. The engagement was undertaken from 25 May to 8 June 2020 and the full report is attached – [5767 Review of Strategic Community Plan](#)

II. OTHER AGENCIES / CONSULTANTS

An experienced external consultant was involved in facilitating the strategic planning process for the Corporate Business Plan development.

STATUTORY AND LEGAL IMPLICATIONS

All local governments are currently required to produce a plan for the future under S5.56 (1) of the *Local Government Act 1995*. Regulations have been made under S5.56 (2) of the Act to briefly outline the minimum requirements to achieve this.

In accordance with Regulation 19C of the *Local Government (Administration) Regulations 1996*, the voting requirement for adoption, or modification, of a Strategic Community Plan is an absolute majority of council.

In accordance with Regulation 19DA of the *Local Government (Administration) Regulations 1996*, the voting requirement for adoption, or modification, of a Corporate Business Plan is an absolute majority of council.

M20/5767- ADOPTION OF STRATEGIC COMMUNITY PLAN AND CORPORATE BUSINESS PLAN (AMREC) (ATTACHMENT)

FINANCIAL IMPLICATIONS

The development of the Strategic Community Plan and Corporate Business Plan documents are within operational budgets for 2020/2021. Financial implications of the Corporate Business Plan actions will be detailed further when the Long Term Financial Plan and annual budget processes are presented to Council on an annual basis.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Risk Statement	Level of Risk	Risk Mitigation Strategy
That the Strategic Community Plan and Corporate Business Plan do not comply with legislative requirements.	Moderate consequences which are unlikely , resulting in a LOW level of risk.	Utilisation of the Department of Local Government Integrated Planning and Reporting Framework.

POLICY IMPLICATIONS

Relevant Council Policies:
CP 002 – Stakeholder Engagement Policy
CP 057– Sustainability Policy

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

There is a legislative requirement for the Strategic Community Plan and Corporate Business Plan so there is no alternative to the major review process that has been undertaken.

CONCLUSION

The Strategic Community Plan and Corporate Business Plan are the documented outcomes resulting from a range of participatory processes with Elected Members, the community and other stakeholders. The Plans form a strong foundation for future planning of activities, services and products ensuring that the City continues to contribute to those things that are important to our community.

Both Plans are legislative requirements that are central to effective integrated planning. The Strategic Community Plan represents the diverse voices of the community and the Corporate Business Plan is the voice of Council in setting the organisational direction. Once these Plans are adopted work will be done to finalise the Long Term Financial Plan.

M20/5767- ADOPTION OF STRATEGIC COMMUNITY PLAN AND CORPORATE BUSINESS PLAN (AMREC) (ATTACHMENT)**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5767)****ABSOLUTE MAJORITY**

At 9:59pm Cr Wheatland moved, seconded Cr Macphail –

That the Council by absolute majority decision endorses the Updated 2020 – 2030 Strategic Community Plan People Places Participation and the Updated Corporate Business Plan 2020 – 2024.

At 10:00pm the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (13/0)

M20/5000 – COMMON SEAL REGISTER (REC)

Ward	:	All
Category	:	Operational
Subject Index	:	Legal Matters and Documentation
Customer Index	:	City of Melville
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Standard Item
Works Program	:	Not applicable
Funding	:	Not applicable
Responsible Officer	:	Bruce Taylor – Manager Governance and Property

AUTHORITY / DISCRETION

DEFINITION

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

KEY ISSUES / SUMMARY

This report details the documents to which the City of Melville Common Seal has been applied for the period from 20 July 2020 up to and including 20 August 2020 for the Council's noting.

M20/5000 – COMMON SEAL REGISTER (REC)

BACKGROUND

Section 2.5 of the *Local Government Act 1995* states that a Local Government is a Body Corporate with perpetual succession and a common seal. A document is validly executed by a Body Corporate when the common seal of the Local Government is affixed to it and the Mayor and the Chief Executive Officer (CEO) attest the affixing of the seal.

DETAIL

Register Reference	Parties	Description	ECM Reference
CS2150	City of Melville and Landgate	Landgate Notification 7 Ross Road Kardinya. Advise Landgate of Environmental Protection Notice Issued	5744156
CS2151	City of Melville and Century Settlements	"Gallery" Estate, Carawatha Redevelopment Project Willagee 1.Appointmet of Century Settlement Agent for sale of Lot 9, 26&28 2.Land Title Verification forms. Signature from CEO & Mayor together with the application of the Common Seal where indicated on the forms.	5760419
CS2152	City of Melville and Highfield Booragoon	Common Seal and CEO Sign Off for Notification 70A for No.190 Riseley Street Booragoon. Notification of transport/noise corridor.	DA-2020-851

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not applicable.

II. OTHER AGENCIES / CONSULTANTS

Not applicable.

M20/5000 – COMMON SEAL REGISTER (REC)**STATUTORY AND LEGAL IMPLICATIONS**

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

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

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

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

(a) *the mayor or president; and*

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

FINANCIAL IMPLICATIONS

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

There are no policy implications in this report.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable.

CONCLUSION

This is a standard report for the Elected Members' information.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (5000)**NOTING**

That the Council notes the actions of His Worship the Mayor and the Chief Executive Officer in executing the documents listed under the Common Seal of the City of Melville from 20 July 2020 up to and including 20 August 2020.

At 10:01pm the Mayor declared the motion

CARRIED EN BLOC (13/0)

C20/6000 - INVESTMENT STATEMENTS FOR JULY 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

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<input checked="" type="checkbox"/>	Information	<i>For the Council/Committee to note.</i>

KEY ISSUES / SUMMARY

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

C20/6000 - INVESTMENT STATEMENTS FOR 31 JULY 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 July 2020.

CITY OF MELVILLE STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 31 JULY 2020		
SUMMARY BY FUND		
Municipal		\$8,489,054
Reserve		\$162,438,445
Trust		\$-
Citizen Relief		\$217,779
TOTAL		\$171,145,278
SUMMARY BY INVESTMENT TYPE		
11AM		\$6,349,634
31Days at Call		\$6,000,000
60Days at Call		\$2,000,000
90Days at Call		\$16,600,000
Term Deposit		\$140,020,473
Units (Local Govt Hse)		\$175,171
TOTAL		\$171,145,278
SUMMARY BY CREDIT RATING		
AAA Category	AAA	
AA Category (AA+ to AA-)	AA-	\$114,170,106
A Category (A+ to A-)	A+	\$29,800,000
	A	
	A-	
BBB+ Category	BBB+	\$27,000,000
Units (Local Government House)		\$175,171
TOTAL		\$171,145,278

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

Exposure to an individual institution is limited according to Council policy and in July 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	3.51%	30.00%	✓
AMP	BBB+	BBB+ Category	\$ -	0.00%	15.00%	✓
Bankwest	AA-	AA Category	\$ -	0.00%	30.00%	✓
Bank of Queensland	BBB+	BBB+ Category	\$ 24,000,000	14.02%	15.00%	✓
ING Bank	A-	A Category	\$ -	0.00%	25.00%	✓
Bendigo & Adelaide	BBB+	BBB+ Category	\$ 3,000,000	1.75%	15.00%	✓
CBA	AA-	AA Category	\$ 27,000,000	15.78%	30.00%	✓
Macquarie	A+	A Category	\$ 15,000,000	8.76%	25.00%	✓
NAB	AA-	AA Category	\$ 33,228,547	19.42%	30.00%	✓
St George	AA-	AA Category	\$ -	0.00%	30.00%	✓
Suncorp	A+	A Category	\$ 14,800,000	8.65%	25.00%	✓
Westpac	AA-	AA Category	\$ 47,941,560	28.01%	30.00%	✓
Units in Local Govt House	NA	NA	\$ 175,171	0.10%	100.00%	✓
TOTAL			\$ 171,145,278	100%		

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

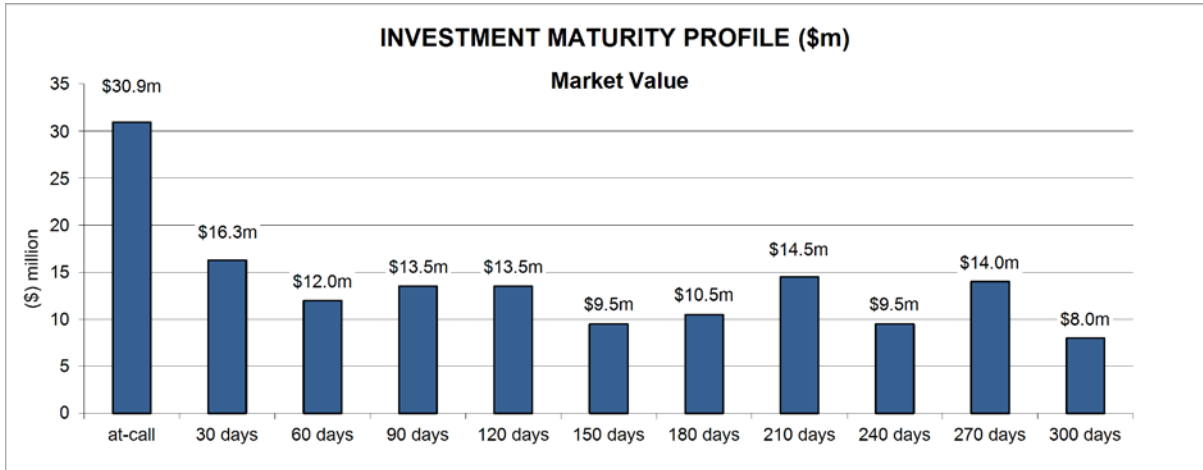
The City's investments were invested within the limits allowed within each category rating for July 2020.

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-)	\$ 114,170,106	67%	80%	✓
A Category (A+ to A-)	\$ 29,800,000	17%	50%	✓
BBB+ Category	\$ 27,000,000	16%	25%	✓
Units in Local Govt House	\$ 175,171	0%	100%	✓
TOTAL	\$ 171,145,278	100%		

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

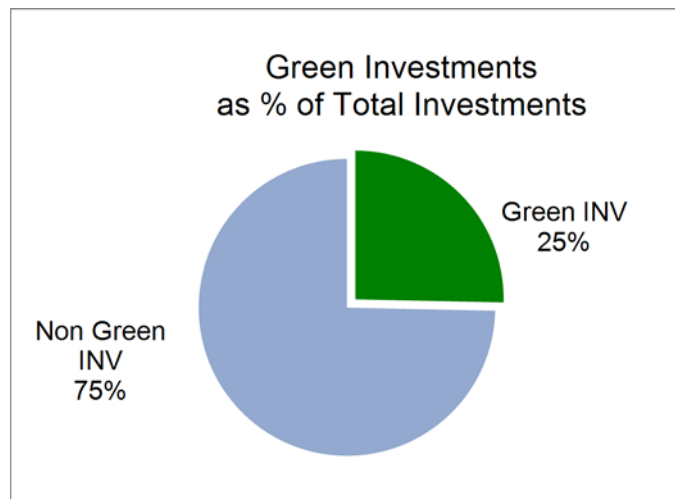
C20/6000 - INVESTMENT STATEMENTS FOR 31 JULY 2020 (REC)

The below graph summarises the maturity profile of the City’s investments at market value as at 31 July 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 July 2020 was \$43,300,000 or 25% of total investment holdings being in non-fossil fuels institutions, compared to \$43,300,000 (24%) in June 2020. The total investments holding for July and June were \$171,145,278 and \$178,445,278 respectively.



C20/6000 - INVESTMENT STATEMENTS FOR 31 JULY 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 oversight by the Australian Prudential Regulation Authority (APRA).

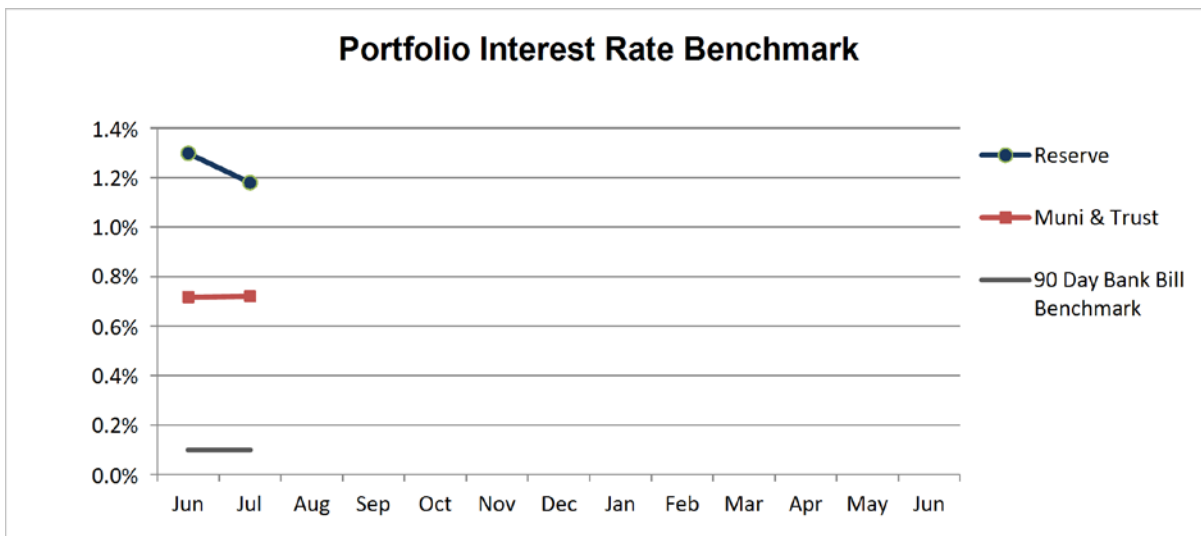
Effective from 13 May 2017 the *Local Government (Financial Management) Regulations 1996* were amended (regulation 19C) to allow local governments to deposit funds for a fixed term of three years or less. The regulation previously only allowed for deposits of 12 months or less. Deposits of greater than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

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

FINANCIAL IMPLICATIONS

For the period ending 31 July 2020:

- Investment earnings on Municipal and Trust Funds were \$2,711 against a year to date budget of \$6,250 representing a negative variance of \$3,539 due to Reserve Bank interest rates reduction. The weighted average interest rate for Municipal and Trust Fund investments as at 31 July 2020 was 0.72% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.10%.
- Investment earnings on Reserve accounts were \$123,245 against a year to date budget of \$118,750 representing a positive variance of \$4,495.
- The weighted average interest rate for Reserve account investments as at 31 July 2020 was 1.18% which compares favorably to the benchmark three month bank bill swap (BBSW) reference rate of 0.10%.
- The total investment as at 30 June has fallen by \$7,300,000 to \$171,145,278, or 4.09 per cent compared to last month due to slow recovery of the City's revenue collection as a result of COVID 19 and higher creditor payments at the end of the financial year.



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”.

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.

C20/6000 - INVESTMENT STATEMENTS FOR 31 JULY 2020 (REC)**Environmental**

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

It should be noted that Green Investment has increased from 22% in January to 25% in July 2020

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable as this report only presents information for noting.

CONCLUSION

The City's investment portfolio is invested in highly secure investments with a low level of risk yielding a weighted average rate of return of 0.72% to 1.18% which exceeds the benchmark three month bank bill swap (BBSW) reference rate of 0.10%.

25% of the City's investment portfolio is invested in authorised deposit taking institutions that do not lend to industries engaged in the exploration for, or production of, fossil fuels. This compared to 24% in June 2020.

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

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

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

At 10:01pm the Mayor declared the motion

CARRIED EN BLOC (13/0)

C20/6001 – SCHEDULE OF ACCOUNTS PAID FOR JULY 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

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

KEY ISSUES / SUMMARY

This report presents the details of payments made under delegated authority to suppliers for the period of July 2020 and recommends that the Schedule of Accounts Paid be noted.

C20/6001 – SCHEDULE OF ACCOUNTS PAID FOR JULY 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 July including Payment Register numbers, Cheques: 761-763, Electronic Funds Transfers batches: 654-659, Trust Payments, Card Payments and Payroll was distributed to the Elected Members of the Council on 31 July 2020.

In line with the COVID-19 Response, Relief and Recovery Plan, the City has introduced the weekly creditor payment run with effect from 1st April to minimise the financial hardship on City local businesses and suppliers. Total of \$7,580,619 direct creditor payments made over the month, of which, 22% of payments were paid to suppliers located within the City of Melville and 33% to suppliers within the South West Group, compared to 33% and 51% of the total of \$7,908,466 direct creditor payments made over June, respectively.

C20/6001 – SCHEDULE OF ACCOUNTS PAID FOR JULY 2020 (REC) (ATTACHMENT)

The below table details the Summary of Payments Made for the period:

SCHEDULE OF PAYMENTS MADE July 2020		
<i>Payments made under Delegated Authority DA-035</i>		
MUNICIPAL FUNDS - DIRECT CREDITOR PAYMENTS		
Cheques	Chq Payment Register No. 761 to 763	\$98,397.13
	Chq Payment on Restricted Funds Register No. 758	
	Less Cancelled Chqs	
Electronic Funds Transfers	EFT Payment Register No. 655,657,659	\$7,245,925.97
	EFT Payment on Restricted Funds Register No. 97,654,656 and 658	\$237,039.89
	Less Cancelled EFTs	(\$743.95)
		\$7,580,619.04
Direct Debits	Bank Fees	\$10,900.98
	Caltex Fuel	\$73,080.53
Direct Payments		\$5,511.02
	Total Direct Creditor Payments	\$7,670,111.57
Payroll	Total Pay 1 and 2	\$3,409,600.55
		Total Payroll
Cards	Corporate Cards	\$5,322.15
	Purchase Cards	\$36,628.14
	American Express	\$5,284.87
		Total Card Payments
Total Direct Creditor Payments from Municipal Account		\$11,126,947.28

C20/6001 – SCHEDULE OF ACCOUNTS PAID FOR JULY 2020 (REC) (ATTACHMENT)

Schedule of Payments Made continued.

INTERFUND & INVESTMENT TRANSACTIONS		
<i>Interfund Transfers</i>		
Loan		\$0.00
Citizen Relief Trust		\$0.00
Citizen Relief Operating		\$0.00
Municipal		\$3,905,175.78
Reserve		(\$3,905,175.78)
Trust		\$0.00
<i>Total Interfund Transfers</i>		\$0.00
<i>New Municipal Investments</i>		
Commonwealth Bank Green	2/07/2020	\$2,500,000.00
Westpac Bank	7/07/2020	\$2,200,000.00
Commonwealth Bank Green	15/07/2020	\$1,000,000.00
National Australia Bank	16/07/2020	\$1,000,000.00
Westpac Bank	16/07/2020	\$1,200,000.00
Westpac Bank	29/07/2020	\$2,000,000.00
National Australia Bank	30/07/2020	\$1,000,000.00
<i>Total New Investments</i>		\$10,900,000.00
Grand Total		\$22,026,947.28

Details of the payments are shown in attachment [6001 Payment Details July 2020](#)
Any payment over and above \$25,000.00 has been highlighted under the Payment Amount column in the attachment to this statement named 'Listing of Payments made under Delegated Authority'.

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

Not applicable.

II. OTHER AGENCIES / CONSULTANTS

C20/6001 – SCHEDULE OF ACCOUNTS PAID FOR JULY 2020 (REC) (ATTACHMENT)**STATUTORY AND LEGAL IMPLICATIONS**

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

FINANCIAL IMPLICATIONS

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

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable as this report presents information for noting only.

CONCLUSION

The Schedule of Payments for the month totals \$22,026,947.28.

The report and the attached Schedule of Accounts Paid are presented for the Council's information.

OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (6001)**NOTING**

That the Council notes the Schedule of Accounts paid for the period July 2020 as approved by the Director Corporate Services in accordance with delegated authority DA-035, and detailed in attachment [6001 Payment Details July 2020](#).

At 10:01pm the Mayor declared the motion

CARRIED EN BLOC (13/0)

15. EN BLOC ITEMS

At 10:01pm Cr Mair moved, seconded Wheatland–

That the recommendations for items M19/5000, C19/6000 and C19/6001 be carried En Bloc.

At 10:01pm the Mayor submitted the motion, which was declared

CARRIED UNANIMOUSLY (13/0)

**C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR JULY 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

DEFINITION

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

KEY ISSUES / SUMMARY

<p>This report presents:</p> <ul style="list-style-type: none"> • The Statements of Financial Activity by Program, Sub-Program and Nature and Type, for the period ending 31 July 2020 and recommends that they be noted by the Council. • Year end processes are still underway and therefore, the final figures for July 2020 may be different from what is presented in this report. • The variances for the month of July 2020 and recommends that they be noted by the Council. • The Budget amendments required for the month of July 2020 and recommends that they be adopted by Absolute Majority decision of the Council.
--

**C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR JULY 2020 (AMREC)
(ATTACHMENTS)****BACKGROUND**

The Statements of Financial Activity for the period ending 31 July 2020 have been prepared and tabled in accordance with the *Local Government (Financial Management) Regulations 1996*.

OVERALL SUMMARY OF THE CITY'S FINANCIAL POSITION

- The end of financial year processes for 2019-2020 are still underway and therefore, the final figures for the month of July and carried forward budgets from 2019-2020 may be different from what is presented in this report. These will be reflected in the August month-end report.
- Rates raised at the end of July net of concessions were \$80,036,826 with a negative variance of \$49,554 compared to the year to date annual budget; 80,086,380. This variance is due to concessions granted to strata storage units and Melville Glades Golf Club. Rates collection progress for the month of July is 1.5% which is below the target of 6.5%. This is due to rates notices being issued on the 5 August 2020 compared with an issue date of 23 July last year (2019-2020).
- A total of \$29,098 in revenue was waived in July 2020 of which, \$26,022 relates to the Community Stimulus Package adopted by Council on 9 April. Total waivers since 9 April under the Community Stimulus Package were \$183,094.
- Total debtor collections for July equalled \$2,505,015 and year to date total debtors including rates, and sundry debtors were \$109,476,383 which is materially lower than the total debtors of \$113,052,237 at the same time of the previous year.
- In the month of July, the total investments have reduced by \$7,300,000 or 4.09% to \$171,145,278. This was due to the slower recovery in the City's revenue collection as a result of COVID-19 and higher creditor payments at the end of the financial year. 95% of the City's investment portfolio is held in reserve accounts which are restricted to the defined purpose for which the reserve account was established.

DETAIL

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

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

**C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY for July 2020 (AMREC)
(ATTACHMENTS)**

Variances

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

[6002C Statement Sub Program July 2020](#): Rate Setting Statement by Sub-Program
[6002H Statement of Variances July 2020](#): Statement of Variances in Excess of \$50,000

Revenue

Rates raised as at 31 July 2020 were \$80,036,826, compared to a year to date budget of \$80,086,380. The negative variance of \$(49,554) is mainly due to the concessions granted in July to strata storage units and Melville Glades Golf Club as per the approved budget concessions.

Rates Collection

SUMMARY OF RATE DEBTOR MOVEMENT					
Detail	Actuals Current Month YTD	Actuals Previous Month YTD	% Diff Current Mth to Previous Mth	Actuals This Month Last Year YTD	% Diff Current Mth to Current Mth Last Yr
Opening Balance - 1 July	9,560,511	6,607,681	45%	6,607,681	45%
Debtors Raised	99,891,672	116,254,088	-14%	114,474,408	-13%
Payments Received	(1,627,019)	(113,301,258)	-99%	(9,014,360)	-82%
Closing Balance	107,825,165	9,560,511	1028%	112,067,730	-4%

Sundry Debtor Movement

SUMMARY OF SUNDRY DEBTOR MOVEMENT					
Detail	Actuals Current Month YTD	Actuals Previous Month YTD	% Diff Current Mth to Previous Mth	Actuals This Month Last Year YTD	% Diff Current Mth to Current Mth Last Yr
Opening Balance - 1 July	1,238,865	432,873	186%	432,873	186%
Invoices Raised	821,959	7,866,842	-90%	1,085,654	-24%
Receipts	(425,941)	(7,075,640)	-94%	(537,660)	-21%
Prepayments	16,335	14,790	10%	3,640	349%
Closing Balance	1,651,218	1,238,865	33%	984,507	68%

Sundry debtor balances increased by \$412,353 over the course of July from \$1,238,865 to \$1,651,218 of which total 90 day sundry debtors over \$1,000 for the month is \$595,678 representing 36% of total sundry debtors.

Total debtor collections from Rates and sundry debtors for the month of July equalled \$2,505,015.

**C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY for July 2020 (AMREC)
(ATTACHMENTS)**

Money Expended in an Emergency and Unbudgeted Expenditure

Not applicable for July 2020.

Budget Amendments

Details of Budget Amendments requested for the month of July 2020 are shown in attachment [6002J July 2020](#). Variances greater than \$50,000 processed in July 2020 are highlighted in the attachment.

Granting of concession or writing off debts owed to the City

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

The following debts totalling \$29,098 were waived for the month of July 2020.

Under the Delegation DA-032,

- \$1,641.94 was written off under delegated authority in the month of July 2020 due to interim notices, transfer of ownership and incorrect information being provided to a settlement agent due to timing differences.
- \$1,434.78 was written off due to an incorrect transfer of ownership.
- \$26,021.70 was waived for non for profits and sporting associations in July 2020 under the Melville Community Stimulus Package approved by the Council on 9 April.

The following attachments form part of the Attachments to the Agenda for the month of July 2020.

DESCRIPTION	LINK
Statement of Financial Activity By Nature and Type	6002A Statement Nature Type July 2020
Rate Setting Statement by Program	6002B Rate Setting Program July 2020
Rate Setting Statement by Sub-Program	6002C Rate Setting Sub Program July 2020
Representation of Net Working Capital	6002E Net Working Capital July 2020
Reconciliation of Net Working Capital	6002F Reconciliation Net Working Capital July 2020
Notes on Rate Setting Statement reporting on variances of 10% or \$50,000 whichever is greater	6002H Notes Rate Setting Statement July 2020

**C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR JULY 2020 (AMREC)
(ATTACHMENTS)**

Details of Budget Amendments requested	6002J Budget Amendments July 2020
Summary of Rates Debtors	6002L Summary Rate Debtors July 2020
Graph Showing Rates Collections	6002M Rates Collections Graph July 2020
Summary of General Debtors aged 90 Days Old or Greater	6002N General Debtors Aged 90days July 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 JULY 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.

FINANCIAL IMPLICATIONS**Variances**

Variances are detailed and explained in attachment

[6002H Notes Rate Setting Statement July 2020](#): Notes on Statement of Variances in excess of \$50,000 by Sub-Program.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

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

POLICY IMPLICATIONS

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

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

Not applicable

**C20/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR JULY 2020 (AMREC)
(ATTACHMENTS)**

CONCLUSION

The attached financial reports reflect a positive financial position of the City of Melville as at 31 July 2020. As noted in this report the financial statements for 2019/20 have not been finalised and audited and as such the results as presented for July 2020 could be subject to change.

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

At 10:01pm Cr Wheatland moved, seconded Cr Barber –

That the Council:

- Notes the Rate Setting Statement and Statements of Financial Activity for the month ending 31 July 2020 as detailed in the following attachments:**

DESCRIPTION	LINK
Statement of Financial Activity By Nature and Type	<u>6002A Statement Nature Type July 2020</u>
Rate Setting Statement by Program	<u>6002B Rate Setting Program July 2020</u>
Rate Setting Statement by Sub-Program	<u>6002C Rate Setting Sub Program July 2020</u>
Representation of Net Working Capital	<u>6002E Net Working Capital July 2020</u>
Reconciliation of Net Working Capital	<u>6002F Reconciliation Net Working Capital July 2020</u>
Notes on Rate Setting Statement reporting on variances of 10% or \$50,000 whichever is greater	<u>6002H Notes Rate Setting Statement July 2020</u>
Details of Budget Amendments requested	<u>6002J Budget Amendments July 2020</u>
Summary of Rates Debtors	<u>6002L Summary Rate Debtors July 2020</u>
Graph Showing Rates Collections	<u>6002M Rates Collections Graph July 2020</u>
Summary of General Debtors aged 90 Days Old or Greater	<u>6002N General Debtors Aged 90days July 2020</u>

- By Absolute Majority Decision adopts the budget amendments, as detailed in the attached Budget Amendment Reports for July 2020
[6002J Budget Amendments July 2020](#)**

At 10:02pm the Mayor declared the motion

CARRIED BY ABSOLUTE MAJORITY (13/0)

19. ADJOURNMENT

At 10:03pm the Mayor adjourned the meeting to 6:30pm Tuesday 22 September 2020.

MEETING RECOMMENCEMENT

The Mayor, Honourable George Gear advised that the Meeting that was adjourned at 10:03pm on Tuesday 15 September 2020 is recommenced at 6.30pm on Tuesday 22 September 2020 and welcomed everyone back to the meeting.

At the recommencement of the meeting the following Elected Members and officers were in attendance:

Mayor Honourable G Gear

COUNCILLORS

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

WARD

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

IN ATTENDANCE

Mr M Tieleman	Chief Executive Officer
Ms C Young	Director Community Development
Mr J Bird	A/Director Technical Services
Mr G Ponton	A/Director Strategic Urban Planning
Mr L Hitchcock	Executive Manager Governance and Legal Services
Mr B Taylor	Manager Governance and Property
Mr J Rae	Strategic Land & Property Executive
Ms J Head	Governance Officer
Ms R Davis	Executive Assistant
Mr M Tye	Technical Business Analyst

At the recommencement of the meeting, there were 26 members of the public in the Council Chambers and 1 member of the press. 30 members of the public and 2 representative from the Press were in attendance electronically.

APOLOGIES AND APPROVED LEAVE OF ABSENCE

Apologies

Mr S Cope	Director Urban Planning
Mr A Ferris	Director Corporate Services

Approved Leave Of Absence

Nil.

At 6:31pm Mr P Potter entered the Chambers for the purpose of making a deputation in relation to Item P20/3867 – Submissions Report – Ground Lease Redevelopment Proposal 13 The Esplanade and 64 Kishorn Road, Mt Pleasant. The presentation concluded at 6:41pm. [Deputation 1 P20 3867](#)

At 6:49pm Mr Potter departed the Council Chambers.

At 6:50pm Mr S Burnell, Mr A Watt and Mr M Lederer representing CLE Town Planning and Opal Aged Care entered the Chambers for the purpose of making a deputation in relation to Item P20/3871 – Response to Petition – Phil Ward Reserve, 11 Cottrill Street, Myaree. The presentation concluded at 7:00. [Deputation 2 P20 3871](#)

At 7:07pm Mr Burnell, Mr Watt and Mr Lederer departed the Council Chambers.

COUNCIL RESOLUTION

At 7:08pm Cr Sandford moved, seconded Cr Barton–

Motion to take Item M20/5770 Melville Bowling Club Inc New Lease Agreement and Petition from the table.

At 7:11pm the Mayor declared the motion

CARRIED (7/6)

Vote Result Summary	
Yes	7
No	6

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

Procedural Motion

At 7:12pm Cr Wheatland moved, seconded Cr Macphail –

That Late Item M20/5770 – Melville Bowling Club Inc New Lease Agreement and Petition be dealt with later in the meeting

At 7:11pm the Mayor declared the motion

CARRIED (9/4)

Vote Result Summary	
Yes	9
No	4

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

At 7.14pm the Mayor brought forward items

- P20/3867 – Submissions Report – Ground Lease Redevelopment Proposal
13 The Esplanade and 64 Kishorn Road, Mount
- P20/3871 – Response to Petition – Phil Ward Reserve, 11 Cottrill Street, Myaree
- CD20/8135 – Response to Petition – Retaining the Melville Civic Centre Main Hall for
General Use
- Creation of New Policy: Elected Members Access to Information
- Amendments to CP-088: Creation, Access and Retention of Audio Recordings of
Public Meetings of Council

Disclosures of Interest

Member	Cr Sandford
Type of Interest	Impartiality Interest
Nature of Interest	Family member lives on the same street as the proposed development
Request	Stay, Discuss and Vote
Decision	Stay, Discuss and Vote

Member	Cr Robartson
Type of Interest	Financial Interest
Nature of Interest	State President of the Air Force Association that is involved in Aged Care.
Request	Leave
Decision	Leave

At 7:16pm having declared an interest in in this item Cr Robartson.

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)**

Ward	: Applecross/Mount Pleasant
Category	: Strategic
Application Number	: Not Applicable
Property	: Lot 30 (13) The Esplanade, Mount Pleasant and Lot 24 (64) Kishorn Road, Mount Pleasant
Proposal	: Permission to enter into a ground lease between the City of Melville and Oryx Communities Melville Pty Ltd as preferred proponent under Request For Proposal Process (RFP) for the subject properties listed in this Report
Owners	: 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	: Confidential Item P20/3846 – Ground Lease Redevelopment Proposal 13 The Esplanade and 64 Kishorn Road, Mount Pleasant – Ordinary Meeting of Council 21 April 2020.
Responsible Officer	: Jeremy Rae - Strategic Property Executive

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)**

AUTHORITY / DISCRETION

DEFINITION

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

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- The Council has previously endorsed the use of a Request for Proposal (RFP) process to market test strategic properties owned by the City including the subject site being Lot 24 (64) Kishorn Road and Lot 30 (13) The Esplanade, Mount Pleasant
- The City sought Requests for Proposals for the ground leasing and redevelopment of the site, which was advertised nationally and state-wide from 17 July 2018 with submissions closing on 29 August 2018.
- Four compliant proposals were submitted and as a result of the evaluation process, formal offers were requested from all proponents; from which Oryx Communities Melville Pty Ltd was selected as the preferred proponent.
- Oryx Communities Melville Pty Ltd has proposed to develop “*The Majestic*” for the provision of aged care and ancillary services.
- The previous Confidential Council Report (Item P20/3846) presented the Detailed Business Case outlining the proposal and approved the recommendation to progress to Public Advertising of the Statutory Business Plan for the subject site in accordance with the provisions of Section 3.59 of the *Local Government Act 1995*.

BACKGROUND

At its meetings held on 20 August 2013 (Item M13/3405) and 10 December 2013 (Item M13/5339) the Council endorsed an approach to explore opportunities for the potential redevelopment of the City’s strategic properties via either seeking Requests for Proposals (RFP) or Expression of Interest (EOI) subject to community engagement and compliance with the requirements of the *Local Government Act 1995*.

In July 2018 the City sought requests for proposals for sale or ground leasing and redevelopment of the subject site, Lot 30 The Esplanade and Lot 24 Kishorn Road, Mount Pleasant within the Canning Bridge Activity Centre Plan.

The Evaluation Panel identified Oryx Communities as the highest ranked proponent of the four compliant proposals received, in accordance with their ranking from the Phase 1 evaluation phase. The City’s Executive Leadership Team supported the Evaluation Panel recommendation on 25 November 2018.

Phase 2 of the RFP process resulted in Oryx Communities and the City determining an indicative timeline and work program, obtaining an independent ground lease valuation; and completing the Detailed Business Case and Statutory Business Plan.

In April 2020 the Council approved the advertising of the Statutory Business Plan for the Major Land Transaction in accordance with Section 3.59 of the *Local Government Act 1995* which closed on 19 June 2020.

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)**

DETAIL



Subject Site (Proposed Ground Lease Area)
Source: City of Melville Intramaps

Property Details

Current Owner	City of Melville
Address	13 The Esplanade, Mount Pleasant 64 Kishorn Road, Mount Pleasant
Title Particulars	Lot 30 Diagram 27499 Volume 468 Folio 83A Lot 24 Diagram 23207 Volume 1219 Folio 736
Total Land Area	2,072 m ² as per Certificates of Title (subject to survey)
Zoning	MRS: Urban City of Melville: Centre C2 R-AC0 under LPS No. 6 Canning Bridge Activity Centre Plan: Mixed Use up to 10 storeys (M10)

P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)



Subject Site Zoning Map
Source: City of Melville Intramaps

Purpose

The purpose of this report is to present to Council for consideration the submissions received during the Public Notice advertising period provisions of the *Local Government Act 1995*.

Oryx Communities Proposal

By way of background included in the previous report to Council (Item P20/3846), Oryx Communities proposal is to develop “*The Majestic*” includes the following elements:

- Residential Aged Care (High Care) for senior citizens, comprising the following services and accommodation:
 - A range an variety of dwelling sizes and types including ensuited rooms with balconies and larger suites
 - Accommodation for Concessional and Supported residents
 - Residential Respite Care and short term accommodation for seniors
 - A Community Care Hub providing home care services to other local residents
- An Intergenerational Childcare Centre, operating an accredited intergenerational platform that connects seniors with children, providing vitalisation of the seniors’ living environment
- Fully serviced Independent/Assisted Living Apartments for seniors, providing a variety of dwelling types and sizes, with the capacity to respond to Western Australia’s demand for accommodation for NDIS recipients

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)**

- Following consultation with the City of Melville to ascertain its requirements, public amenity (such as space to replace the Canning Bridge Senior Citizen’s Club) to complete and complement the seniors accommodation and services including providing for the following:
 - Dementia Day Care services
 - Café/family restaurant
 - Ancillary healthcare services (such as physiotherapist. Pharmacy and chiropractor)

The Majestic references the former Majestic Hotel, a much-loved local landmark which was designed by local architects M.F. and J.C. Cavanagh and built in 1903 on Point Dundas, the site of Governor of Western Australia Sir Gerard Smith’s summer residence.

The proposed land use for the site is an integrated, intergenerational precinct combining the uses of Residential Aged Care, Childcare, and Assisted Living/NDIS Apartments to provide an activated environment which benefits all users and residents by deliberately mixing uses which are traditionally provided in separate sites. Within the M10 zone of the Ogilvie Quarter (Q2) the uses for storeys other than the Ground Floor include Aged or Dependant Persons Dwelling.

The proposed design and concept submitted responds to the objectives of the Ogilvie Quarter (Q2) of the Canning Bridge Activity Centre Plan. The proposed uses are all classed as preferred uses under the Canning Bridge Activity Centre Plan and the City of Melville Local Planning Scheme No. 6; subject to the requisite planning and building approvals being obtained.

The development concept provided by the proponent is indicative only. The development concept was a requirement of the RFP process to the City with an understanding of the land use, scale and concept of the proposed development on the site. If the ground lease proposal is approved by Council, the proponent will need to meet the requirements of the applicable statutory planning framework to achieve development approval.

Proposed Development Program & Timing

If the Ground Lease is approved by the Council, Oryx Communities will plan and agree a more detailed timeline and work program for this major redevelopment project. Current indicative development timing is shown below:-

<u>Project Task</u>	<u>Timeframe</u>
Ground Lease Agreement Signed and Executed	4 months (Dec 2020)
Detailed Design & Planning Phase (Inc. DRP Assessment)	6 months (Mar 2021)
Required Planning Approvals (JDAP)	6 months (Sep 2021)
Required Finance Approvals	3 months (Jan 2022)
Construction Phase	2 Years (Mar 2022)
Anticipated Completion Date	1 month (Mar 2024)
Commissioning of Building & Operation	3 months (Jun 2024)

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)**

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

An advertisement inviting submissions on proposed ground lease arrangement was placed in the West Australian on Wednesday 6 May 2020 with submissions closing on Friday 19 July 2020 and was open for a period of 44 days. The statutory advertising period required under Section. 3.59 pf the LGA 1995 is 6 weeks or 42 days.

Public Notices were also placed in the Melville Talks, Melville Times, Council Website and all Council Notice Boards. The following submissions were received by the City and are summarised in the table below:-

Eligible Submissions

A total of **74** Eligible submissions were received during the submission period from the public (see Attachment 1). Most were received by the City's online electronic submissions file and some were received manually in paper form. All were recorded including those submissions which included attachments.

Below is a summary breakdown of the eligible submissions:-

Submissions Received	Proposal	Percentage
8	Outright Support	11%
34	Conditional Support	46%
21	Outright Against	28%
11	Comments Only	15%
74	Total	

8 submissions provided outright support for the proposal unchanged whilst **21** submissions were outright opposed to the proposal.

34 submissions were received providing conditional support for the proposal, with conditions principally related to ensuring the height for the development is capped at 10 storeys and parking and traffic management issues are addressed by the proponent and the City, particularly as development expands within the Canning Bridge Activity Centre precinct.

11 submissions provided comments only and did not mention that they either support or objected to the proposal. The comments principally revolved around the following; what are the proposed height for the development and capping height to 10 storeys, traffic and parking management concerns, aged care not a community service, and concern over the provision of child care and impact on traffic arrangements

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)****Non-Eligible Late Submissions**

In addition to the 74 eligible submissions, a total of **71** late submissions were received by the City on 23 June 2020 which was after to closing date being 19 June 2020. These submissions are recorded in this report for noting purposes only and should not be considered by Council given that they are ineligible under the Section 3.59 LGA Public Notice requirements.

Other Agencies/Consultants**Key Stakeholders**

Key stakeholders that have or will be consulted in relation to the proposed development include:-

- City of Melville (Land Owner & Lessor)
- Department of Planning, Lands and Heritage
- JDAP & DRP (Development Application Approving Authority)
- Water Corporation
- Western Power
- Main Roads
- Local Residents and Business Owners (Section 3.59 LGA Public Notice)

STATUTORY AND LEGAL IMPLICATIONS

Section 3.59 of the Local Government Act details the process governing '*commercial enterprises*' by local governments, including 'Major Land Transactions'. A 'Major Land Transaction' means the acquisition, disposal (sell, lease or otherwise dispose of, whether absolutely or not) or development of land that is not exempt under the Act, and where the total value of:-

- (a) The consideration under the transaction; and
- (b) Anything done by the local government for achieving the purpose of the transaction,

Is more or is worth more than either \$10M or 10% of the operating revenue of the local government in the last completed financial year.

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)**

In accordance with Section 3.59 before a local government enters into a major land transaction the local government is required to prepare a Business Plan. The Business Plan is to include an overall assessment of the major land transaction and is to include details of:

- (a) Its expected effect on the provision of facilities and services by the local government; and
- (b) Its expected effect on other persons providing facilities and services in the district; and
- (c) Its expected financial effect on the local government; and
- (d) Its expected effect on matters referred to in the local government's current plan prepared under Section 5.56; and
- (e) The ability of the local government to manage the undertaking or the performance of the transaction; and
- (f) Any other matter prescribed for the purposes of this subsection.

The *Local Government Act 1995* also requires the local government to –

- (a) Give State-wide public notice stating that –
 - (i) The local government proposes to enter into the major land transaction described in the notice
 - (ii) A copy of the Business Plan may be inspected or obtained at any place specified in the notice; and
 - (iii) Submissions about the proposed undertaking or transaction may be made to the local government before a day to be specified in the notice, being a day that is not less than 6 weeks after the notice is given; and
- (b) Make a copy of the Business Plan available for public inspection in accordance with the notice.

The advertised Statutory Business Plan complied with the requirements of Section 3.59 "Commercial Enterprises by Local Governments" of the *Local Government Act 1995* and the *Local Government (Functions and General) Regulations 1996*. This report summarises the submissions received in relation to the Statutory Business Plan.

FINANCIAL IMPLICATIONS

The present value (PV) of the long term ground lease to the City including CPI indexation is \$14M for the first 49 year lease term and if the further lease options are exercised by the Lessee the PV is \$18m for 89 years. The PV of the lease significantly exceeds the present market value of the land. The lease is considered to have a material effect on the City's Strategic Corporate Plan into the future. In addition, the Lessee is expected to be levied annual rates or make an annual rates equivalent payment to the City.

Costs associated with the preparation of the ground lease are expected to not exceed \$20k and the City is expected to incur no further costs as the Lessee will be responsible for the costs of site preparation, redevelopment and ultimately site rehabilitation when the lease terminates. The site will be provided by the City with vacant possession on an "as-is" basis.

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)**

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

Independent Risk Assessment

The City engaged the services of PricewaterhouseCoopers (PwC) to undertake an independent risk assessment study of the proposal on behalf of the City and advise the City of potential risks and measures to mitigate those risks. The report was issued on 15 March 2019 and identified and ranked the risks associated with the proposal, the proponent and recommended mitigation strategies for the City to employ. None of the risks identified were considered to be so severe that they would prevent the City from being able to mitigate those risks. No fatal flaws were identified from the risk assessment.

Risk Statement	Level of Risk	Risk Mitigation Strategy
There is risk that the City of Melville is tying up important strategic freehold land for potentially an 89 year period for an aged care facility use under the ground lease opportunity and foregoing the opportunity for alternative or other uses in the future.	Moderate consequences which would have a rare likelihood of occurring resulting in a LOW level of risk.	None
There is the risk that if the owner and operator collapse the City of Melville will inherit the aged care facility and will either need to find a suitable experienced operator; or alternatively operate the aged care facility itself.	LOW level of risk Major consequences which would be possible. With risk mitigation as described risk is reduced	The City's solicitors will ensure that the City is legally protected as can be reasonably expected under Contract Law, by ensuring that the default provisions within the ground lease agreement provide a clear course of action in the event that the Lessee or its Parent is placed into Administration or Liquidation. In addition a security bond of significant value will be required from the Lessee to cover the "make good" costs such as demolition and site restoration so that the City does not bear the costs

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)**

<p>Poor community perception on the transparency of the Request For Proposal's process.</p>	<p>LOW level of risk</p>	<p>The Business Plan was advertised for a 44 day period to ensure the public and residents had ample opportunity to comment of the ground lease proposal. This followed the Section 3.59 LGA 1995 Major Land Transaction process to ensure public transparency of the proposal before being approved.</p>
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POLICY IMPLICATIONS

Council Policy CP-005 Land and Property Retention, Disposal and Acquisition, relates to the acquisition and disposal of land and property owned by the City. This Policy will apply to the subject property after the advertising phase of the Statutory Business Plan; and upon recommendations to the Council and approval of the proposal.

Other Local Planning Policies that may need to be referred to if the Proposal is to proceed include (but not limited to) the following:-

- Architectural and Urban Design Advisory Panel – LPP 1.2
- Waste and Recyclables Collection for Multiple Dwellings, Mixed Use and Non-Residential Developments – LPP 1.3
- Provision of Public Art in Development Proposals – LPP 1.4
- Energy Efficiency in Building Design – LPP 1.5
- Car Parking and Access – LPP 1.6
- Crime Prevention Through Environmental Design of Buildings – LPP 1.8
- Amenity Policy – LPP 1.10
- Canning Highway Precinct Design Guidelines - LPP 1.11
- Non-Residential Development – LPP 2.1
- Outdoor Advertising and Signage – LPP 2.2

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

The other alternative options to not proceeding with Oryx Communities proposal altogether and the implications of those options include:-

1. *Do nothing and retain the site;*

The implication of this option is that the City retains a vacant site, aged care facilities are not provided and lease income of \$650,000 per annum offered by Oryx Communities is forgone.

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)**

2. *Terminate Oryx Communities as preferred proponent and undertake a fresh RFP process;*

This may not result in the City receiving any new options other than those submissions previously received and will result in delays in the project approval and delivery.

3. *Cease ground lease negotiations and enter a contract of sale for the site*

The City will benefit from a larger upfront financial outcome however, the City will forego its freehold interest in the land and its long term benefit in the uplift of the land value over time; as well as retaining the land for future generations and future needs. The City would also lose its current ability to influence the redevelopment proposal for the site and would be solely reliant on the statutory approval process.

CONCLUSION

The City has identified that the subject property is a highly significant strategic asset and is capable of delivering the strategic objectives sought under the City's Land Asset Management Plan. As a result, the City has undertaken an extensive RFP process and negotiation phase to secure the best option to facilitate the redevelopment of the site for the community; and improve on the existing improvements. This will lead to not only a substantial long term revenue stream for the City but also deliver planning activation objectives for the and will assist with advancing the City's Age Friendly City outcomes and aspirations.

The ground lease option for the City is considered the most suitable proposition as it delivers an improvement in lease value to \$630,000pa, well above the existing current lease arrangement in place. It will also deliver, at no initial capital cost or ongoing maintenance cost to the City, a 120 bed aged care facility for the benefit of the Melville community. In lieu of this the City is granting a long term lease of 49 years with options to 89 years to Oryx Communities Melville Pty Ltd being a wholly owned subsidiary of the Oryx Communities Pty Ltd and foregoing any opportunity to use the site for alternative purposes at some time in the future.

The Submissions should be considered carefully particularly in relation to those of conditional support for the proposal but on balance the proposal should be approved by Council subject to the proponent being required to submit their plans to the City's Design Review Panel process and receiving informal approval from the DRP prior to lodging their DAP application.

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)**

OFFICER RECOMMENDATION (3867)

APPROVAL

That the Council;

1. Notes the submissions received as detailed in this report; and
2. Authorises the Chief Executive Officer to proceed with the preparation of the ground lease agreement with ORYX Communities Melville Pty Ltd and present the draft agreement to Elected Members at Elected Member Information Session prior to executing the agreement.

Reject and Replace

At 7:17pm Cr Sandford moved, seconded Cr Barton–

That the Council;

1. Notes the submissions received as detailed in this report;
2. Directs the Chief Executive Officer to cease negotiations with ORYX Communities Melville Pty Ltd; and
3. Directs the Chief Executive Officer to facilitate Elected Members Concept Forums for discussion as to the development of a Swan and Canning River Foreshore Master Plan to provide for the coordinated and strategic development of the Swan and Canning River Foreshore areas, with earliest priority given to the river foreshore areas within the Canning Bridge Activity Centre.

At 7:43pm the Mayor declared the motion

LOST (5/7)

Vote Result Summary	
Yes	5
No	7

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

At 7:20pm Cr Barber left the meeting and returned at 7:24pm.

At 7:22pm Mr Tye left the meeting and returned at 7:28pm.

At 7:44pm Mr Bird left the meeting and returned at 7:48pm.

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)****OFFICER RECOMMENDATION (3867)****APPROVAL**

At 7:45pm Cr Macphail moved, seconded Cr Robins –

That the Council;

- 1. Notes the submissions received as detailed in this report; and**
- 2. Authorises the Chief Executive Officer to proceed with the preparation of the ground lease agreement with ORYX Communities Melville Pty Ltd and present the draft agreement to Elected Members at Elected Member Information Session prior to executing the agreement.**

ATTACHMENTS

1. Eligible Public Submissions Received

[3867 Public Submissions Received](#)

Amendment**COUNCIL RESOLUTION**

At 7:49pm Cr Pazolli moved, seconded Cr Kepert –

That the Officer Recommendation is amended by replacing Item 2 with the following:

- 2. Requests the Chief Executive Officer to proceed with the preparation of a ground lease agreement with ORYX Community Melville Pty Ltd that includes restriction of any building to be constructed on the site to no more than 10 storeys and present the draft agreement to Elected Members at an Elected Members Information Session for discussion prior to adoption for signing to be authorised at a subsequent Council meeting.**

At 8:00pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

Reasons for the Amendment as provided by Cr Pazolli

1. The proposed amendment requires that the Ground Lease contract is written with a condition on ORYX that the proposed building is kept to a height of no more than 10 storeys on this M10 site. This condition was strongly requested in the community feedback.
2. Given that this site is City owned land it is essential that the City sets a positive example to constrain building heights on its properties that matches the expectations of the Melville / Canning Bridge community.

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)**

3. In addition, this City land should be developed in a manner that is consistent with the built form objectives of the Canning Bridge Activity Centre Plan (CBACP). In particular, the objective to have a diversity of built forms within each of the zone areas (H4, H6-8, M10, M15) of the Plan. Currently all new developments in the M10 zone have been approved with building heights in excess of 14 storeys, whereas the community & Council's expectation of the CBACP was that developments would vary in height typically between 8 and 12 storeys. Restricting development on this site to 10 storeys signals how Council would like to see developments to proceed.
4. In addition, this amendment requests the CEO proceed to negotiate the ground lease contract but does not authorize the CEO to execute the contract without first referring the draft contract to an EMIS and then obtaining authorization to sign the contract from a subsequent future motion of Council. This process is consistent with the motion passed unanimously by Council at the December 2018 Special Meeting of Council in dealing with the feedback on the Melville Stock Rd Aged Care ground lease (also under consideration at this OMC). As we have seen when considering the Melville Stock Rd Aged Care ground lease, it is prudent for the Council to review a draft lease before allowing the signing of the lease.

Amendment**COUNCIL RESOLUTION**

At 8:01pm Cr Woodall moved, seconded Cr Fitzgerald –

That the Council amend the Officer Recommendation by adding a new Point 3 as follows:

3. **Directs the CEO to investigate solutions to the parking and traffic issues on Kishorn Road, including but not limited to consideration of the removal of on-street parking bays, provision of additional public parking in any new development, an/or restricting entry and exit to any new development to The Esplanade only.**

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)**

At 8:05pm during discussion and debate, the amendment was amended with the consent of the Mover and Seconder to include the words “and bring it back to an Elected member Information Session at the earliest opportunity.”

Amendment

COUNCIL RESOLUTION

At 8:01pm Cr Woodall moved, seconded Cr Fitzgerald –

That the Council amend the Officer Recommendation by adding a new Point 3 as follows:

- 3. Directs the CEO to investigate solutions to the parking and traffic issues on Kishorn Road, including but not limited to consideration of the removal of on-street parking bays, provision of additional public parking in any new development, an/or restricting entry and exit to any new development to The Esplanade only and bring it back to an Elected member Information Session at the earliest opportunity.**

At 8:08pm the Mayor declared the motion

CARRIED (11/1)

Vote Result Summary	
Yes	11
No	1

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

**P20/3867 – SUBMISSIONS REPORT - GROUND LEASE REDEVELOPMENT PROPOSAL
13 THE ESPLANADE AND 64 KISHORN ROAD, MT PLEASANT (REC) (ATTACHMENT)**

Substantive Motion as Amended

COUNCIL RESOLUTION

At 8:09pm Cr Macphail moved, seconded Cr Robins –

That the Council;

- 1. Notes the submissions received as detailed in this report; and**
- 2. Requests the Chief Executive Officer to proceed with the preparation of a ground lease agreement with ORYX Community Melville Pty Ltd that includes restriction of any building to be constructed on the site to no more than 10 storeys and present the draft agreement to Elected Members at an Elected Members Information Session for discussion prior to adoption for signing to be authorised at a subsequent Council meeting.**
- 3. Directs the CEO to investigate solutions to the parking and traffic issues on Kishorn Road, including but not limited to consideration of the removal of on-street parking bays, provision of additional public parking in any new development, an/or restricting entry and exit to any new development to The Esplanade only and bring it back to an Elected member Information Session at the earliest opportunity.**

ATTACHMENTS

1. Eligible Public Submissions Received

[3867 Public Submissions Received](#)

At 8:15pm the Mayor declared the motion

CARRIED (10/2)

Vote Result Summary	
Yes	10
No	2

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

Disclosure of Interest

Member	Cr Robins
Type of Interest	Impartiality Interest
Nature of Interest	Candidate for State Electorate of Bicton, future of the site may involve a decision by State Government
Request	Stay, discuss and vote
Decision	Stay, discuss and vote

Member	Cr Robartson
Type of Interest	Financial Interest
Nature of Interest	The site has been indicated by an Aged Care Provider for Purchase, State President of the Air Force Association, a provider of Aged Care facilities.
Request	Leave
Decision	Leave

At 8:16pm Cr Robartson remained outside of the meeting having declared an interest in the previous item and this item.

P20/3871 - RESPONSE TO PETITION - PHIL WARD RESERVE, 11 COTTRILL STREET, MYAREE (REC)

Ward	: Central
Category	: Strategic
Application Number	: Not Applicable
Property	: 11 Cottrill Street, Myaree (Phil Ward Reserve)
Proposal	: Response to petition
Applicant	: Not applicable
Owner	: State of Western Australia
Disclosure of any Interest	: No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	: Item P19/3812 – Relinquishment of Management Order for Phil Ward Reserve, 11 Cottrill Street, Myaree - 16 July 2019 Ordinary Meeting of Council Item 13.2 Petition – Seeking Recreation Zoning of Phil Ward Park, 11 Cottrill Street. Myaree – 16 June 2020 Ordinary Meeting of Council
Responsible Officer	: Gavin Ponton Manager Strategic Urban Planning

P20/3871 - RESPONSE TO PETITION - PHIL WARD RESERVE, 11 COTTRILL STREET, MYAREE (REC)

AUTHORITY / DISCRETION

DEFINITION

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

KEY ISSUES / SUMMARY

- The City has received a petition signed by 188 residents of the City of Melville relating to Phil Ward Reserve at 11 Cottrill Street, Myaree.
- The petition responds to a proposal from Principle Finance Pty Ltd (operating as Opal Aged Care) to purchase the site from the State Government to increase redevelopment options for their existing aged care services.
- At the Ordinary Meeting of Council on 16 July 2019 Council considered a request from the Department of Planning, Lands and Heritage (DPLH) for the City to revoke its Management Order to facilitate disposal of the site for aged care development.
- The motion to relinquish the Management Order was lost and as a result DPLH was advised that the City does not support the revocation of the Management Order and proposed disposal of the site.
- This report details the requests raised in the petition and provides responses to each item.

**P20/3871 - RESPONSE TO PETITION - PHIL WARD RESERVE, 11 COTTRILL STREET,
MYAREE (REC)****BACKGROUND**

At the Ordinary Meeting of Council on 16 July 2019 the Council considered a request from the Department of Planning, Lands and Heritage (DPLH) for the City to revoke its Management Order on Crown Reserve 39764 to facilitate disposal for aged care development (Item P19/3812). The motion to relinquish the Management Order was lost with the following reason being provided for the Council's decision:

"The City may potentially wish to utilise the land (Reserve 39764) for its own Community uses."

As a result DPLH was advised directly that the City did not support the revocation of the Management Order and proposed disposal of Reserve Crown 39764 to Principle Healthcare Finance (Opal Aged Care).

Following Council's resolution, a petition signed by 140 residents of the City of Melville relating to the site was received on 28 May 2020. A further 48 signatures from residents of the City of Melville for the same petition were received on 12 June 2020.

At the 16 June 2020 Ordinary Meeting of Council, Council resolved that the petition be acknowledged and a report be prepared.

Scheme Provisions

MRS Zoning	:	Urban
LPS Zoning	:	Residential
R-Code	:	R40

P20/3871 - RESPONSE TO PETITION - PHIL WARD RESERVE, 11 COTTRILL STREET, MYAREE (REC)

Site Details

Crown Reserve	:	39764
Land Description	:	Lot 10890 Diagram 68857
Certificate of Title	:	LR3159/934
Current Owner	:	State of Western Australia Reserve under Management Order to the City of Melville for the purpose of Public Recreation – Phil Ward Reserve
Lot Area	:	1850m ² as per Certificate of Title (subject to survey)
Street Tree(s)	:	Willow Myrtle (<i>Agonis Flexuosa</i>)
Street Furniture (drainage pits etc)	:	Vehicle swing gate, treated pine timber bollards



DETAIL

The petition pertaining to Phil Ward Reserve, located at 11 Cottrill Street, Myaree, signed by 140 residents of the City of Melville was received on 28 May 2020 and a further 48 signatures for the same petition were received on 12 June 2020.

The petition makes three requests of Council and reads as follows;

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

P20/3871 - RESPONSE TO PETITION - PHIL WARD RESERVE, 11 COTTRILL STREET, MYAREE (REC)

- 1) *Refuse to allow Opal Myaree, or any other service provider or proponent/applicant, to commence Community engagement, or obtain development approval, as to the development of aged care or any other residential or commercial development on Phil Ward Park at 11 Cottrill Street, Myaree;*
- 2) *Instruct the CEO to arrange for the rezoning of Phil Ward Park land from residential R40 to such zoning as will preserve its use as a park and public open space for recreational purposes only in perpetuity;*
- 3) *Instruct the CEO to arrange for the amenity of Phil Ward Park to be improved by installing reticulation, seating benches and play equipment following community consultation as to the nature thereof."*

The following section responds to each petition item.

Petition Request 1:

That the Council: Refuse to allow Opal Myaree, or any other service provider or proponent/applicant, to commence Community engagement, or obtain development approval, as to the development of aged care or any other residential or commercial development on Phil Ward Park at 11 Cottrill Street, Myaree.

The Council, in resolving not to revoke the management order over Crown Reserve 39764, Phil Ward Reserve, 11 Cottrill Street, Myaree (Item P19/3812), expressed its position not to support the proposal for Opal Aged Care to purchase the site from the State Government. As a result DPLH was advised directly that the City does not support the revocation of the Management Order. There has been no further communication received from DPLH and the matter is now with the Department and the Minister for Lands for determination.

The Council does not have the authority to determine whether Opal Aged Care or any other service provider or proponent/applicant undertakes community engagement regarding the site or engages with the Department or Minister for Lands.

Similarly it is not open to the Council to pre-determine a position on any future development application which may or may not be received for the site. If the disposal of the reserve was to proceed and if a development application was received for the land, then the City would have an opportunity to assess the merits of the application and to form a view on its approval or otherwise. It is noted the City has not received a development application for the site.

Petition Request 2:

That the Council: Instruct the CEO to arrange for the rezoning of Phil Ward Park land from residential R40 to such zoning as will preserve its use as a park and public open space for recreational purposes only in perpetuity.

Phil Ward Park is situated on Crown Reserve 39764 owned by the State Government and vested with the City of Melville under Management Order for the purpose of public recreation. The land parcel is zoned Urban under the Metropolitan Region Scheme and Residential (R40) under Local Planning Scheme No.6. The zoning of the land under LPS6 reflects a position that the land is not required for open space.

**P20/3871 - RESPONSE TO PETITION - PHIL WARD RESERVE, 11 COTTRILL STREET,
MYAREE (REC)**

As described in Item P19/3812, the DPLH have progressed a request for the acquisition of the Reserve in Freehold to Principle Healthcare Finance Pty Ltd (Opal Aged Care) for the purpose of increasing the supply of land for aged care accommodation in keeping with the State Government's commitment to increase the supply of new aged care facilities.

It is open for the Council to move a motion for the City to initiate a scheme amendment to rezone the subject site to Public Open Space. Initiation of an amendment would include advertising and referral to government agencies including the DPLH. Scheme amendments are ultimately determined by the Minister for Planning Lands and Heritage on advice from the DPLH and the Western Australian Planning Commission (WAPC). The DPLH may defer progress on a scheme amendment pending the outcome of the current request by Opal Aged Care to acquire the land.

From a land use planning viewpoint it is noted that the subject land is not considered to be well suited for development as open space. The locality is well served with existing developed open space. The site itself, being enclosed on three sides does not meet design criteria for open space as specified by the State Government's Liveable Neighbourhoods Policy which seeks perimeter streets to parkland.

Petition Request 3:

That the Council: Instruct the CEO to arrange for the amenity of Phil Ward Park to be improved by installing reticulation, seating benches and play equipment following community consultation as to the nature thereof.

Phil Ward Reserve is classified as a Category 5 – 'Pocket' open space, in the Department of Sport and Recreation, Classification Framework for Public Open Space catchment hierarchy (being the lowest classification). The site is in close proximity to Marmion Reserve (Category 2 – 'District'), Kadidjiny Park (Category 3 – 'Neighbourhood') and Harry Clemens Reserve (Category 4 – 'Local') as demonstrated in Figure 1. The configuration of the site, being enclosed on three sides, is not consistent with the the State Government Liveable Neighbourhoods policy in terms of accessibility and opportunities for surveillance.

The City's current water allowance does not include the site and would require an application to the Water Corporation if irrigation was to be considered which may not be supported.

The amenities available in the surrounding public open spaces include playing fields, a lake, walking paths, playgrounds, seating, public toilets and change rooms that provide high levels of public open space amenity that are highly accessible to their local catchments.

Any site improvements would likely need to be removed should the Minister for Lands resolve to dispose of the site.

P20/3871 - RESPONSE TO PETITION - PHIL WARD RESERVE, 11 COTTRILL STREET, MYAREE (REC)



Figure 1. Public Open Spaces within close proximity of Phil Ward Reserve

STAKEHOLDER ENGAGEMENT

I. COMMUNITY

The lead petitioner requested a meeting with City officers. This meeting took place on 16 July 2020.

II. OTHER AGENCIES / CONSULTANTS

No other agencies have been engaged in regards to the items raised in the petition.

STATUTORY AND LEGAL IMPLICATIONS

An amendment to zoning 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

The City would not benefit financially from the sale of the land by the State Government to Principle Healthcare Finance Pty Ltd, except that it may derive annual rate revenue from any redevelopment on the site.

P20/3871 - RESPONSE TO PETITION - PHIL WARD RESERVE, 11 COTTRILL STREET, MYAREE (REC)

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

Should the Council resolve to make improvements to the site tree plantings, seating and ground cover improvements (excluding reticulation, playground equipment or paths) it is estimated that this would cost approximately \$38,000 as detailed in Table 1. Any such expenditure is not currently budgeted for and would require additional budget or require funds to be redistributed from other projects.

ITEM	TOTAL
Seats x 3	\$10,500
Trees x 10	\$4,400
SUBTOTAL	\$14,900
Grass/Weed removal	\$5,000
Mulch	\$8,000
Ground Covers	\$10,000
TOTAL	\$37,900
Annual Maintenance	\$3,651

Table 1. Estimated park improvement costs

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

There are some strategic risk implications in responding to the petition which are summarised in the risk table below:

Risk Statement	Level of Risk	Risk Mitigation Strategy
There is a risk that the Community perceive the City is the determining authority in determining the future use of the site	Medium level of risk	The City clearly communicates that the State Government is the decision maker in regards to the possible disposal of the site

POLICY IMPLICATIONS

The following City policies apply and have been considered in preparing this report:

- (CP-005) Land and Property Retention, Disposal and Acquisition
- (CP-029) Tree Policy
- (CP-103) Improving Public Spaces Policy and Public Spaces Strategy
- Corporate Business Plan 2016-2020
- Urban Forest Strategy

**P20/3871 - RESPONSE TO PETITION - PHIL WARD RESERVE, 11 COTTRILL STREET,
MYAREE (REC)****ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

1. Initiate a scheme amendment to rezone Phil Ward Reserve from Residential to Public Open Space and Recreation. This is not recommended as the site is not considered to be well suited to development as a park and as the locality is well serviced with open space.
The DPLH may seek to defer any progress on a scheme amendment until such time as the current request for acquisition of the land is determined.
2. Make improvements to the site. This is not recommended given the site is within 20m of the main recreation reserve for the area, Marmion Reserve, and as the configuration of the site does not meet Liveable Neighbourhoods policy directions with regard to access and surveillance. It is also recommended that decisions regarding future expenditure on the site await a determination on the current request for an acquisition of the site.

CONCLUSION

The petition seeks a number of actions to secure the site as open space. It is noted that the Council has already provided direction to the DPLH outlining that it opposes the relinquishment of the management order relating to the site and any associated disposal of the land for aged care purposes. The DPLH and Minister for Lands are aware of the Council's position in this regard.

It is recommended that the petitioners be advised of the Council's resolved position and that that position has been communicated to the DPLH and Minister.

With respect to request 1 of the petition, that the Council refuse Opal Group to engage with the community or to grant development approval for aged care, it is recommended that the petitioners be advised that the Council does not have the authority to impose such requirements. A party may approach the state government with a request to acquire state government land. Further, if a development application were to be submitted for this site at an appropriate time in the future, the City would have the opportunity to be involved in the assessment of the proposal.

With respect to request 2 of the petition, (rezoning of the land to POS) it is recommended that the petitioners be advised that this is not supported at this time. As outlined above, the locality is not deficient in open space and the subject land is not well suited to development as parkland.

With respect to request 3 of the petition, (upgrading of the site with reticulation and play equipment) it is recommended that the petitioners be advised that this is not supported. The subject land is not well suited to the development as a park. Further upgrades to the site ahead of any DPLH decision on possible disposal are not recommended.

It is noted that City staff have separately received questions from the petitioners in relation to Phil Ward Reserve and staff have commenced research into those matters.

P20/3871 - RESPONSE TO PETITION - PHIL WARD RESERVE, 11 COTTRILL STREET, MYAREE (REC)**OFFICER RECOMMENDATION (3871)****APPROVAL****That the Council:**

1. Notes the report prepared in response to the petition received with respect to the future of Phil Ward Reserve at 11 Cottrill Street, Myaree.
2. With respect to the requests made in the petition, advises the lead petitioner that:
 - (a) Council does not have the authority to restrict engagement by a third party with the Minister for Lands, or with the community with regard to the development of the Crown land.
 - (b) The City is unable to prevent an applicant from lodging a development application or to refuse an application without assessment.
 - (c) Initiation of a scheme amendment to rezone Phil Ward Reserve from Residential to Public Open Space is not supported at this time.
 - (d) Commencement of improvements to Phil Ward Reserve is not supported at this time.
3. Directs the CEO to notify the lead petitioner:
 - (a) That the Council has previously resolved in July 2019 not to support a request for relinquishment of the Management Order for Phil Ward Reserve for the reason that the City may potentially wish to utilise the land for Community uses.
 - (b) That the Department of Planning Lands and Heritage has been advised of the Council's position not to support the relinquishment of the Management Order and the disposal of the land for aged care purposes.
 - (c) Of the responses above in relation to the petition and the content of the Council report.

Reject and Replace**COUNCIL RESOLUTION**

At 8:17pm Cr Sandford moved, seconded Cr Mair –

That the Council:

1. Notes the report prepared in response to the petition received with respect to the future of Phil Ward Reserve 39764 at 11 Cottrill Street, Myaree (Reserve).
2. With respect to the requests made in the petition, directs the CEO to advise the lead petitioner that Council does not have the authority to restrict engagement by a third party with the Minister for Lands, or with the community with regard to the development of the Crown land, but that the Council does not support the development of the Reserve for aged care or any other residential or commercial purposes.

P20/3871 - RESPONSE TO PETITION - PHIL WARD RESERVE, 11 COTTRILL STREET, MYAREE (REC)

3. In accordance with section 75 of the Planning and Development Act 2005, resolves to initiate an amendment to Local Planning Scheme 6 by changing the designation of 11 Cottrill Street, Myaree, (Crown Reserve 39764) from Residential R40 to a Local Reserve for Public Open Space.
4. Notes that the proposed amendment is considered a “standard” amendment under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reasons:
 - a) The amendment is consistent with the City’s Local Planning Strategy;
 - b) The scope of the amendment is limited to the subject site;
 - c) The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area; and
 - d) The amendment satisfies the definition of a standard amendment and does not reflect the characteristics of a complex or basic amendment.
5. Directs the CEO to provide a report to Council by no later than the November 2020 Ordinary Meeting of Council on what other parks/reserves referred to in LPS 6 have been rezoned to residential, for Council to decide whether the designation of any of such parks/reserves should also be changed to Local Reserve for Public Open Space.
6. Notes that a further report will be presented to the Council at the conclusion of the advertising period to enable consideration of submissions and recommendations to the Western Australian Planning Commission on whether the proposed amendment should be approved, refused or modified.
7. That the CEO provide progress reports on the above Scheme amendments to the Reserve and any other reserves to Council on a fortnightly basis in the Elected Members Bulletin.
8. Supports the commencement of improvements to the Phil Ward Park Reserve, such as an age-friendly pathway and wheelchair-suitable seating and table, in consultation with the local community, as soon as is practicable once the scheme amendment has been approved by the applicable Government agencies.

At 8:30pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

Reasons for the Reject and Replace as provided by Cr Sandford

1. The officer’s recommendations commendably include that the Council has previously resolved (for the second time) in July 2019 not to support a request for relinquishment of the Management Order for Phil Ward Reserve for the reason that the City may potentially wish to utilise the land for Community uses; and that the Department of Planning Lands and Heritage has been advised of the Council’s position not to support the relinquishment of the Management Order and the disposal of the land for aged care purposes.

P20/3871 - RESPONSE TO PETITION - PHIL WARD RESERVE, 11 COTTRILL STREET, MYAREE (REC)

2. Given the history of the Reserve having been rezoned from public open space (**POS**) to Residential R40 without proper public consultation having occurred, the petitioners are justifiably concerned that the officers' recommendations do not go far enough to ensure that they will not have to keep fighting to protect this precious public open space from other types of "under the radar" residential or quasi-commercial development in the future.
3. By email dated 15 September 2020 I was informed by a senior planning officer that: ***"The City administration has searched and been unable to locate a customised letter for areas surrounding Phil Ward Park advising of rezoning in association with advertising of LPS6. This is despite a practice adopted in association with advertising of LPS6 to send notification letters to those in the vicinity of sites where specific changes in LPS6 were proposed."***
4. The Petitioners have diligently and intelligently demonstrated their opposition to any development on the Reserve and have encouraged Councillors to view the serious impacts of the current developments (i.e. two aged care residences at either end of the 200 metre long Cottrill Street) on their mental, physical and financial health. They now appeal to the Council to prevent any further detriment to the local community by going a step further than the officers' recommendation, by supporting the rezoning of the Reserve to POS.
5. Despite the claims in the Officers' Report that there is more than enough local public open space near Phil Ward Park, the Petitioners maintain that Myaree/Alfred Cove's high proportion of older residents are not adequately catered for currently because the City caters more to the outdoor space needs of mainly young children, teens and sports people.
6. There is a distinct lack of suitable open space catering for the more senior residents of Myaree/Alfred Cove, who need quiet, wheelchair/walker appropriate seating and tables, minimal foot traffic, and less random movement, such as scooters, loose dogs, and balls.
7. For example, as stated in the 2020 ARIS Report, Marmion Reserve is fully utilised for school and club sports; and packed with spectators throughout much of the year at its eastern end; and young families at its western end.
8. Kadidjiny Park in Kitchener Road caters mainly for families and children. It is not flat, has significant foot traffic for school access, and has frequent random movement (ie, paths for scooters and bicycles, dogs off leads). It is quite a long walk from Cottrill Street, and can only be accessed by crossing a busy road and walking up a hill, so is not suitable for many older people.
9. Harry Clemens Reserve is zoned Residential R20 (Melville Intramaps) so it is currently also vulnerable to residential development, and so should not be regarded as presently having any durable status as local public open space in close proximity to Phil Ward Park.

P20/3871 - RESPONSE TO PETITION - PHIL WARD RESERVE, 11 COTTRILL STREET, MYAREE (REC)

10. The Officers' Report states that Phil Ward Park should not be rezoned back to POS because it is enclosed on 3 sides and close to 3 areas of open space. However, the City has established and maintains William Reynolds Park, Willagee, a quiet pocket park in a flat space, with appropriate seating, minimal foot traffic, limited random movement, enclosed on 3 sides and close to the following 3 open spaces:
 - (a) Winnacott Reserve for sports, similar to Marmion Reserve;
 - (b) Roy Neal Reserve, which is grassed, with many trees, tables, bench seats. Larger than Harry Clemens Reserve and zoned POS, whereas Harry Clemens is zoned Residential R20; and
 - (c) Carawatha, which has a large age-specific adventure playground, similar to Kadidjiny.
11. Of the 2 localities, Myaree/Alfred Cove has a greater housing density and a greater proportion of older residents than Willagee. It is therefore at least as deserving of a pocket park like William Reynolds Park. Furthermore Phil Ward Park has 7 gates opening onto the park on 2 sides dating from when the surrounding large unit complex was first approved and built. With only tiny courtyards, Phil Ward Park serves as those units' "back yard", and a convenient and pleasant access-way to Cottrill Street, the local shops and other parks, and as a fire escape, as these units only have one access driveway onto Cottrill Street.
12. The City of Melville is currently reviewing its Values Statement. One of the new values is "**Caring**" defined as "*demonstrating empathy, kindness and genuine concern*". Council can show it is **caring** by voting to rezone Phil Ward Park to public open space, in order to provide comfort, security and amenity to the local community to redress the years of uncertainty and anxiety arising from the rezoning to residential of their much-valued Phil Ward Park dating back to 2002 Council correspondence with residents.
13. The present and future residents of Cottrill Street and surrounding streets need and deserve for Phil Ward Park to be rezoned to open space, and modestly improved to introduce, for the first time, appropriate seating (there is, and has never been, any seating whatsoever), a wheelchair-accessible table, and a path, to meet the specific needs of the growing number of predominantly senior and other members of that area now and into the future.

At 8:16pm Cr Pazolli left the meeting and returned at 8:18pm.

At 8:16pm Cr Wheatland left the meeting and returned at 8:18pm.

At 8:16pm Cr Woodall left the meeting and returned at 8:19pm.

At 8.30pm Cr Robartson returned to the meeting.

Officers provided an Advice Note on this matter [Advice Note CD20 8135](#)

**CD20/8135 – RESPONSE TO PETITION - RETAINING THE MELVILLE CIVIC CENTRE
MAIN HALL FOR GENERAL USE (REC)**

Ward : City
 Category : Operational
 Subject Index : Petitions & Multi signed letters
 Customer Index : City of Melville
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.
 Previous Items : Item 13.1 Petition Melville Civic Centre Main Hall, Retention of General Purpose Use - Ordinary Meeting of Council 21 July 2020
 Works Programme : Not Applicable
 Funding : Not Applicable
 Responsible Officer : Cathy Day
 Cultural Projects Coordinator

AUTHORITY / DISCRETION

DEFINITION

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

**CD20/8135 – RESPONSE TO PETITION - RETAINING THE MELVILLE CIVIC CENTRE
MAIN HALL FOR GENERAL USE (REC)****KEY ISSUES / SUMMARY**

- A petition has been received from a group representing the current users of the main hall, mostly for ball room dancing activities.
- The Melville City Centre Main Hall is being investigated for the relocation of the Melville Theatre Company operations.
- Possibilities for other locations for Melville Theatre Company within the City have been researched by both Melville Theatre Company and City officers.
- Melville Theatre Company, an award winning theatre group of 35 years, has proven social, cultural and financial sustainability with a wholly volunteer, intergenerational membership.
- The reason for the need for a new location is owing to the lease proposal at the Stock Rd Property which based on current knowledge of timelines is due to start 31 December 2021.
- The initial place for relocation planned was originally the proposed Library Cultural Centre as the group was seen as an integral part of providing vibrancy to the new Cultural Centre.
- The original plan created an expectation from the Melville Theatre Company owing to the inclusion of the theatre in the Library Cultural Centre Business Case presented and endorsed by Council.
- Options for the regular Main Hall users for ball room dancing are being investigated throughout the City - early research has revealed several possible dance venues with required functionality and availability.
- Currently an options report for the Main Hall conversion is being prepared by architects for three operational models to include the theatre and other current main hall users.
- This report recommends the current phase of option planning and alternative venue research be continued for the preparation of a business case for Council to consider.

BACKGROUND

The City of Melville received a petition in July 2020, signed by 176 City of Melville Residents, it reads as follows:

“We the undersigned, all being electors of the City of Melville respectfully request that the Council does not prejudice general purpose access to Melville Civic Centre Main Hall for multiple groups on a continuing basis by preferentially leasing the Hall to a single user group but instead ensure the retention of the Hall’s unique attributes:

- *Its current large-sized uninterrupted floor area, being the only available City of Melville hall large enough to cater for all levels of Ballroom Dancing.*
- *a well-maintained sprung floor for physical activities, in particular but not limited to, Ballroom Dancing for people of all ages (especially seniors), providing exercise to music in a social setting.*
- *regular assured availability for community groups that meet weekly.*
- *a central location in the City of Melville available for the benefit of all its ratepayers.*

As there is no other venue in the City with these feature, loss of access to the Main Hall would result in reduced participation by Melville residents in Ballroom Dancing, which has well-document physical, neurological and social benefits – especially of seniors.”

**CD20/8135 – RESPONSE TO PETITION - RETAINING THE MELVILLE CIVIC CENTRE
MAIN HALL FOR GENERAL USE (REC)**

In the short term the Stock Road proposal for Aged Care Facilities will impact the Stock Road Senior Citizens Centre however facilities will be included in the new development to incorporate their needs.

In the long term the community based Melville Theatre Company will require alternative facilities to continue to operate. Officers at the City gauged the community and cultural benefit contribution of the Melville Theatre Company as very high and included anchoring their tenancy within the new Library Cultural Centre proposed with the original plan for AMP to expand the shopping centre. The inclusion of a theatre within the Library Cultural centre was seen as critical for vibrancy and the delivery of key cultural and community outcomes as outlined in the City's Community Plan under Sense of Place and the Cultural Plan *Creative Melville*.

With the suspension of planning for the Library Cultural Centre the development for Stock Road has put time pressure on the future operational base of the Theatre Company. Investigations were initiated to find an alternative home for the Company including co-locating at other theatres both in City of Melville buildings, such as the Tivoli and private facilities such as All Saints College. After comprehensive research the Main Hall appeared to be the only available place to further investigate with design options being investigated. The letter sent to all hirers of the Main Hall in the last 18 months about the option planning led to a petition being organised by a small business enterprise, Stan's Dance and his group of ballroom dancers supported by a wider group of City of Melville residents.

DETAIL

The Melville Theatre Company is a community-based volunteer organisation. It has over 120 very active members, performs five seasons per year and, constructs all elements of its productions – staging, costumes and effects on site at the Stock Road building. The Company has attracted a great diversity of volunteers whose professional skills range from trades, management, education and the professions to name a few. Currently (2020), the Melville Theatre Company presents four to five, two week seasons per year.

The Company makes the performing arts geographically accessible for Melville residents and each annual season includes a wide variety of works from classics to comedy, contemporary drama and musicals. The majority of work done at the Melville Theatre Company is done out of business hours.

During the planning for the Melville Theatre Company to be anchored in the Library Cultural Centre it became apparent that the development of the Stock Road property would be earlier than the Library Cultural Centre solution. A risk assessment was undertaken to identify the impact and the City initially sought to find a temporary solution for the Theatre Company's plays. At the time a temporary conversion of the Main Hall was considered and a number of main hall hirers, dance operatives and dance students were spoken with regarding the temporary possibilities around the City.

When it became clear that the impact was for an indefinite time with the suspension of the proposed Library Cultural Centre, the capital works option planning route for the Main Hall was started to ensure good, timely preparation for the continuity off both the Melville Theatre Company and the Main Hall regular users which include a group that supplies dance activities for people with disabilities.

**CD20/8135 – RESPONSE TO PETITION - RETAINING THE MELVILLE CIVIC CENTRE
MAIN HALL FOR GENERAL USE (REC)****STAKEHOLDER ENGAGEMENT**

The major stakeholders for this project for informing and involving include

- Melville Theatre Company
- Regular Main Hall Users which include both for profit and not for profit dance groups
- ConnectGroups - a not for profit organisation that lease the Scene (previously known as Lesser Hall, behind the Main Hall).

Melville Theatre Company has been involved in this project since the development of the Stock Rd property was first raised in 2013. When a temporary home was being considered in the main hall in 2017 the specific needs of the regular users were assessed to see if temporary locations could be found and a number of halls and community centres were identified as having spaces large enough for ballroom dancing which requires a floor of a certain size and wooden construction – known as a sprung floor. At the time feedback was received from current user groups that the time frame of a year's notice would be generous and be sufficient time to relocate to another venue.

With the suspension of planning for the Library Cultural Centre and the pressure for a longer term home for Melville Theatre Company rising in 2019, the path of options planning was taken. In July 2020 to coincide with the beginning of working with architects to look at how the Main Hall could work a letter was sent out to all hall users of the last 18 months. The letter gave a year's notice for any possible change to the hall availability on 1 July 2021 and outlined the three options being explored that included ways to try and make sure the space could adapt from a theatre to a venue for activities including dances, conferences, quiz nights and pilates.

Concurrently two of the Ballroom Dance businesses, Ballroom Moves and Top Hat Enterprises, have again been involved to help outline the needs for ballroom dancing to make sure all factors were considered in finding alternatives. These are both small businesses enterprises. Likewise the Stan Morgillo Dance group who supported the petition is also a small business venture who has hired the Main Hall for approximately the last five years.

Since then Stan's Dance, among other Ballroom Dancing groups, have attracted a loyal group of dancers, mostly seniors and local residents, for this robustly healthy activity that is appropriate for all ages.

In looking at these needs several halls and community centres have been found in the City that could be used for ballroom dancing with the size of the floors and construction of sprung floors meeting requirements plus generous parking. On checking availability a number of these venues also have free nights for hire. The following table summarises halls found with suitable dance floor sizes – there are a number of slightly smaller halls that are available with good floors but smaller floor space or rectangular rather than the desired square in shape.

**CD20/8135 – RESPONSE TO PETITION - RETAINING THE MELVILLE CIVIC CENTRE
MAIN HALL FOR GENERAL USE (REC)**

Name of Hall/ Centre	Dimensions of Floor	Floor fabric
City of Melville		
Main Hall Civic Centre Booragoon	18 x 16.5 = 297 sqm	Sprung parquetry floor
Blue Gum Community Centre Brentwood	22 x 32 = 704 sqm	Polished wood planks with painted sports lines – sprung floor
Blue Gum Community Centre Small Hall	23 x 33 = 274 sqm	Wood parquetry floor Regularly hired for Ballroom Dancing
Melville Recreation Court 1	30 x 37.5=1,125 sqm	Sprung wooden floor with sport lines
Melville Recreation Court 2	20 x 37 = 740 sqm	Sprung wooden floor with sports lines
Leeming Rec Centre Strikers	30 x 32 = 960 sqm	Sprung wooden floor but sports lines and large barn like building. Some Weekend night availability
North Lake Senior High School	29 x 18 = 522 sqm	Well maintained wooden Floor used for sport but nice design and ambience. Night availability.
Southern Districts Senior Citizens Centre Willagee	14 x15m = 210 sqm	Parquetry floor, small stage
Willagee Community Centre	16 x 16 = 256 sqm	Parquetry Floor – actively used by Dance School after school and Saturday morning – nice square shape
Kardinya Hall	22 x 14 = 330 sqm	Used for dancing but concrete sealed floor
The Tivoli (Applecross District Hall)	17 x 12 = 204 sqm	Sprung Floor

The main issues for ball room dancing after functionality of the floor and space are considered to be amenity and ambience. The Main Hall provides an environment suitable for ballroom dancing as it does not double as a sports venue or for school activities. Also the Main Hall is central to the City of Melville while some, though not all, identified are more on the outskirts of the City.

The not for profit organisation ConnectGroups, who have leased The Scene to the rear of the Hall, have been included in discussions about their lease since 2017. They have been informed that their lease term is tied to the future use of the hall if converted to a theatre. Discussions have been held about them taking the opportunity to apply (though not assured) for space at Goolugatup Heathcote Cultural Precinct in the next Registration of Interest due to be released before the end of 2020.

**CD20/8135 – RESPONSE TO PETITION - RETAINING THE MELVILLE CIVIC CENTRE
MAIN HALL FOR GENERAL USE (REC)****Provision of Stakeholder Engagement – Consultants**

The stakeholder engagement has been driven by officers under the guidance of the stakeholder engagement team as most falls into the inform and involve category and not the broader spectrum of wide community consultation. The Melville Theatre Company has been working closely with One Degree Advisory (temporary Main Hall conversion), Christou Architects (the Library and Cultural Centre theatre element) and now Slavin Architects looking at short, multifunctional and long term options.

STATUTORY AND LEGAL IMPLICATIONS

Not applicable.

FINANCIAL IMPLICATIONS

The amount of \$40,000 has been provided in the 2020-21 budget for option planning however, there are no further up front financial implications for the Council in this application. Though if one of the options to convert the Main Hall is supported this will have financial implications both capital costs and long term maintenance costs.

STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS

In 2017 a risk assessment was done with the Coordinator of Procurement and Risk regarding the possibility of the Melville Theatre Company not having a place to relocate to in the case of the Library Cultural Centre not going ahead before the Stock Road development became imminent. The below shows the consequences and the controls that were identified at the time including the recognition of the theatre company not having a place to relocate to, the Main Hall regulars users being displaced as well as the lease of The Scene to the ConnectGroups requiring management.

**CD20/8135 – RESPONSE TO PETITION - RETAINING THE MELVILLE CIVIC CENTRE
MAIN HALL FOR GENERAL USE (REC)**

Risk	Cause	Consequence	Existing Controls	Likelihood	Consequence	Residual Risk	Mitigation Strategies	Implementation Timeframe
Melville Theatre to be displaced for an uncertain period of time	Unclear timeframe from AMP Capital Unclear timeframe for Library and Cultural Centre EOI Timeframe for the Stock Road site	Potential financial impacts for the theatre company Melville Theatre Company is unable to continue due to lack of venue.	Council endorsed plan for new theatre in the Library and Cultural Centre Move the Group to the Main Hall	Likely	Moderate	High	The EOI for the Stock Road site to include a clause for timeframe alignment to the completion of the Library and Cultural Centre. Further investigate the use of the Main Hall as an alternative venue noting the current users would be displaced (275 booking pa and 1 major lease (ConnectWA)).	30th June 2017 - EOI 30th Aug 2017
Melville Theatre Company is unable to continue due to lack of venue longterm.	EOI creates a gap period that is unsustainable or indefinite AMP Capital Development does not proceed	No Drama Theatre Group in the City of Melville 35 years of Cultural impact that contribute to community wellbeing is unable to continue # members # attendances per year Youth?	Council endorsed plan for new theatre in the Library and Cultural Centre Move the Group to the Main Hall	Unlikely	Moderate	Medium	The EOI for the Stock Road site to include a clause for timeframe alignment to the completion of the Library and Cultural Centre. Further investigate the use of the Main Hall as an alternative venue noting the current users would be displaced (275 booking pa and 1 major lease (ConnectWA)).	30st June 2017 - EOI 30th Aug 2017
No anchor user group for the new Library and Cultural Centre	Melville Theatre Company is unable to continue due to extended displacement.	Loss of return on investment Loss of Cultural activation of the City Centre Diminished sense of community connectness to the new facility. Loss of night activation of the City Centre and Library and Cultural Centre.	Council endorsed plan for new theatre in the Library and Cultural Centre Move the Group to the Main Hall	Possible	Major	High	The EOI for the Stock Road site to include a clause for timeframe alignment to the completion of the Library and Cultural Centre. Further investigate the use of the Main Hall as an alternative venue noting the current users would be displaced (275 booking pa and 1 major lease (ConnectWA)).	30nd June 2017 - EOI 30th Aug 2017

POLICY IMPLICATIONS

Not applicable.

ALTERNATE OPTIONS AND THEIR IMPLICATIONS

- That the Melville Theatre Company has no place to relocate
 - failure of the theatre company to thrive
 - loss of cultural development
 - compromised sense of community
 - community outrage

- That the Melville Theatre Company remain in their current theatre
 - The poor state of the building would require a specialist upgrade with associated costs
 - Constant concern and instability arising owing to unknown future with development of Stock Rd site

- The planning for the Library and Cultural Centre moves ahead
 - Solution for Melville Theatre Company
 - However, if Stock Rd Development continues on track then an interim home will still be required for Melville Theatre Company.

**CD20/8135 – RESPONSE TO PETITION - RETAINING THE MELVILLE CIVIC CENTRE
MAIN HALL FOR GENERAL USE (REC)****CONCLUSION**

The Melville Theatre Company have expectations that their award winning, volunteer driven, community group will have a theatre within the City of Melville to perform their plays to audiences that have shown loyalty and regeneration over time. This commitment was made as part of the Library and Cultural Centre Business Case that was endorsed by Council to build a new theatre facility as part of the new development. The support for this outcome was based on; extensive research in the development of the business case, an understanding of the wide ranging community benefits, and the poor state of the current theatre facility on Stock Road.

Whilst the Main Hall has also been enjoyed by long term users for decades, mostly dancers, there are other options where ballroom dancing can be performed in the City, albeit with less character and atmosphere than what can be provided by the Main Hall. Other casual hire groups also have more general needs that can be accommodated within other halls in the City.

The option planning currently underway (August/September 2020) is considering the long term hall users to be included wherever possible with the conversion to a working theatre. The petition raised by the residents is understandable given their long term association with using the Main Hall but alternatives appear possible for dancers where no alternatives, despite much research, have been made apparent for Melville Theatre Company.

OFFICER RECOMMENDATION (8135)**APPROVAL**

At 8:35pm Cr Fitzgerald moved, seconded Cr Wheatland –

That the Council:

- 1. Notes the current strategy to look at options for the conversion of the Main Hall to a theatre for the Melville Theatre Company including models for other hall users to continue their activities**
- 2. Directs the CEO to send a response to the petitioners noting their concerns and informing them that research is being done for alternative dance venues, particularly for ball room dancing**
- 3. Directs that ball room dance operators and other regular users are continued to be involved in the option planning stage to include their future needs where possible.**

**CD20/8135 – RESPONSE TO PETITION - RETAINING THE MELVILLE CIVIC CENTRE
MAIN HALL FOR GENERAL USE (REC)****Amendment****COUNCIL RESOLUTION**

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

That the Council:

To amend the Officers Recommendation by adding Points 4 to 7 so the motion now reads:

- 1. Notes the current strategy to look at options for the conversion of the Main Hall to a theatre for the Melville Theatre Company including models for other hall users to continue their activities.**
- 2. Directs the CEO to send a response to the petitioners noting their concerns and informing them that research is being done for alternative dance venues, particularly for ball room dancing.**
- 3. Directs that ball room dance operators and other regular users are continued to be involved in the option planning stage to include their future needs where possible.**
- 4. Directs the CEO to expand the strategy to include options other than the Main Hall to accommodate the Melville Theatre Company within the City.**
- 5. Directs the CEO to arrange site inspections by Elected Members of Kardinya Hall for exploring its possible use by the Melville Theatre Company.**
- 6. Directs the CEO to arrange site inspections by Elected Members of Court 3 of Melville Recreation Centre for exploring its possible use by dance groups, and to advise Council of the feasibility and estimated cost of installing a floor-to ceiling sound-absorbing partition between Court 2 and Court 3 to enable concurrent use of Courts 1 and 2 for basketball and Court 3 for dancing.**
- 7. Directs the CEO to inform Council of costings and progress of investigations into alternative venues both for the Melville Theatre Company and for the current users of the Main Hall, including dance groups.**

At 8:43pm the Mayor declared the motion

CARRIED (7/6)

**CD20/8135 – RESPONSE TO PETITION - RETAINING THE MELVILLE CIVIC CENTRE
MAIN HALL FOR GENERAL USE (REC)**

Vote Result Summary	
Yes	7
No	6

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

Reasons for the Amendment as provided by Cr Barton

1. The amendment reflects the need to accommodate all user groups within the City in facilities that match their needs and expectations.
2. The Melville Theatre Company operates for a total of approximately 15 weeks each year in 3 separate periods, and should be accommodated in a space that does not impact other users during these substantial periods.
3. The costs of removing seats and otherwise making the Main Hall fit for use by other users has not been established.
4. Some Main Hall users require short but regular year-round bookings which could not be satisfied if the Hall is unavailable for substantial portions of the year.
5. Dance groups, whether not-for-profit or commercial, are an important part of our community, and the associated health benefits, particularly for the older generation, are well established.
6. The availability of a sprung timber floor is essential for these dance groups but unnecessary for a theatre company, and a sprung timber floor appears incompatible with tiered seating.
7. The initial community consultation with stakeholders was not comprehensive.
8. Uncertainty about the future availability of the Main Hall is already causing concern in community groups within the City.

**CD20/8135 – RESPONSE TO PETITION - RETAINING THE MELVILLE CIVIC CENTRE
MAIN HALL FOR GENERAL USE (REC)****Amendment****COUNCIL RESOLUTION**

At 8:44pm Cr Woodall moved, seconded Cr Mair–

That the Council amend the Officer Recommendation by adding a new Point 4 as follows:

- 4. Directs the CEO to facilitate the continued use of the Roy Edinger Hall by the Melville Theatre Company until such time as the City is required to provide vacant possession of the site to a third party (if applicable).**

At 8:47pm the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

Reasons for the Amendment as provided by Cr Woodall

1. The proposed ground lease for the Melville Aged and Community Activity Centre includes a number of pre-conditions that must be satisfied before the lease takes effect, and sets out a number of key milestones as part of that process.
2. As a result, the Melville Theatre Company (MTC) should be able to continue to occupy and use the Roy Edinger Hall for a number of years until the City requires the site for handover.
3. This would allow dance groups to continue using the Main Hall during this period, whilst the City explores and develops an appropriate solution that works for all user groups. This might involve the conversion or upgrade of another facility as required.

At 8.49pm during discussion and debate, the substantive motion was amended to add the words “but not before 2023” and the end of point 4, with the consent of the mover and seconder.

At 8.52pm during discussion and debate, the substantive motion was amended to delete the words “where possible” from point 3, with the consent of the mover and seconder.

**CD20/8135 – RESPONSE TO PETITION - RETAINING THE MELVILLE CIVIC CENTRE
MAIN HALL FOR GENERAL USE (REC)****Substantive Motion as Amended****COUNCIL RESOLUTION****That the Council:**

1. Notes the current strategy to look at options for the conversion of the Main Hall to a theatre for the Melville Theatre Company including models for other hall users to continue their activities.
2. Directs the CEO to send a response to the petitioners noting their concerns and informing them that research is being done for alternative dance venues, particularly for ball room dancing.
3. Directs that ball room dance operators and other regular users are continued to be involved in the option planning stage to include their future needs.
4. Directs the CEO to facilitate the continued use of the Roy Edinger Hall by the Melville Theatre Company until such time as the City is required to provide vacant possession of the site to a third party (if applicable) but not before 2023.
5. Directs the CEO to expand the strategy to include options other than the Main Hall to accommodate the Melville Theatre Company within the City.
6. Directs the CEO to arrange site inspections by Elected Members of Kardinya Hall for exploring its possible use by the Melville Theatre Company.
7. Directs the CEO to arrange site inspections by Elected Members of Court 3 of Melville Recreation Centre for exploring its possible use by dance groups, and to advise Council of the feasibility and estimated cost of installing a floor-to ceiling sound-absorbing partition between Court 2 and Court 3 to enable concurrent use of Courts 1 and 2 for basketball and Court 3 for dancing.
8. Directs the CEO to inform Council of costings and progress of investigations into alternative venues both for the Melville Theatre Company and for the current users of the Main Hall, including dance groups.

At 8:53pm the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

At 8:55pm Item 16.1 Creation of New Policy. Elected Members Access to Information was withdrawn by Cr Kepert from the agenda. The Mayor undertook for this matter to be presented to a future Governance Committee meeting and then to a Special Meeting of Council.

16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN

Officers provided an Advice Note on this matter [Advice Note Creation of New Policy – Elected Members Access to Information](#)

16.1 Creation of New Policy: Elected Members Access to Information

At 8.55pm Cr Kepert withdrew the motion –

The Council directs the CEO to create a new Council Policy with the following terms of reference:

- 1. City of Melville Elected Members are to be able to access any record held by the City of Melville.**
- 2. All information, including records and documents, held by the City of Melville is considered relevant to performance of an Elected Member of the City of Melville.**
- 3. Inclusion of relevant definitions including information, records and documents as defined by relevant legislation.**
- 4. Where information is not provided to Elected Members, a reason must be given and the item to be addressed by the Governance Committee within 14 days.**
- 5. Where no reason or information has been provided, the item is to be addressed by the Governance Committee within 21 days after the information was first sought by the Elected Member.**
- 6. The policy is not to include any non-legislative advice.**

The policy is to be presented to the Council at the Ordinary Meeting of Council on the 20th of October 2020 for final approval.

Reasons for the Motion as provided by Cr Kepert

A new Council Policy is required to clearly outline the access to information for City of Melville Elected Members.

It is fundamental to the role of Elected Members in carrying out their duties to be able to access information, including records and documents, of the organisation they govern and oversee.

Elected Members' access to information, including access to documents created and held by the local governments they oversee and govern, is clearly set out in the *Local Government Act 1995*:

5.92. Access to information by council, committee members

(1) A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.

Any record held by a local government is relevant to an Elected Member who governs and oversees that organisation. Any record held by the City of Melville is relevant to an Elected Member of the City of Melville.

At 8:55pm Item 16.2 Amendments to CP-088: Creation, Access and Retention of Audio Recordings of Public Meetings of the Council was withdrawn by Cr Kepert from the agenda. The Mayor undertook for this matter to be presented to a future Governance Committee meeting and then to a Special Meeting of Council.

Officers provided an Advice Note on this matter [Advice Note – Amendments to CP-088](#)

16.2 Amendments to CP-088: Creation, Access and Retention of Audio Recordings of Public Meetings of the Council.

At 8.55pm Cr Kepert withdrew the motion –

The Council approves the following amendments to be made to CP-088 Creation, Access and Retention of Audio Recordings of Public Meetings of the Council and directs the CEO to adjust the policy accordingly:

- 1. Adding the following phrase to the Policy Statement “Any record held by the City of Melville is relevant to an Elected Member of the City of Melville.”**
- 2. Removing “The Chief Executive Officer (CEO) reserves the right to withhold publication of all or part of the audio recording and will advise the Presiding Member of the reasons for this action. The Presiding Member will advise the Council if such action is decided and the reasons for this action.”**
- 3. Removing “other than to Elected Members who were present at the meeting and for the item, and Administrative staff,”**
- 4. Removing “Elected Members who are absent from the proceedings behind closed doors, either through absence or declaration of interest, may seek a resolution of the Council to access the audio recordings. An Access to Recording Form is to be completed and submitted to the CEO, who will arrange for the necessary item to be prepared for the next available Ordinary Meeting of Council, for Council to make a decision on the matter. If granted, the access will be under the supervision of a person as designated by the CEO. The information provided to Elected Members under this access is not to be shared with third-parties or used for secondary purposes.”**
- 5. Removing “The record of any requests for copies of or access to audio recordings of Council meetings made available to Elected Members will be maintained in the City’s document management system.”**

Reasons for the Motion as provided by Cr Kepert

The amendments provide guidance on the creation, access and storage of audio recordings of Council meetings.

It is fundamental to the role of Elected Members in carrying out their duties to be able to access information, including records and documents, of the organisation they govern and oversee.

Elected Members’ access to information, including access to documents created and held by the local governments they oversee and govern, is clearly set out in the *Local Government Act 1995*:

16.2 Amendments to CP-088: Creation, Access and Retention of Audio Recordings of Public Meetings of the Council.

5.92. Access to information by council, committee members

(1) A person who is a council member or a committee member can have access to any information held by the local government that is relevant to the performance by the person of any of his or her functions under this Act or under any other written law.

Any record held by a local government is relevant to an Elected Member who governs and oversees that organisation.

Any record held by the City of Melville is relevant to an Elected Member of the City of Melville.

Amendments were made to CP-088 at the Ordinary Meeting of Council 19th March 2019 (item M19/5670). The amendments to the council policy were sought and formulated by the City of Melville administration. The main amendments to this policy were:

1. To be able to cease audio recording via a Council resolution.
2. To be able to block Elected Members from accessing information, with the exception being through a Council resolution directing otherwise.

The first amendment is not covered by the *City of Melville Meeting Procedures Local Law 2017*. This second amendment essentially supersedes the provisions of the *Local Government Act 1995*.

Item M19/5670 was moved and carried en bloc at the direction of the previous Mayor. The item was carried without discussion or debate.

Prior to the Ordinary Meeting of Council, the Council was briefed on these proposed changes with claims of “verbal advice” justifying the proposed changes.

The amendments mean that Elected Members who were not present in a meeting will not be able to simply access the recordings at a later stage without first being granted permission via a Council motion. This represents a serious and unnecessary impediment to the Council’s ability to govern.

At 8:58pm the Mayor adjourned the meeting.

At 9:10pm the Mayor resumed the meeting.

At 9:15pm the Mayor brought forward Item Late Item M20/5770 – Melville Bowling Club Inc. New Lease Agreement and Petition.

Disclosures of Interest

Member	Mayor Gear
Type of Interest	Impartiality Interest/ Interest under the Code of Conduct
Nature of Interest	Social Member of Melville Bowling Club
Request	Stay, Discuss and Vote
Decision	Stay, Discuss and Vote
Member	Cr Sandford
Type of Interest	Impartiality Interest
Nature of Interest	Former Social Member and Husband is a Member of Melville Bowling Club
Request	Stay, Discuss and Vote
Decision	Stay, Discuss and Vote
Member	Cr Barber
Type of Interest	Impartiality Interest
Nature of Interest	Former Social Member of Melville Bowling Club
Request	Stay, Discuss and Vote
Decision	Stay, Discuss and Vote
Member	Cr Wheatland
Type of Interest	Interest under the Code of Conduct
Nature of Interest	Support from community group Alfred Cove Action Group in the 2017 Local Government Election
Request	Stay, Discuss and Vote
Decision	Stay, Discuss and Vote
Member	Cr Pazolli
Type of Interest	Impartiality Interest/ Interest under the Code of Conduct
Nature of Interest	Referenced Melville Bowls Club in 2019 Local Government Election Flyer and Electoral Statement
Request	Leave
Decision	Leave

At 9:15pm having declared an interest in the item Cr Pazolli left the meeting.

Officers provided an Advice Note on this matter [Advice Note – M20/5770 Melville Bowling Club New Lease Agreement and Petition](#)

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

See page 17 for full report.

At 9.49pm the Mayor read the following statement:

Before we commence I want confirmation from any Councillors who have not given genuine and appropriate consideration and due regard to the advice given to them in relation to the lease, that is the legal advice attached to the Officer's Report as a confidential attachment, as well as the advice given by the officers in the report before Council, and the officer's advice note given at the Council Meeting on 21 July 2020.

No Elected Member indicated they had not given consideration to the written legal and officer advice provided.

At the time of the Council Resolution for this matter to lay on the table. The amendment moved by Cr Woodall and seconded by Cr Robartson had moved to debate with the following speakers:

Mover of the motion	Cr Woodall
Secunder to the motion	Cr Robartson
Against the motion	Cr Kepert

Amendment

At 9:51pm on 15 September Cr Woodall moved, seconded Cr Robartson –

That the following words being included at the end of clause 5.6(c) of the proposed lease:

including but not limited to gambling, betting, wagering or gaming except as set out under sections 103, 107 and 108 of the *Gaming and Wagering Commission Act 1987*.

At 9:27pm on 22 September the Mayor declared the motion

LOST (5/7)

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

Vote Result Summary	
Yes	5
No	7

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

Amendment

At 9:29pm Cr Woodall moved, seconded Cr Macphail –

That the Council amend the City’s Lease as attached to the Officer Recommendation by inserting a new sub-clause 7.2(e) as follows:

- (e) the Lessee’s membership is below 100 for a period of no less than 12 months,**

At 9:47pm the Mayor declared the motion

LOST (6/7)

NOTE: Due to an equality of votes at the Council Meeting, the Presiding Member exercised his right to cast a second vote to reach a decision in this matter (Section 5.21(3) of the Local Government Act 1995).

Vote Result Summary	
Yes	6
No	6

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

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

Procedural Motion

At 9:51pm Cr Wheatland moved, seconded Cr Macphail –

That item M20/5770 be deferred to a Special Elected Member Workshop to be held as soon as practicable.

At 9:57pm the Mayor declared the motion

LOST (4/8)

Vote Result Summary	
Yes	4
No	8

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

At 9:54pm Ms Davis left the meeting and returned at 9:55pm.

At 9:56pm Cr Kepert left the meeting and returned at 9:57pm.

At 10.07pm Cr Pazolli returned to the meeting.

Procedural Motion

COUNCIL RESOLUTION

At 10:09pm Cr Wheatland moved, seconded Cr Macphail -

That the meeting be adjourned to 6.30pm Tuesday 29 September 2020.

At 10:09pm the Mayor declared the motion

CARRIED UNANIMOUSLY (13/0)

At 10:10pm Mayor Honourable George Gear declared the meeting adjourned to 6:30pm Tuesday 29 September 2020.

MEETING RECOMMENCEMENT

The Mayor, Honourable George Gear advised that the Meeting that was adjourned at 10:03pm on Tuesday 15 September 2020 and 10:10pm on Tuesday 22 September is recommenced at 6.30pm on Tuesday 29 September 2020 and welcomed everyone back to the meeting at 6:30pm.

At the recommencement of the meeting the following Elected Members and officers were in attendance and Mayor Honourable George Gear advised that Cr Barber was in attendance electronically with his approval.

PRESENT

Mayor Honourable G Gear

COUNCILLORS

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

WARD

Applecross – Mount Pleasant (*until 6:37pm*)
Applecross – Mount Pleasant
Bateman – Kardinya - Murdoch
Bateman – Kardinya – Murdoch
Bull Creek - Leeming
Bull Creek – Leeming
Bicton – Attadale – Alfred Cove
Bicton – Attadale – Alfred Cove (*electronic attendance*)
Central
Central
Palmyra – Melville – Willagee
Palmyra – Melville – Willagee

IN ATTENDANCE

Mr M Tieleman	Chief Executive Officer
Mr S Cope	Director Strategic Urban Planning
Mr L Hitchcock	Executive Manager Governance and Legal Services
Mr B Taylor	Manager Governance and Property
Mr J Rae	Strategic Land & Property Executive
Ms R Davis	Executive Assistant
Ms J Head	Governance Officer
Mr M Tye	Technical Business Analyst

At the recommencement of the meeting, there were 11 members of the public in the Council Chambers and 1 members of the press. 13 members of the public and one representative from the Press were in attendance electronically.

At 6.31pm the Mayor Honourable George Gear drew the Council's attention to a Letter received from Gary Hamley Chief of Staff, Office of the Hon. David Templemean MLA Minister for Local Government; Heritage; Culture and the Arts, as distributed by CEO today Subject heading: City of Melville Meeting. The Mayor asked that the contents of the letter be put to one side and that Elected Members vote in accordance with Local Government Act 1995 and read aloud the following statement:

At 6:32pm the Mayor read the following statement:

Before we commence I want confirmation from any Councillors who have not given genuine and appropriate consideration and due regard to the advice given to them in relation to the lease, that is the legal advice attached to the officer's report as a confidential attachment, as well as the advice given by the officers in the report before Council, and the officer's advice note given at the Council Meeting on 21 July 2020.

No Elected Member indicated they had not given consideration to the written legal and officer advice provided.

Procedural Motion

COUNCIL RESOLUTION

At 6:33pm Cr Wheatland moved, seconded Cr Macphail-

That the letter received 29 September 2020 from Gary Hamley Chief of Staff, Office of the Hon. David Templeman MLA Minister for Local Government; Heritage; Culture and the Arts, regarding City of Melville Meeting 29 September 2020, Subject heading: City of Melville Meeting, be tabled and recorded in the minutes [Email from Office of Hon. David Templeman](#)

At 6:34pm the Mayor declared the motion

CARRIED (9/4)

Vote Result Summary	
Yes	9
No	4

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

APOLOGIES AND APPROVED LEAVE OF ABSENCE

Apologies

Ms C Young
Mr A Ferris
Mr M McCarthy

Director Community Development
Director Corporate Services
Director Technical Services

Approved Leave Of Absence

Nil.

The Presiding Member continued with Item M20/5770 – Melville Bowling Club Inc. Low Lease Agreement and Petition, which was being considered at the 22 September 2020 meeting that was adjourned.

At 6:37pm Cr Pazolli left the meeting having declared an interest and did not return.

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

See page 17 for full report

Officer Amendment

COUNCIL RESOLUTION

At 6:37pm Cr Sandford Moved, seconded Cr Mair

1. **Insert as a recital 'A,B and C' of the recital, as per the lease attached to Cr Sandford's Amendment Motion, to the lease attached to the Officer's Report and number the existing recital 'D';**
 - A. ***On or about 1 July 2012 the Lessor and Lessee entered into a Lease Agreement for Premises being a Clubhouse and Bowling Greens at Lot 39, 592 Canning Highway, Alfred Cove.***
 - B. ***The Lessor granted the lease to the Lessee for an initial term of 5 years commencing on 1 July 2012 and expiring on 30 June 2017 with an option for a further extension of 2 years at the Lessor's discretion.***
 - C. ***On the expiry of the Lease term on 30 June 2017 the Lessor granted the Lessee an ongoing monthly tenancy***
 - D. ***Subject to certain approvals and consents being obtained, the Lessor has agreed to lease the Premises to the Lessee and the Lessee has agreed to take the Premises on lease from the Lessor upon and subject to the provisions of this document.***
2. **At clause 2.1(b) amend '3 months' to read '6 months';**
3. **At clause 2.2, the period to be '14 days';**
4. **At clause 5.2(a) the following words to be deleted,
"which consent the Lessor may in the Lessor's absolute discretion refuse without assigning any reason";**
5. **At Schedule 1, Item 6 to be replaced with the purpose as it currently appears in the 'holding over lease':
"To encourage and increase participation in lawn bowls, indoor bowls and other recreation activities and to promote good fellowship amongst members and undertake other community activities"**

At 6:49pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)****Officer Amendment**

At 7:03pm Cr Wheatland moved, seconded Cr Woodall –

14 REDEVELOPMENT**14.1 Lessee Acknowledgement**

The Lessee acknowledges:

- (a) The Lessor may redevelop the Premises and such redevelopment may occur during the Term of the Lease, subject to mutual consent and the Lessor and Lessee acting reasonably and providing the appropriate Termination Notice with the timeframe prescribed in clause 14.1(b). Should the Lessor and Lessee fail to reach mutual consent to terminate this Lease within a period of 14 days from commencement of discussions, then clause 12.6 of this agreement will apply and the dispute will be referred to final binding arbitration.
- (b) In the event the Lessor should at any time on or after ten years of the commencement of the Term of the Lease wish to redevelop the Premises, then the Lessor may terminate this Lease on five years written notice to the Lessee (“the Termination Notice”).
- (c) In the event the Lessor issues a Termination Notice to the Lessee, the parties agree, subject to (a) above, the following will apply:
 - i. at the expiration of the Termination Notice, the Lessee must vacate the Premises and deliver up vacant possession in accordance with the requirements of clause 5.15; and
 - ii. a certificate signed by or on behalf of the Lessor shall be full and sufficient evidence of the fact that the Lessor is redeveloping the Premises.
- (d) In the event that the Western Australian Government requires redevelopment of the land that is the subject of this Lease, the Lessee acknowledges that the City of Melville will be required to observe any notice period advised by the Western Australian Government.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

Procedural motion

COUNCIL RESOLUTION

At 7:13pm Kepert moved, seconded Cr Barton –

That the motion now be put.

At 7:15pm the Mayor declared the motion

CARRIED (7/5)

Vote Result Summary	
Yes	7
No	5

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

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

Officer Amendment

At 7:03pm Cr Wheatland moved, seconded Cr Woodall –

14 REDEVELOPMENT

14.1 Lessee Acknowledgement

The Lessee acknowledges:

- (a) The Lessor may redevelop the Premises and such redevelopment may occur during the Term of the Lease, subject to mutual consent and the Lessor and Lessee acting reasonably and providing the appropriate Termination Notice with the timeframe prescribed in clause 14.1(b). Should the Lessor and Lessee fail to reach mutual consent to terminate this Lease within a period of 14 days from commencement of discussions, then clause 12.6 of this agreement will apply and the dispute will be referred to final binding arbitration.
- (b) In the event the Lessor should at any time on or after ten years of the commencement of the Term of the Lease wish to redevelop the Premises, then the Lessor may terminate this Lease on five years written notice to the Lessee (“the Termination Notice”).
- (c) In the event the Lessor issues a Termination Notice to the Lessee, the parties agree, subject to (a) above, the following will apply:
 - i. at the expiration of the Termination Notice, the Lessee must vacate the Premises and deliver up vacant possession in accordance with the requirements of clause 5.15; and
 - ii. a certificate signed by or on behalf of the Lessor shall be full and sufficient evidence of the fact that the Lessor is redeveloping the Premises.
- (d) In the event that the Western Australian Government requires redevelopment of the land that is the subject of this Lease, the Lessee acknowledges that the City of Melville will be required to observe any notice period advised by the Western Australian Government.

At 7:19pm the Mayor declared the motion

LOST (5/7)

Vote Result Summary	
Yes	5
No	7

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

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**Amendment**

At 7:23pm Cr Woodall moved, seconded Cr Macphail –

That the Council amend the City’s Lease as attached to the Officer Recommendation by inserting a new clause 14 in the Proposed Lease as follows:

14.1 Lessee Acknowledgement

The Lessee acknowledges:

- (a) The Lessor may redevelop the Premises and such redevelopment may occur during the Term of the Lease, subject to mutual consent and the Lessor and Lessee acting reasonably and providing the appropriate Termination Notice with the timeframe prescribed in clause 14.1(b).**
- (b) Alternatively, in the event the Lessor should, at any time on or after twenty-five years of the commencement of the Term of the Lease, wish to redevelop the Premises, then the Lessor may terminate this Lease on five years written notice to the Lessee (“the Termination Notice”) provided that:**
 - i. the redevelopment be for a not-for-profit community or sporting purpose only, and;**
 - ii. the redevelopment be supported by a specific motion of the Melville Council which notes the application of this clause, and;**
 - iii. appropriate provision is mutually agreed between the parties for relocation of, and any direct costs or losses incurred by, the Lessee at the Lessor's expense, or if not agreed such provision is finally determined by arbitration.**
- (c) In the event the Lessor issues a Termination Notice to the Lessee, the parties agree the following will apply:**
 - i. at the expiration of the Termination Notice, the Lessee must vacate the Premises and deliver up vacant possession in accordance with the requirements of clause 5.15; and**
 - ii. a certificate signed by or on behalf of the Lessor shall be full and sufficient evidence of the fact that the Lessor is redeveloping the Premises; and**
 - iii. for the avoidance of doubt, if a Termination Notice is issued under this clause, the Lessor waives the right to require the demolition or removal of structures under clause 5.15.**
- (d) In the event that the Western Australian Government requires redevelopment of the land that is the subject of this Lease, the Lessee acknowledges that the City of Melville will be required to observe any notice period advised by the Western Australian Government that may not provide a Termination Notice period as detailed in 14.1(b) above.**

At 7:38pm the Mayor declared the motion

LOST (6/7)

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

NOTE: Due to an equality of votes at the Council Meeting, the Presiding Member exercised his right to cast a second vote to reach a decision in this matter (Section 5.21(3) of the Local Government Act 1995).

Vote Result Summary	
Yes	6
No	6

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

During discussion and debate the amendment was amended, with the consent of the mover and seconder to include the following words in (e)(i) 'with a club outside of the City'.

Amendment

COUNCIL RESOLUTION

At 7:40pm Cr Woodall moved, seconded Cr Macphail –

That the Council amend the City's Lease as attached to the Officer Recommendation by inserting a new sub-clause 7.2(e) as follows:

- (e) the Lessee undergoes:**
 - (i) an amalgamation; with a club outside of the City**
 - (ii) transfer/conversion to a company or Co-operative; or**
 - (iii) a significant change in its objects or purpose.**

At 8:01pm the Mayor declared the motion

CARRIED (9/3)

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

Vote Result Summary	
Yes	9
No	3

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

At 7:56pm Ms Davis left the meeting and returned at 7:57pm.

Reasons for the amendment as provided by Cr Woodall

1. Given the 50 year term of this lease, there is the possibility that the Club changes its objects/purposes during that time, or seeks to change its corporate structure. In such instances the community, through the City, should have the option to terminate the lease if appropriate.
2. Were the Club to amalgamate with another club from outside the City of Melville, it may be appropriate for the Premises to revert to community ownership. This is particularly so if the amalgamated club was primarily controlled by non-City residents.
3. Another situation where the City may want to terminate the lease to protect the community's interest is where the Club changes its corporate structure to a company or Co-operative. A company has significantly greater powers and responsibilities than an incorporated association, and would call into question whether the Club remained a local, non-profit community group.
4. Finally a change to the objects or purposes of the Club could represent a significant shift in the aims or intentions of the Club, such that it no longer provided a community/sporting outlet. For example, political lobby groups and trade/industry bodies can be incorporated associations. If this were to occur, it would be appropriate for the City to re-assess whether the Club would still be meeting a community need/purpose.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)****Amendment**

At 8:03pm Cr Woodall moved, seconded –

That the Council amend the City's Lease as attached to the Officer Recommendation by inserting a new clause 5.6(k) in the Proposed Lease as follows:

- (k) brew, ferment, distil or otherwise make alcohol, or allow alcohol to be brewed, fermented, distilled or made, on the Premises.**

At 8:04pm during discussion and debate, it was agreed with the consent of the mover and seconder of the officer recommendation that this amendment be accepted as part of the substantive motion.

Reasons for the Amendment as proposed by Cr Woodall

1. There have been concerns raised in the media about the potential for a micro-brewery or other similar commercial facility being developed on the Premises.
2. Given the community's desire for this land to be retained for sporting and recreational purposes, it is unlikely that a micro-brewery would meet community expectations.
3. Additionally, as a matter of public policy it may be inappropriate for the City to be allowing for the production of alcohol on City premises. This amendment would prohibit the Club from undertaking such an activity.

Amendment

At 8:05pm Cr Woodall moved, seconded Cr Robins–

That the Council amend the City's Lease as attached to the Officer Recommendation by renumbering the existing clause under clause 10 in the Proposed Lease to sub-clause 10.1, and insert a new sub-clause 10.2 as follows:

Notwithstanding any other clause in this Deed and to the maximum extent permitted by law, the Lessor's maximum aggregate liability to the Lessee, whether arising at law, in equity, under contract, under statute, in tort, or otherwise, shall be limited to an amount equal to the Rent payable during the year in which the liability arose.

At 8:15pm the Mayor declared the motion

LOST (3/9)

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

Vote Result Summary	
Yes	3
No	9

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

Amendment

At 8:16pm Cr Woodall moved, seconded Cr Robins –

That the Council amend the City’s Lease as attached to the Officer Recommendation by inserting a new clause 14 as follows:

The Lessee acknowledges:

- (a) In the event the Lessor should at any time on or after ten years of the Term of the Lease wish to repurpose the Premises, then the Lessor may terminate this Lease on five years written notice to the Lessee (“the Termination Notice”).**
- (b) In the event the Lessor issues a Termination Notice to the Lessee, the parties agree the following will apply:**
 - (i) at the expiration of the Termination Notice, the Lessee must vacate the Premises and deliver up vacant possession in accordance with the requirements of clause 5.14; and**
 - (ii) prior to the expiration of the Termination Notice, the Lessor must use reasonable endeavours to provide suitable alternative Premises for the Lessee. No other compensation or consideration shall be payable to or claimable by the Lessee from the Lessor for or arising out of the termination of the Lease.**
- (c) A written notice signed by or on behalf of the Lessor shall be full and sufficient evidence of the fact that the Lessor is repurposing the Premises.**
- (d) In the event that the Western Australian Government requires redevelopment of the land that is the subject of this Lease, the Lessee acknowledges that the City of Melville will be required to observe any notice period advised by the Western Australian Government that may not provide a Termination Notice period as detailed in 14.1(b) above.**

At 8:38pm the Mayor declared the motion

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

Vote Result Summary	
Yes	5
No	7

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

At 8:17pm Cr Macphail left the meeting and returned at 8:19pm.

At 8:18pm Mr Taylor left the meeting and returned at 8:19pm.

At 8:18pm Cr Wheatland left the meeting and returned at 8:20pm.

At 8:28pm Ms Head left the meeting and returned at 8:30pm.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)****Amendment**

At 8:38pm Cr Woodall moved, seconded Cr Robins –

That the Council amend the City’s Lease as attached to the Officer Recommendation by inserting a new clause 14 in the Proposed Lease as follows:

The Lessee acknowledges:

- (a) In the event the Lessor should at any time on or after twenty years of the Term of the Lease wish to repurpose the Premises, then the Lessor may terminate this Lease on five years written notice to the Lessee (“the Termination Notice”).**
- (b) In the event the Lessor issues a Termination Notice to the Lessee, the parties agree the following will apply:**
 - (i) at the expiration of the Termination Notice, the Lessee must vacate the Premises and deliver up vacant possession in accordance with the requirements of clause 5.14; and**
 - (ii) prior to the expiration of the Termination Notice, the Lessor must either provide suitable alternative Premises for the Lessee, or pay to the Lessee an amount equal to the Rent payable for the remaining Term of the Lease. No other compensation or consideration shall be payable to or claimable by the Lessee from the Lessor for or arising out of the termination of the Lease.**
- (c) A written notice signed by or on behalf of the Lessor shall be full and sufficient evidence of the fact that the Lessor is repurposing the Premises.**
- (d) In the event that the Western Australian Government requires redevelopment of the land that is the subject of this Lease, the Lessee acknowledges that the City of Melville will be required to observe any notice period advised by the Western Australian Government that may not provide a Termination Notice period as detailed in 14.1(b) above.**

At 8:54pm the Mayor declared the motion

LOST (5/7)

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

Vote Result Summary	
Yes	5
No	7

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

At 8:40pm Cr Barber disconnected from the meeting electronically.

At 8:41pm the Mayor called a short adjournment.

At 8:50pm the mayor reconvened the meeting.

At 8:53pm Cr Barber confirmed that she was in attendance electronically.

Amendment

At 8:56pm Cr Woodall moved, seconded Cr Wheatland –

That the Council amend the City’s Lease as attached to the Officer Recommendation by inserting a new clause 15 in the Proposed Lease as follows:

15. Redevelopment

15.1 The Parties acknowledge that the Lessee intends to redevelop the Premises at its own cost.

15.2 The Parties agree to meet and discuss any redevelopment proposal in good faith.

15.3 Notwithstanding clause 15.2 above, any proposal by the Lessee to redevelop the Premises shall be subject to the City’s consent, which may be given or withheld in the City’s absolute and unfettered discretion.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

At 9:03pm, during discussion and debate, the Mayor consented to voting on each of the 3 points of this amendment separately, at the request of Elected Members.

Amendment

At 8:56pm Cr Woodall moved, seconded Cr Wheatland –

That the Council amend the City’s Lease as attached to the Officer Recommendation by inserting a new clause 15 in the Proposed Lease as follows:

15. Redevelopment

15.1 The Parties acknowledge that the Lessee intends to redevelop the Premises at its own cost.

At 9:14pm the Mayor declared the motion

LOST (6/7)

NOTE: Due to an equality of votes at the Council Meeting, the Presiding Member exercised his right to cast a second vote to reach a decision in this matter (Section 5.21(3) of the Local Government Act 1995).

Vote Result Summary	
Yes	6
No	6

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

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

Amendment

COUNCIL RESOLUTION

At 8:56pm Cr Woodall moved, seconded Cr Wheatland –

That the Council amend the City’s Lease as attached to the Officer Recommendation by inserting a new clause 15 in the Proposed Lease as follows:

15.2 The Parties agree to meet and discuss any redevelopment proposal in good faith.

At 9:17pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

Amendment

At 8:56pm Cr Woodall moved, seconded Cr Wheatland –

That the Council amend the City’s Lease as attached to the Officer Recommendation by inserting a new clause 15 in the Proposed Lease as follows:

15.3 Notwithstanding clause 15.2 above, any proposal by the Lessee to redevelop the Premises shall be subject to the City’s consent, which may be given or withheld in the City’s absolute and unfettered discretion.

At 9:18pm the Mayor declared the motion having used his casting vote

LOST (6/7)

NOTE: Due to an equality of votes at the Council Meeting, the Presiding Member exercised his right to cast a second vote to reach a decision in this matter (Section 5.21(3) of the Local Government Act 1995).

Vote Result Summary	
Yes	6
No	6

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

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)****Reasons for the Amendment as proposed by Cr Woodall**

1. One of the major reasons provided in support of the 50-year lease is that the Lessee intends to redevelop the bowling club premises into a modern, fit-for-purpose facility. The determination and capacity of the MBC to undertake this redevelopment itself is to be applauded, but it also needs to be recognized as a somewhat unique circumstance, as typically the City pays for the upgrade of sporting facilities.
2. Given that the land on which the MBC is for community sporting and recreation purposes, it is appropriate that the City, as the representative of the community, has some control and influence over any redevelopment of the facility.
3. This amendment would require the parties to meet and discuss any proposed redevelopment by the MBC in good faith, whilst still giving the City ultimate discretion as to whether to allow the proposed redevelopment.
4. As the scope or nature of any proposed redevelopment is unknown at this stage, it is appropriate for the City, as the representative of the community, to have the ability to reject proposals that do not reflect community sentiments. For example, if a redevelopment proposed commercial facilities such as a micro-brewery or a liquor store, it would be appropriate for the City to undertake community consultation before supporting such a redevelopment.

Amendment**COUNCIL RESOLUTION**

At 9:19pm Cr Sandford moved, seconded Cr Barton -

To include the following amendment as a new 15.1

15. Redevelopment

15.1 The Parties acknowledge that the Lessee intends to redevelop the Premises.

At 9:21pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

Amendment

At 9:22pm Cr Woodall moved, seconded Cr Wheatland–

That the Council amend point 4 of the Officer Recommendation (as amended) to read:

- 4. Directs the Chief Executive Officer, after making the above amendments and any consequential amendments deemed necessary based on further advice, to:

 - (a) publicly advertise the amended Proposed Lease for a minimum period of 2 weeks;**
 - (b) present a report on the submissions received, and any suggested changes as a result of those submissions, to the next Ordinary Meeting of Council.****

At 9:42pm the Mayor declared the motion

LOST (5/7)

Vote Result Summary	
Yes	5
No	7

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

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

Amendment

At 9:43pm Cr Robins moved, seconded Cr Woodall –

That the Council amend the City’s Lease as attached to the Officer Recommendation by replacing “\$681.30” with “\$3000” and removing the words “as adopted in the 2019/2020 Council Budget” in Clause 5 of Schedule 1.

At 10:02pm the Mayor declared the motion

LOST (4/8)

Vote Result Summary	
Yes	4
No	8

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

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

At 10:12pm Cr Woodall left the meeting.

Amendment

At 10:02pm Cr Robins moved, seconded Cr Macphail –

That the Council amend the City’s Lease as attached to the Officer Recommendation by adding the following Special Condition to Clause 7 of Schedule 1:

- 7.1 Should any of the bowling greens within the leased area be unmaintained for a period of six months or more, the Lessor may, at its discretion,**
- a) Excise the unmaintained greens from the leased area,**
 - b) Allow the greens to be maintained and used by another bowling club, or**
 - c) Repurpose the greens for use by another sporting group or community group**

At 10:14pm the Mayor declared the motion

LOST (2/9)

Vote Result Summary	
Yes	2
No	9

Cr Macphail	Yes
Cr Robins	Yes
Cr Barber	No
Cr Barton	No
Cr Fitzgerald	No
Cr Kepert	No
Cr Mair	No
Cr Robartson	No
Cr Sandford	No
Cr Wheatland	No
Mayor Gear	No

At 10:03pm Ms Davis left the meeting and returned at 10:04pm.

At 10:05pm Cr Kepert left the meeting and returned at 10:06pm.

At 10:15pm Cr Wheatland left the meeting and returned at 10:18pm.

At 10:16pm Cr Woodall returned to the meeting.

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

Amendment

At 10:16pm Cr Robins moved, seconded Cr Woodall –

That the Council amend the Officer’s Recommendation by replacing the existing point 3 with the following points 3 and 4:

- 3. Directs the Chief Executive Officer to, after having submitted the lease to the City’s legal advisors for a final review, present the City’s Lease Agreement “5770 COM Final Lease Subject To Solicitors Review” to the Western Australian Planning Condition (WAPC) for their comment, and if necessary, approval.**

- 4. In the event that the City’s Lease Agreement is approved by the WAPC, or there are no issues raised, directs the Chief Executive Officer to present the City’s Lease Agreement “5770 COM Final Lease Subject To Solicitors Review” to the Melville Bowling Club for signing. In the event that the lease is not approved by the WAPC, or there are concerns raised, a report is to be prepared for the Council in order for the WAPC’s comments to be considered by the Council before the lease is presented to the Melville Bowling Club for signing.**

At 10:27pm the Mayor declared the motion

LOST (4/8)

Vote Result Summary	
Yes	4
No	8

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

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

Amendment

At 10:29pm Cr Robins moved, seconded Cr Macphail –

**That the Council amend the City’s Lease as attached to the Officer Recommendation
by adding the following sentence to Clause 6 of Schedule 1:**

**The premises are not to be used for any commercial purposes. Any application
for commercial development on the site will not be approved by the City.**

At 10:32pm the Mayor declared the motion

LOST (5/7)

Vote Result Summary	
Yes	5
No	7

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

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

Amendment

COUNCIL RESOLUTION

At 10:37pm Cr Fitzgerald moved, seconded Cr Wheatland

That the date to present the amended Proposed Lease to the Melville Bowling Club Inc. for signing in point 4 of the amended officer recommendation be changed from 30 September 2020 to 23 October 2020.

At 10:38pm the Mayor declared the motion

CARRIED (9/3)

Vote Result Summary	
Yes	9
No	3

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

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**Substantive Motion as Amended**

At 9:02pm Cr Fitzgerald moved, seconded Cr Barton–
(Moved on Tuesday 15 September 2020)

That the Council;

- 1. Notes the petition requesting Council to rescind its previous decision on 21 July 2020 to grant a 50 year lease term to Melville Bowling Club and advises the lead petitioner of this resolution.**
- 2. Notes the privileged and confidential legal advice from Minter Ellison as per the confidential attachment 1 in relation to their review of the proposed lease and terms requested by the Melville Bowling Club Inc. (Proposed Lease).**
- 3. In relation to the Proposed Lease reviewed by the City's solicitors, and the five "Lease Agreement Terms Not Agreed Between the City and Melville Bowling Club", as listed on pages 4 & 5 in Late Item M20-5770, resolves as to amend the lease contained in the officer's report to effect the following outcomes:**
 - 3.1 Alterations (Clause 5.4).**

In accordance with the officer's advice, the standard Clause 5.4 in the City's Lease Agreement 5770 COM Final Lease (City's Lease) be used in the Proposed Lease except, being in the nature of a ground lease, for the deletion of the words "under the supervision and" from the last line of the standard Clause 5.4, and the previous Clause 5.4 be deleted as per the tracked changes to clause 5.4 of the attached amended Proposed Lease.
 - 3.2. Redevelopment (Clause 14.1)**

That Clause 14 in the City's Lease not be included in the attached amended Proposed Lease.
 - 3.3 Car-parking Licence**

That a non-exclusive car parking licence be retained as a Special Condition in Schedule 1 of the Proposed Lease, as follows:
"That the Lessee grants the Lessee an irrevocable non-exclusive licence for the Term of the Lease for the Lessee and visitors/ clients/ members of or to the Lessee's premises to use without limitation in terms of time or cost the car parking bays in the existing public carpark adjoining the eastern boundary of the Premises (outlined in yellow on the attached plan) and the Lessor further undertakes to maintain the carpark in good condition."

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

4. Insert as a recital 'A,B and C' of the recital, as per the lease attached to Cr Sandford's Amendment Motion, to the lease attached to the Officer's Report and number the existing recital 'D':
 - A. *On or about 1 July 2012 the Lessor and Lessee entered into a Lease Agreement for Premises being a Clubhouse and Bowling Greens at Lot 39, 592 Canning Highway, Alfred Cove.*
 - B. *The Lessor granted the lease to the Lessee for an initial term of 5 years commencing on 1 July 2012 and expiring on 30 June 2017 with an option for a further extension of 2 years at the Lessor's discretion.*
 - C. *On the expiry of the Lease term on 30 June 2017 the Lessor granted the Lessee an ongoing monthly tenancy*
 - D. *Subject to certain approvals and consents being obtained, the Lessor has agreed to lease the Premises to the Lessee and the Lessee has agreed to take the Premises on lease from the Lessor upon and subject to the provisions of this document.*
5. At clause 2.1(b) amend '3 months' to read '6 months';
6. At clause 2.2, the period to be '14 days';
7. At clause 5.2(a) the following words to be deleted:
'which consent the Lessor may in the Lessor's absolute discretion refuse without assigning any reason';
8. At Schedule 1, Item 6 to be replaced with the purpose as it currently appears in the 'holding over lease':

'To encourage and increase participation in lawn bowls, indoor bowls and other recreation activities and to promote good fellowship amongst members and undertake other community activities'
9. Inserting a new sub-clause 7.2(e) as follows:
 - (e) the Lessee undergoes:
 - (i) an amalgamation; with a club outside of the City
 - (ii) transfer/conversion to a company or Co-operative; or
 - (iii) a significant change in its objects or purpose.
10. Inserting a new clause 5.6(k) in the Proposed Lease as follows:
 - (k) brew, ferment, distil or otherwise make alcohol, or allow alcohol to be brewed, fermented, distilled or made, on the Premises.

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)**

11. Inserting a new clause 15 in the Proposed Lease as follows:

15. Redevelopment

15.1 The Parties acknowledge that the Lessee intends to redevelop the premises

15.2 The Parties agree to meet and discuss any redevelopment proposal in good faith.

12. Directs the Chief Executive Officer, after making the above amendments and taking such further advice as necessary in relation to consequential and not substantive amendments to present the amended Proposed Lease to the Melville Bowling Club Inc. for signing on or before 23 October 2020.

COUNCIL RESOLUTION

At 10:46pm Cr Kepert moved, seconded Cr Mair–

That the Cr Fitzgerald be granted a further 5 minutes to speak on this matter.

At 10:46pm the Mayor declared the motion

CARRIED UNANIMOUSLY (12/0)

At 10:57pm Cr Wheatland left the meeting and returned at 10:59pm

**LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT
AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)****Substantive Motion as Amended**

At 9:02pm Cr Fitzgerald moved, seconded Cr Barton–
(Moved on Tuesday 15 September 2020)

That the Council;

- 1. Notes the petition requesting Council to rescind its previous decision on 21 July 2020 to grant a 50 year lease term to Melville Bowling Club and advises the lead petitioner of this resolution.**
- 2. Notes the privileged and confidential legal advice from Minter Ellison as per the confidential attachment 1 in relation to their review of the proposed lease and terms requested by the Melville Bowling Club Inc. (Proposed Lease).**
- 3. In relation to the Proposed Lease reviewed by the City's solicitors, and the five "Lease Agreement Terms Not Agreed Between the City and Melville Bowling Club", as listed on pages 4 & 5 in Late Item M20-5770, resolves as to amend the lease contained in the officer's report to effect the following outcomes:**
 - 3.1 Alterations (Clause 5.4).**

In accordance with the officer's advice, the standard Clause 5.4 in the City's Lease Agreement 5770 COM Final Lease (City's Lease) be used in the Proposed Lease except, being in the nature of a ground lease, for the deletion of the words "under the supervision and" from the last line of the standard Clause 5.4, and the previous Clause 5.4 be deleted as per the tracked changes to clause 5.4 of the attached amended Proposed Lease.
 - 3.2. Redevelopment (Clause 14.1)**

That Clause 14 in the City's Lease not be included in the attached amended Proposed Lease.
 - 3.3 Car-parking Licence**

That a non-exclusive car parking licence be retained as a Special Condition in Schedule 1 of the Proposed Lease, as follows:

That the Lessee grants the Lessee an irrevocable non-exclusive licence for the Term of the Lease for the Lessee and visitors/ clients/ members of or to the Lessee's premises to use without limitation in terms of time or cost the car parking bays in the existing public carpark adjoining the eastern boundary of the Premises (outlined in yellow on the attached plan) and the Lessor further undertakes to maintain the carpark in good condition.

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

4. Insert as a recital 'A,B and C' of the recital, as per the lease attached to Cr Sandford's Amendment Motion, to the lease attached to the Officer's Report and number the existing recital 'D':
 - A. *On or about 1 July 2012 the Lessor and Lessee entered into a Lease Agreement for Premises being a Clubhouse and Bowling Greens at Lot 39, 592 Canning Highway, Alfred Cove.*
 - B. *The Lessor granted the lease to the Lessee for an initial term of 5 years commencing on 1 July 2012 and expiring on 30 June 2017 with an option for a further extension of 2 years at the Lessor's discretion.*
 - C. *On the expiry of the Lease term on 30 June 2017 the Lessor granted the Lessee an ongoing monthly tenancy.*
 - D. *Subject to certain approvals and consents being obtained, the Lessor has agreed to lease the Premises to the Lessee and the Lessee has agreed to take the Premises on lease from the Lessor upon and subject to the provisions of this document.*
5. At clause 2.1(b) amend '3 months' to read '6 months';
6. At clause 2.2, the period to be '14 days';
7. At clause 5.2(a) the following words to be deleted:
'which consent the Lessor may in the Lessor's absolute discretion refuse without assigning any reason';
8. At Schedule 1, Item 6 to be replaced with the purpose as it currently appears in the 'holding over lease':

'To encourage and increase participation in lawn bowls, indoor bowls and other recreation activities and to promote good fellowship amongst members and undertake other community activities'.
9. Inserting a new sub-clause 7.2(e) as follows:
 - (e) the Lessee undergoes:
 - (i) an amalgamation; with a club outside of the City
 - (ii) transfer/conversion to a company or Co-operative; or
 - (iii) a significant change in its objects or purpose.
10. Inserting a new clause 5.6(k) in the Proposed Lease as follows:
 - (k) brew, ferment, distil or otherwise make alcohol, or allow alcohol to be brewed, fermented, distilled or made, on the Premises.

LATE ITEM M20/5770 – MELVILLE BOWLING CLUB INC. NEW LEASE AGREEMENT AND PETITION (CONFIDENTIAL ATTACHMENT) (REC)

11. Inserting a new clause 15 in the Proposed Lease as follows:

15. Redevelopment

15.1 The Parties acknowledge that the Lessee intends to redevelop the premises.

15.2 The Parties agree to meet and discuss any redevelopment proposal in good faith.

12. Directs the Chief Executive Officer, after making the above amendments and taking such further advice as necessary in relation to consequential and not substantive amendments to present the amended Proposed Lease to the Melville Bowling Club Inc. for signing on or before 23 October 2020.

At 11:02pm the Mayor declared the motion

CARRIED (8/4)

Vote Result Summary	
Yes	8
No	4

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

**CONFIDENTIAL ITEM M20/3850 - GROUND LEASE AGREEMENT FOR MELVILLE,
AGED AND COMMUNITY ACTIVITY CENTRE (REC) (CONFIDENTIAL ATTACHMENT)**

Procedural Motion

At 11:06pm Cr Mair moved, seconded Cr Sandford -

That confidential item M20/3850 Ground Lease Agreement for Melville Aged and Community Activity Centre be deferred until the 20 October 2020 Ordinary Meeting of Council.

At 11:07pm the Mayor declared the motion

CARRIED (10/2)

Vote Result Summary	
Yes	10
No	2

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

20. CLOSURE

There being no further business to discuss, Mayor Honourable George Gear confirmed that Cr Barber was still in attendance electronically and declared the meeting closed at 11:10pm.