

**MINUTES**  
**FOR THE**  
**ORDINARY MEETING OF THE COUNCIL**  
**TUESDAY, 21 SEPTEMBER 2021**  
**COMMENCING AT 6.30PM**

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

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

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

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**DISTRIBUTED: 24 SEPTEMBER 2021**

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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 Margaret Sandford to read the Acknowledgement of Country and advised those present of the Disclaimer, the Affirmation of Civic Duty and Responsibility and the Audio Recording Advice.

### **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.

### **Statement by the Mayor as Presiding Member**

Before we start this evening's council meeting I would like to make a short statement.

Recently I along with the Chairs of the Governance and Financial Management Committees along with the Deputy Mayor met to discuss recent disruption at Council meetings.

You will remember the workshop we held on a Saturday last year when developing the Corporate Business Plan, and we all agreed that we, as Elected Members, in conjunction with senior staff developed our City's values as Excellence, Integrity Participation and Caring.

At recent meetings of council we have not lived up to these standards.

Orderly meetings which are efficient and constructive can only happen if we all play our part. The cornerstone of all meetings is the authority of the chair. It is my job as Mayor to ensure that we all play our part.

It is your job as Councillors to assist me by following the rules of meeting procedure.

Conducting an orderly meeting is a team effort. I can only chair the meeting to a high standard if all Councillors play their part.

This involves treating all fellow Councillors and senior staff present with respect. We are all striving for the same goal and that is to make considered decisions for the benefit of our community. We don't do this by making accusations of incompetence or purpose.

Do not speak or ask questions until you have the call from me. When another councillor is speaking listen to what they have to say. Don't interject.

Moving forward I intend to call out any statement made against Councillors and staff and call for a withdrawal.

I intend that the councillor who has been asked will comply.

I look forward to a productive and respectful meeting, reflecting the values we set for ourselves.

**2. PRESENT**

Mayor Honourable G Gear

**COUNCILLORS      WARD**

Cr J Barton (Deputy Mayor)	Bicton – Attadale – Alfred Cove
Cr G Barber	Bicton – Attadale – Alfred Cove
Cr D Macphail, Cr N Robins	Bateman – Kardinya – Murdoch
Cr C Robartson, Cr M Woodall	Bull Creek – Leeming
Cr N Pazolli	Applecross – Mount Pleasant
Cr S Kepert ( <i>Until 9:55pm</i> )	Applecross – Mount Pleasant
Cr K Mair, Cr M Sandford	Central
Cr T Fitzgerald, Cr K Wheatland	Palmyra – Melville – Willagee

**3. IN ATTENDANCE**

Mr M Tieleman ( <i>Until 9:27pm</i> )	Chief Executive Officer
Mr M Duncan ( <i>Until 9:28pm</i> )	Acting Director Corporate Services
Ms L Reid ( <i>Until 9:28pm</i> )	Acting Director Community Development
Mr S Cope ( <i>Until 9:28pm</i> )	Director Urban Planning
Mr M McCarthy( <i>Until 9:28pm</i> )	Director Technical Services
Mr L Hitchcock	Executive Manager Governance and Legal Services
Mr B Taylor	Manager Governance and Property
Mr G Ponton ( <i>Until 9:16pm</i> )	Manger Strategic Urban Planning
Ms P Venter ( <i>Until 9:16pm</i> )	Strategic Urban Planner
Mr P Prior ( <i>Until 9:25pm</i> )	Digital Strategy Program Manager
Ms C Newman	Governance Coordinator
Ms R Davis ( <i>Until 9:52pm</i> )	Governance Officer

At the commencement of the meeting, there were 15 members of the public in the Council Chambers, 11 members of the public and 1 representative from the Press in attendance electronically.

#### 4. APOLOGIES AND APPROVED LEAVE OF ABSENCE

##### 4.1 APOLOGIES

Ms C Young                      Director Community Development  
Mr A Ferris                      Director Corporate Services

##### 4.2 APPROVED LEAVE OF ABSENCE

Nil.

#### 5. ANNOUNCEMENTS BY THE PRESIDING MEMBER (WITHOUT DISCUSSION) AND DECLARATIONS BY MEMBERS

##### 5.1 DECLARATIONS BY MEMBERS WHO HAVE NOT READ AND GIVEN DUE CONSIDERATION TO ALL MATTERS CONTAINED IN THE BUSINESS PAPERS PRESENTED BEFORE THE MEETING.

Nil.

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

Nil.

#### 6. QUESTION TIME

##### 6.1 Questions Received with Notice

###### 6.1.1 Ms J Edinger, Melville

*The Alfred Cove-Attadale Foreshore master plan Preliminary Design Responses (Draft for Feedback) has recently been published on the City's website with the plan presenting the "Option 3 - Aspirational" design as part of the draft. The proposed changes to the eastern end of the Burke Drive dog park has caused great consternation within the community, particularly those who use the park. Can the Council please ask the Administration to advise:*

###### Question 1

*(a) who provided the ideas for the "aspirational" design - was it Council officers, persons at the invite-only sessions, stakeholders, members of the public who attended the various sessions, or the design team?*

###### Response

The aspirational ideas were prepared by consultants Element Advisory based on information gathered during the discovery and stakeholder engagement activities undertaken, including the comprehensive four day charrette process. Some of the ideas were canvassed with the public during the Open Design Studio session on Day three of the charrette.

6.1.1 *Ms J Edinger, Melville, continued.*

Question 2

*(b) Provide a breakdown of the number of responses received from each group with the responses broken down numerically by "Option 1 - Efficient", "Option 2 - Balanced" and "Option 3 - Aspirational"*

Response

Responses were received from individuals that attended the Open Design Studio on Day three based on feedback related to the following:

1. Efficient: 27 responses
2. Balanced: 28 responses
3. Aspirational: 51 responses

Question 3

*The Burke Drive dog park is used by a wide cross-section of the community, with many people travelling from other suburbs to use this wonderful facility. Can the Council please confirm that they are committed to ensuring that this entire greenspace is valued as an appropriate area to be used for recreation by those wishing use this large off-leash space to exercise their dogs?*

Response

There is an item on this agenda relating to the review of dog exercise areas (Item CD21-8142) for the Council to consider. There are no current plans that have been adopted by the Council to alter the dog exercise area at Burke Drive and Officers have not made recommendations to change the current off leash area at Burke Drive.

**6.1.2 Mr R Aubrey, Leeming**

*I would first like to publicly thank and congratulate Cr Clive Robartson on his retirement after the greater part of 4 decades of outstanding service to the Melville community.*

*I now refer in particular to the article 'Kepert digs in over stat dec' by Daisy Webster in the Fremantle Herald dated 28 August 2021.*

Question 4

*Did Councillor Steve Kepert comply with the SAT order dated 25 September 2019 to undertake the training course for Elected Members 'Serving on Council' provided by WALGA (or an equivalent by a registered provider) for a period of no less than 7.5 hours within 4 months of that order (i.e. by 25 January 2020)?*

6.1.2 *Mr R Aubrey, Leeming, continued.*

Response

Response as provided by Cr Kepert:

*“Yes. The course was completed by Cr Kepert in November 2019. The course was completed online using login details supplied to Cr Kepert by City of Melville officers in November 2019. The course was booked and paid for by the City’s officers at the same time using a training license with the Western Australian Local Government Association.”*

The Administration’s Response as requested by the Presiding Member:

The City has no evidence that the training ordered by the Standards Panel on 18 November 2020 was done within the period of the order. Any training undertaken prior to the date of the order was not relevant to the matter. The relevant Standards Panel order regarding this training can be found on the Register of Complaints on the City’s web-site [https://www.melvillecity.com.au/our-city/publications-and-forms/management-services/register-of-complaints-\(minor-breaches\)](https://www.melvillecity.com.au/our-city/publications-and-forms/management-services/register-of-complaints-(minor-breaches))

Question 5

*Did Cr Kepert provide the City with a WALGA certificate verifying that he had complied with the order by completing the course at any time prior to the SAT conference on 12 August 2021?*

Response

Response as provided by Cr Kepert:

*“There is no legislative requirement for Elected Councillors to provide stationery to any other party and this is now understood by the City’s officers. The officers chose to take legal action against Cr Kepert on the 24<sup>th</sup> of June 2021 without first clarifying their uncertainties with Cr Kepert. The action was filed under s.5.118 of the Local Government Act 1995 which is only relevant where Councillors have not complied with an order.*

*Throughout Council discussions on this matter, public servants announced that they were uncertain on certain points after communications with the Western Australian Local Government Association and the Department of Local Government Sports and Cultural Industries (DLGSC). Furthermore, the City’s officers stated several times they were under direction by DLGSC to take legal action against Cr Kepert but this claim is incorrect. There have been many other inaccurate statements made by officers about the whole affair.”*

6.1.2 *Response to Question 5, Mr R Aubrey, Leeming, continued.*

The Administration’s Response as requested by the Presiding Member:

No.

6.1.2 Mr R Aubrey, Leeming, continued.

Question 6

*Did WALGA confirm that Cr Kepert had completed the WALGA training as ordered prior to 12 August 2021?*

Response

Response as provided by Cr Kepert:

*"This is a question for WALGA."*

The Administration's Response as requested by the Presiding Member:

No.

Question 7

*Did Cr Kepert provide to any public official at the City of Melville, prior to or at the SAT conference on 12 August 2021, a statutory declaration stating that he had completed the training as ordered by SAT on 25 September 2019?*

Response

Response as provided by Cr Kepert:

*"There is no legislative requirement for Elected Councillors to provide stationery to any other party and this is now understood by the City's officers. Cr Kepert voluntarily provided Mayor Gear with a statutory declaration stating that Cr Kepert had completed the course as required and that he had received no communication from the City's officers simply asking him if he had completed the course. This was undertaken following requests from the public to Cr Kepert so that the Council might resolve the issue and the Mayor allow for proper process to take its course."*

The Administration's Response as requested by the Presiding Member:

Yes.

Question 8

*On what date did Cr Kepert actually complete the WALGA training course, as evidenced by a certificate issued by WALGA?*

6.1.2 *Response to Question 8, Mr R Aubrey, Leeming, continued.*

Response

Response as provided by Cr Kepert:

*“The course was completed in November 2019. The applicants in the legal matter met in a confidential conference at the State Administrative Tribunal on the 12<sup>th</sup> of August 2021. Details of this meeting are confidential with agreement between the applicants and the respondents and cannot be disclosed. The outcome of the meeting was that Cr Kepert voluntarily offered to attempt assisting the applicants with any misunderstandings they had with WALGA and/or DLGSC or any dissatisfactions they had with documentation from other parties. The legal action against Cr Kepert was withdrawn by the City’s officers two weeks later.”*

The Administration’s Response as requested by the Presiding Member:

31 August 2021.

Question 9

*Why did Cr Kepert fail to declare a financial interest on 22 June 2021 in the matter of providing him with ratepayer-funded legal assistance and then vote to give himself that financial benefit?*

Response

Response as provided by Cr Kepert:

*“Cr Kepert did not fail anything. For clarifications on any misunderstandings regarding declarations of interest refer to the Local Government Act 1995 or contact the Department of Local Government Sports and Cultural Industries for advice. “*

The Administration’s Response as requested by the Presiding Member:

It is up to each elected member to declare their own interests.

Question 10

*Why has Cr Kepert failed to meet his obligations to the people of Melville by refusing to vote on matters in which he has not declared either a financial or proximity interest?*

Response

Response as provided by Cr Kepert:

*“Cr Kepert did not fail anything. For clarifications on any misunderstandings regarding declarations of interest refer to the Local Government Act 1995 or contact the Department of Local Government Sports and Cultural Industries for advice.”*

The Administration’s Response as requested by the Presiding Member:

This is a question for Cr Kepert to answer.

6.1.2 Mr R Aubrey, Leeming, continued.

Question 11

*On what grounds did Mayor George Gear dispense of his obligations as Mayor of the City of Melville in making the statement in the said article 'I'm not even a part of this'?*

Response as provided by Cr Kepert:

The role of the Mayor is set out in section 2.8 of the Local Government Act 1995.

Amended by resolution OMC 14/12/2021 Pg 144
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Administration Response

This is a matter related to legal obligations of the CEO to refer non-compliance with a Standards Panel Order. It did not relate to the duties of the Mayor.

**6.2 Questions Without Notice**

**Ordinary Meeting of Council, 17 August 2021**

**6.2.1 Mr P Kenny, Ardross**

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

Question 1

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

Response

Professional advice was received regarding the interpretation of AS-NZS2890.1 2004 in relation to driveway gradient.

Question 2

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

Response

The City ensured the new foot path on Wilcock Street was installed on the kerb line to increase sight distance and the available stopping sight distance between vehicles and pedestrians.

Question 3

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

6.2.1 Mr P Kenny, Ardross, continued.

Response

A. *Other development sites*

For the various other development sites identified the investigations undertaken include:

1. Information Collated

The City gathered information for each site identified covering whether the approved development approval included a condition requiring compliance with AS 2890.1, whether the approved development approval included a condition requiring a driveway truncation whether a building permit has been issued and other general observations.

2. Site inspections

The City conducted site inspections of all sites identified to gather on-site information including verge conditions, location of footpath, observation of operation of access ramps, observation of truncations and sight distances. Using revised interpretation of AS 2890.1:2004 the City assessed compliance with AS 2890.1, considered safety risk and formed recommendations for safety improvement.

B. *One site where construction had not commenced*

On adoption of a revised interpretation of AS 2890.1 : 2004 Cl. 3.3 (a) the City arranged for design compliance of basement access ramp gradient and sight truncations to be achieved for one site for which development approval had been granted but at which construction had not commenced. This was in the context of an application for amendment of the initial development approval granted by JDAP.

C. *Sites where construction had commenced*

In respect of sites where construction had commenced the City gained independent engineering advice as necessary with respect to actions to mitigate perceived safety risks associated with site access at sites under construction.

In two cases the City liaised with the applicant to arrange for mitigation measures.

- With respect to these sites different combinations of mitigation measures that have been installed include:
  - Mirrors to enable vehicles egressing sites to see pedestrians approaching and pedestrians to see vehicles egressing
  - Signs erected at exit points notifying vehicles of pedestrians
  - Signs erected at exit points notifying pedestrians of vehicles exiting
  - Flashing warning lights to notify pedestrians of vehicles egressing sites
  - Footpath pavement markings to notify pedestrians of vehicles egressing sites
  - Demarcation of pedestrian path on crossover with high visibility cross hatching

6.2.1 Mr P Kenny, Ardross, continued.

*D. Ongoing actions for remaining sites*

The City is preparing a program of further actions for the remaining sites which is informed by:

- Outcome of City's investigations to date
- Independent specialist advice as needed
- Consideration of any infrastructure that may be installed by the City in verge
- Engagement with landowners of private development sites where necessary

Question 4

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

Response

The crossovers have been reviewed regarding pedestrian safety by the City's experienced road safety engineers with road safety auditing accreditation and recommendations have been implemented or are in the process of being implemented where warranted.

Question 5

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

Response

Refer to response to question 3.

**6.2.2 Ms J Edinger, Melville**

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

Question 6

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

Question 7

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

6.2.2 *Ms J Edinger, Melville, continued*

Question 8

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

Question 9

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

Question 10

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

Response to Questions 6 - 10

In regards to parking, the Rugby Club permit requires them to provide carpark marshals, which didn't happen on this occasion. They also have a permit to open Tompkins east overflow car park. Not opening the overflow parking caused even more pressure and illegal parking up the west end and also along the central road.

We are following this up with the Club to seek assurance it will not happen again.

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

Question 11

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

Question 12

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

Response to 11 and 12

The City has investigated possible short term parking options for Troy Park and liaised with the sporting groups regarding the outcomes. Due to environmental concerns and other infrastructure concerns to only viable option was for the overflow parking to be accommodated at the Attadale Foreshore area. The groups understand their obligations in managing the area.

6.2.2 *Ms J Edinger, Melville, continued*

A plan has also been developed for minor works for verge parking on Burke Drive in the vicinity of Troy Park to improve safety which includes:

- Shifting of some bollards to make the verge wider therefore reducing conflict with vehicles passing through the area.
- Installation of parking signs on sections of the road deemed inappropriate for parking

The works are currently being scheduled for implementation. An internal working group has been formed to work through the scope of the parking policy taking into account existing Parking Policies, Local Laws and Strategies. Research on other areas policies is underway and the draft policy is being developed.

At 6:43pm the Mayor adjourned the meeting for five minutes in accordance with clause 10.8 of the *City of Melville Meetings Procedures Local Law 2017*.

At 6:48pm the Mayor resumed the meeting.

*At 6:50pm Mr Hitchcock left the meeting and returned at 6:51pm.*

*At 6:50pm Cr Mair returned to the meeting.*

*At 6:51pm Cr Wheatland returned to the meeting.*

## **7. AWARDS AND PRESENTATIONS**

Nil.

## **8. CONFIRMATION OF MINUTES**

### **8.1 ORDINARY MEETING OF THE COUNCIL – 17 AUGUST 2021 Minutes 17 August 2021**

#### **COUNCIL RESOLUTION**

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

**That the Minutes of the Ordinary Meeting of the Council held on Tuesday, 17 August 2021 be confirmed as a true and accurate record.**

At 6:51pm the Mayor declared the motion

**CARRIED (12/1)**

Yes	12	Cr Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Woodall, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
No	1	Cr Kepert

### **8.2 GOVERNANCE COMMITTEE – 31 AUGUST 2021**

#### **COUNCIL RESOLUTION**

At 6:51pm Cr Pazolli moved, seconded Cr Barton –

**That the Minutes of the Governance Committee Meeting held on Tuesday, 31 August 2021 be noted.**

At 6:52pm the Mayor declared the motion

**CARRIED (12/1)**

Yes	12	Cr Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Woodall, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
No	1	Cr Steve Kepert

**NB: Minutes to be confirmed at next Governance Committee Meeting**

**8.3 NOTES OF AGENDA BRIEFING FORUM – 14 SEPTEMBER 2021**  
**Notes 14 September 2021****COUNCIL RESOLUTION**

At 6:51pm Cr Barton moved, seconded Cr Barber –

**That the Notes of Agenda Briefing Forum held on Tuesday, 14 September 2021, be received.**

At 6:52pm, the Mayor declared the motion

**CARRIED UNANIMOUSLY (13/0)**

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

- Mr M Tieleman – M21/5863 Chief Executive Officer Performance Review. Financial Interest.

**9.2 DISCLOSURE OF INTEREST THAT MAY CAUSE A CONFLICT**

- Cr M Sandford – CD21/8142 Dog Exercise Park – Area 1 ii) Tompkins Park East. Proximity Interest.
- Cr K Wheatland – P21/2934 Request for Scheme Amendment – 71 – 77 Leach Highway and 2 - 6 Webber Road Willage. Interest Under the Code of Conduct.
- Cr M Woodall – C21/5864 Selection of Site Surveyor for 18A and 18B Tweeddale Road, Applecross. Interest Under the Code of Conduct.
- Cr S Kepert – P21/3934 – Request for Scheme Amendment – 71 – 77 Leach Highway and 2-6 Webber Road Willagee. Interest Under the Code of Conduct
- Cr S Kepert – P21/3945 – Adoption of Amendment No.11 to Local Planning Scheme 6 – Short Stay Accommodation. Interest Under the Code of Conduct
- Cr S Kepert – T21/3946 – Construction of South East Premier Playspace at Bob Gordon Reserve. Interest Under the Code of Conduct
- Cr S Kepert – T21/3947 – Southern Metropolitan Regional Council – Rebranding and Name Change. Interest Under the Code of Conduct
- Cr S Kepert – T21/3948 – Southern Metropolitan Regional Council - Withdrawal Arrangements for a Project Participant (City of Kwinana) Interest Under the Code of Conduct
- Cr S Kepert – CD21/8142 – Review of Dog Exercise Areas. Interest Under the Code of Conduct
- Cr S Kepert – M21/5000 – Common Seal Register. Interest Under the Code of Conduct
- Cr S Kepert – C21/5861 – Supply of 4 Side Loading Recycle Waste Recovery Trucks and 1 Rear Loading Commercial Truck. Interest Under the Code of Conduct
- Cr S Kepert – C21/6000 – Investment Statements July 2021. Interest Under the Code of Conduct
- Cr S Kepert – C21/6001 – Schedule of Accounts Paid July 2021. Interest Under the Code of Conduct
- Cr S Kepert – C21/6002 – Preliminary Statements of Financial Activity for July 2021. Interest Under the Code of Conduct

**10. DEPUTATIONS**

Nil.

## 11. APPLICATIONS FOR NEW LEAVES OF ABSENCE

### COUNCIL RESOLUTION

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

**That the application for new Leaves of Absence submitted by Cr Macphail, Cr Woodall and Cr Barton on Tuesday 21 September 2021 be granted.**

At 6:57pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (13/0)**

## 12. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED

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

- C21/5861 – Supply of 4 Side Loading Recycle Waste Recovery Trucks and 1 Rear Loading Commercial Truck
- T21/3946 – Construction of South East Premier Playspace at Bob Gordon Reserve
- M21/5863 – Chief Executive Officer Performance Review

## 13. PETITIONS

### 13.1 Petition – Attadale Reserve Foreshore Pathway

A petition signed by 415 residents the City of Melville and 77 non-residents was received on 1 September 2021 reads as follows:

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

1. *Leave the Attadale Reserve foreshore pathway on its current alignment in perpetuity for the benefit of all recreational users.*
2. *Leave the extended foreshore path at the western end in-situ for the benefit of all recreational users and request the Department of Biodiversity Conservation and Attractions and the Swan River Trust to guarantee the safety of the path by immediately undertake (sic) remedial works to prevent further erosion.*
3. *Extend the Dog Beach at the Western end of the Reserve by a further 100 metres for use by dog owners and other users e.g. kayaking, wind-surfing, canoeing etc.*
4. *Review the use and condition of the fenced off area at the western end of the Attadale Reserve and consider returning the area for the unfettered use benefit of all recreational users due to its current uncared for appearance, dilapidated condition and high fire risk potential.”*

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

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

**That the petition bearing 415 signatures of residents and 77 signatures of non-residents be acknowledged and a report be prepared.**

At 6:59pm, the Mayor declared the motion

**CARRIED UNANIMOUSLY (13/0)**

**13.2 Petition – Installation of 2 Ovals at Attadale Reserve**

A petition signed by 740 residents the City of Melville and 83 non-residents was received on 1 September 2021 reads as follows:

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

1. *Condemn a proposal to install 2 football size ovals (as part of the Attadale / Alfred Cove Master Planning review process), at the eastern end of the Attadale Reserve.*
2. *Note that Recreational Users, including Dog Walkers and Burke Drive residents particularly those between Sedwick and Tanson Streets have not been specifically consulted about the proposal, and*
3. *Undertake a separate review into the use of Troy Park to ensure;*
  - a) *all grass areas, that are not part of the Alfred Cove Marine Park are effectively used by all applicable sports, and*
  - b) *that car-parking be specifically addressed as a safety issue to prevent cars being parked on Burke Drive on major sports days.”*

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION**

At 7:00pm Cr Barton moved, seconded Cr Barber –

**That the petition bearing 740 signatures of residents and 83 signatures of non-residents be acknowledged and a report be prepared.**

At 7:00pm, the Mayor declared the motion

**CARRIED UNANIMOUSLY (13/0)**

## 14. REPORTS OF THE CHIEF EXECUTIVE OFFICER

At 7:00pm Mayor Gear brought forward Item CD21/8142 Review of Dog Exercise Areas for the convenience of the Public Gallery.

Officers provided an Advice Note on this matter – [Officer Advice Note – CD-8142 Review of Dog Exercise Areas](#)

### CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)

#### Disclosure of Interest

Member	Cr Sandford
Type of Interest	Proximity Interest
Nature of Interest	I live across from Tompkins Park East
Request	Leave for Area 1 ii) Tompkins Park East
Decision Leave	Leave for Area 1 ii) Tompkins Park East

#### Disclosure of Interest

Member	Cr S Kepert
Type of Interest	Interest under the Code of Conduct.
Nature of Interest	I do not possess all the information I require to make an informed decision.
Request	Stay, Discuss.
Decision Leave	Stay, Discuss.

Ward	: All
Category	: Legislative
Subject Index	: Acts, Statutes and Local Laws, Animal Control
Customer Index	: City of Melville
Disclosure of any Interest	: Officers responsible for the enforcement of the Dog Local Law 2005 were involved in the preparation of this report.
Previous Items	: Item CD14/8061 – Dog Amendment Regulations – Local Laws – Ordinary Meeting of Council, July 2014. Item M16/5474 – Local Law Review – Ordinary Meeting of Council, April 2016. Item M16/5467 – Conclusion of Local Law Review 2016 – Ordinary Meeting of Council, August 2016. Item M20/5793 – Dog Local Law and Dog Exercise Areas: Public Consultation – Ordinary Meeting of Council, December 2020. M21/5845 – Review of Dog Exercise Areas – Report of Public Submissions – Ordinary Meeting of Council, July 2021.
Works Programme	: Not Applicable
Funding	: Not Applicable
Responsible Officer	: Brodie Dawkins Manager Neighbourhood Amenity

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)**

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	<b>Legislative</b>	<b><i>Includes adopting local laws, town planning schemes &amp; policies.</i></b>
<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 Council in December 2020 authorised the Chief Executive Officer to consult the community on proposals for changes to dog access to certain City parks.
- Public comment on officer recommendations was invited between 21 January and 15 March 2021, with the public also invited to comment on parks that had not yet been assessed.
- 78 public submissions were received relating to 24 parks and foreshore areas, expressing a diversity of views.
- As a result of issues raised in submissions, recommendations regarding some parks have been made, and a more comprehensive assessment of all current dog exercise areas is proposed to be undertaken to determine whether they are suitable for their current use.
- The Council in July 2021 authorised the Chief Executive Officer to give local public notice in accordance with section 31(3C) of the *Dog Act 1976*, that at the September 2021 Ordinary Meeting of Council, the local government intends to specify listed places as dog exercise areas, cancel specified listed places as dog exercise areas and cancel the specification of the following places where dogs are currently prohibited totally.
- Local public notice of the Council's intent to specify was given on 23 July 2021 via the City of Melville's website, eNews, and newspaper advertisement and on noticeboards in the City's libraries and the Civic Centre.

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)****BACKGROUND**

The *Dog Act 1976* (Dog Act) requires all dogs in public places to be either leashed or tethered, other than in specified circumstances, but provides for local governments to specify public places as areas where dogs are prohibited totally either at all times or certain times, or dog exercise areas, in which dogs may be unleashed provided they are under effective control.

In 2020, City of Melville officers assessed certain parks in the context of changing use and public feedback, and recommended that some changes be made to dog access in the interests of safety, amenity and environmental protection. In other cases, officers recommended that the current status be retained.

The Council approved the invitation of public comment on these recommendations. The public comment period commenced on 21 January 2021 and closed on 15 March 2021.

At the Ordinary Meeting of Council on the 20 July 2021 the Council resolved;

**That the Council:**

1. **Reconfirms the dog access status of those City parks and reserves listed in Table 1 of the officers' report.**
2. **Reconfirms the retention of Point Walter Reserve as a place where dogs are prohibited totally.**
3. **Authorises the Chief Executive Officer to give local public notice in accordance with section 31(3C) of the *Dog Act 1976*, that at the Ordinary Meeting of Council to be held 21 September 2021, the local government intends to:**
  - a) **specify the following places as dog exercise areas under section 31(3A) of the *Dog Act 1976*:**
    - i) **Marmion Reserve east of the carpark and path bordering the lake;**
    - ii) **Tompkins Park Reserve east of a point approximately midway between Francis Road and Cantray Avenue;**
    - iii) **Melville Reserve sports oval and immediate surrounds, except the carpark and skatepark.**
    - iv) **An area of approximately 263m<sup>2</sup> incorporating 25m of beachfront between the river side of the path and the mean high water mark off Blackwall Reach Parade commencing approximately 46m north east of the intersection with Crewe Street for an initial period covering the summer of 2021/22.**
  - b) **Cancel the specification of the following places as dog exercise areas:**
    - i) **George Humes Park;**
    - ii) **William Reynolds Park;**
    - iii) **Juett Park;**
    - iv) **Hill Park;**
    - v) **Robert Crawford Reserve.**

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)**

- c) **Cancel the specification of the following places where dogs are currently prohibited totally under section 31(2A) of the *Dog Act 1976*:**
- i) **The area at Deep Water Point between the Dome Café leased area and the carpark, and between the leased area and that part of the path closest to the al fresco area.**
  - ii) **The non-foreshore areas of Jeff Joseph Reserve.**
- d) **Notes that the CEO will initiate, and report back to Council on, a comprehensive review of all other existing dog exercise areas against standard criteria relating to practicality, safety and other uses, and that the purpose of the review of dog exercise areas will be to:**
- i) **ensure that the City of Melville has specified such dog exercise areas as are sufficient in number, and suitable, for the exercising of dogs in the district in accordance with section 31(5) of the *Dog Act 1976*, and**
  - ii) **ensure that the City is meeting the needs of park users who wish to avoid unwanted contact with unleashed dogs.**

**DETAIL**

The *Dog Act 1976* (Dog Act) provides that:

- a dog in a public place must be held by a person capable of controlling it, or securely tethered, by means of a suitable chain, cord, leash or harness (section 31(1));
- a dog shall not be in a public place specified by a local government under section 31(2B) as a place where dogs are prohibited (section 31(2A)); and
- a dog is exempt from the leashing requirements of section 31(1) under certain circumstances (section 31(2)), including being in a dog exercise area specified by a local government under section 31(3A) provided the dog is being supervised by a competent person in reasonable proximity to the dog (section 32).

While the Council supported the recommendations at its meeting of 20 July 2021, section 31(3C) of the *Dog Act* requires that a local government must give local public notice at least 28 days before specifying a place where dogs are prohibited under section 31(2B) or a place to be a dog exercise area under section 31(3A).

Local public notice of intent to specify was given on 23 July 2021 via the City's website, eNews, newspaper advertisement and on noticeboards in the City's libraries and the Civic Centre. Public comment was invited until 23 August 2021 and the seven responses to the notice of intent are summarised below:

**Tompkins Park** received five responses:

One response was against; citing the shared path running along the foreshore that abuts the park and concerns that dogs may run onto the shared path. Other concerns were that dogs will have access to the foreshore area impacting the flora and fauna and that dogs may interfere with sports being played.

Two responses from the same household thanked the City for identifying and progressing and addressing the needs of the Melville community for this to be an off-lead area citing this land is already being used for dogs and the community, that it builds community spirit and that other off lead dog areas share space with sporting facilities and they can exist together.

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)**

The fourth response supports this area as an off-lead as it's in walking distance from their home and would be utilised by their family daily and save driving to other off-lead areas as they are not within walking distance. The respondent notes that Tompkins Park is a large area and the proposed space would not impact other users and thanked the City of Melville for taking the time to hear the voice of the community.

The fifth response included two people from the same household thanking the Council for taking into consideration the off-lead exercise area on Dunkley Avenue Applecross.

The area in the notice of intent is a portion of Tompkins Park East and approximately 250 metres in length, where no sport is being played. The Council's resolution of 15 July 2014 under section 31 of the Dog Act requires dogs to be on-lead on pathways and when a dog exercise area is being used for an organised event or function, including sport. The area abuts the shared use path, just like Attadale reserve dog exercise area on Burke Drive. Dogs must be on leash on paths at all times throughout the City where they are allowed. Signage will reinforce these requirements.

During the actual invitation of public comment period which commenced on 21 January 2021 and closed on 15 March 2021, the City received 25 comments relating to Tompkins Park with 18 in support for all of Tompkins Park and a further four supporting part of Tompkins Park or time restrictions and three opposed the entire area.

The dog exercise area to be specified occupies only part of Tompkins Park, and this is considered a reasonable compromise between the needs of different users.

<b>Park</b>	<b>Current status</b>	<b>Recommendation as advertised</b>	<b>Support for dog exercise area</b>	<b>Support for only part of the area or time restrictions</b>	<b>Oppose dog exercise area</b>
Tompkins Park Reserve	On-leash	Dog exercise area except during sporting events	18	4	3

**Marmion Reserve:**

One response was received regarding Marmion Reserve with concerns regarding how allowing dog's off-leash will impact other users of the reserve like playing sport, having picnics with young children and impact of birds in the lake. The respondent also commented that at the very least the path surrounding Marmion Reserve needs to remain on-leash.

The area listed in the notice of intent proposed to be an off-lead area is to the east of the carpark and path bordering the lake; this is in line with the respondent's request above.

All dogs even in a dog exercise area still need to be under effective control, meaning being supervised by a competent person in reasonable proximity of the dog.

During the actual invitation of public comment period which commenced on 21 January 2021 and closed on 15 March 2021, the City received no comments relating to Marmion Reserve.

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)**

<b>Park</b>	<b>Current status</b>	<b>Recommendation as advertised</b>	<b>Support for dog exercise area</b>	<b>Support for only part of the area or time restrictions</b>	<b>Oppose dog exercise area</b>
Marmion Reserve	On-leash	Dog exercise area on eastern part of the reserve	No comment received		

**Dog exercise areas with river access:**

There are currently only two areas where dogs are able to access the foreshore to swim, being a small section along Burke Drive Attadale and The Strand Applecross. The local public notice of intent also detailed a third place adjoining Blackwall Reach Parade in Bicton, and no feedback has been received during this notice period.

**Other areas:**

No comments were received in relation to the proposed revocation of the specification of dog exercise areas in George Humes Park, William Reynolds Park, Juett Park, Hill Park or Robert Crawford Reserve. This decision would not prohibit dogs from those parks but they would be required to be leashed in accordance with s.31(1) of the Dog Act.

A concern was raised about removing the prohibition on dogs in the area immediately adjacent to the Dome Café in Deep Water Point Reserve, but this was due to a misunderstanding of the proposal. After it was explained to the resident that removing the prohibition means only that the default Dog Act requirement of dogs being leashed at all times applies to the area, and that the area concerned was restricted to the immediate surrounds of the café, they withdrew their objection.

As the legislative requirement to give notice of intent to specify has now been satisfied, it is for the Council to now formally specify these areas by absolute majority decision.

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

Local public notice of the review of dog exercise areas was given on the City's *Melville Talks* web page, in the *Melville Gazette*, in the *Melville Matters* e-newsletter, on social media and on noticeboards in the City's libraries and the Civic Centre. The public notice of intent to specify the dog exercise areas was also published on the web page, the local newspaper, the *Melville Matters* e-newsletter and on noticeboards.

**II. OTHER AGENCIES / CONSULTANTS**

Other agencies and consultants were not engaged during this public notification period.

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)****STATUTORY AND LEGAL IMPLICATIONS**

Section 31(2B) of the Dog Act provides that:

- (2B) A local government may, by absolute majority as defined in the Local Government Act 1995 section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a place where dogs are prohibited —
- (a) at all times; or
  - (b) at specified times.

Section 31(3A) of the Dog Act provides that:

- (3A) A local government may, by absolute majority as defined in the *Local Government Act 1995* section 1.4, specify a public place, or a class of public place, that is under the care, control or management of the local government to be a dog exercise area.

Section 31(5) of the Dog Act states that:

- (5) A local government must specify under subsection (3A) such dog exercise areas as are, in the opinion of the local government, sufficient in number, and suitable, for the exercising of dogs in the district.

The City's approach of designating all parks as dog exercise areas unless specified otherwise meets the legislative requirement of "sufficient in number" but in most cases those areas have not been assessed to ensure they are suitable for that purpose.

Section 31(3C) of the Dog Act requires:

- (3C) At least 28 days before specifying a place to be —
- (a) a place where dogs are prohibited at all times or at a time specified under subsection (2B); or
  - (b) a dog exercise area under subsection (3A); or
  - (c) a rural leashing area under subsection (3B),

a local government must give local public notice as defined in the *Local Government Act 1995* section 1.7 of its intention to so specify.

The Council supported the officer's recommendations for the changes to dog exercise areas and places where dogs are prohibited at the Ordinary Meeting of Council 20 July 2021 and 28 days of public notice of the intent to specify has been given.

**FINANCIAL IMPLICATIONS**

Additional signage or change to existing signage will be required to ensure all users of parks and reserves are aware of the changes.

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)**

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

<b>Risk Statement &amp; Consequence</b>	<b>Level of Risk</b>	<b>Risk Treatment</b>
Conflict between park users as a result of some existing dog exercise areas not adequately allowing for the needs of dog owners and other park users.	Significant consequences which are possible, resulting in a medium level of risk.	Review existing dog exercise areas for suitability and ensure there is a balance between areas available for off-leash exercise of dogs and areas where dogs are restricted to respect the rights of other park users.
Dog owners will resist restriction in parks that have historically been off-leash dog exercise areas.	Minor consequences which are probable, resulting in a low level of risk	Ensure appropriate signage and public information. Regularly assess the suitability of parks and reserves for dogs being exercised on or off-leash, and amend status as necessary.
Extending dog access in places where they have been restricted or prohibited may result in conflict between park users.	Significant consequences which are possible, resulting in a medium level of risk.	Review the consequences of extending dog access after a reasonable trial period, and amend the status if necessary.

There are environmental management implications in this matter if dogs are permitted in environmentally sensitive areas and cause distress or harm to native flora and fauna.

There is an existing risk of poorly controlled dogs causing distress or injury in public places due to aggression, over-familiarity, or collisions/trips. The Dog Act provides mechanisms for managing these risks, and the proposed review of whether the City's dog exercise areas are suitable for their purpose will also contribute to risk mitigation.

It is likely that there will be more contravention of the Dog Act and a higher volume of complaints immediately following a change to the dog status of parks and reserves, until the community becomes familiar with the changes. This risk will be mitigated by ensuring adequate on-site signage and publicity to raise public awareness.

City officers will adhere to the Compliance and Enforcement Policy and Guidelines, particularly in using education and other non-punitive measures where this is a proportionate response to breaches of the Dog Act or the Dog Local Law.

**POLICY IMPLICATIONS**

The Council will need to choose between the current policy of allowing dogs to be exercised off-leash in all public places under the care, control or management of the City unless specified otherwise, and aligning more closely with the Dog Act and most other local governments in specifying individual dog exercise areas that have been assessed as being fit for purpose.

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)**

The forthcoming strategic review of dog exercise areas in the district will provide information to support a decision on the most appropriate policy position.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The Council may decide not to specify dog exercise areas in Tompkins Park or Marmion Reserve as a result of the single objection to each area received during the public notification period. A decision to not approve the proposed dog exercise area at the eastern end of Tompkins Park would be contrary to the wishes of most respondents to the initial review who commented on the proposal to specify a dog exercise in Tompkins Park and overwhelmingly supported it.

The current restrictions in Marmion Reserve mean that it is not aligned with most other sporting reserves in the district in terms of off-leash dog access, and a decision not to specify the proposed section of the reserve as a dog exercise area will continue this inequality.

Item M21/5845\_3 – Review of dog exercise areas – Summary of Submissions is available to read online from the Minutes Ordinary Meeting of the Council 20 July 2021

**CONCLUSION**

Following an assessment of 43 parks and reserves, officers recommended retention of the existing dog access status of some and changes to others.

Comments made and concerns expressed through the public consultation on those recommendations show a diversity of public views on the extent to which dogs should be allowed to access the City's parks and reserves, and under what conditions.

The Council is advised to make determinations as described in this report to formalise the support expressed by Council at the Ordinary Meeting of Council on 20 July 2021 for the changes to dog exercise areas and dog-prohibited places as listed in recommendation 3 of the officer's report to that meeting.

Local public notice of intent of 28 days was given. The Council can now make a decision by absolute majority to specify a dog exercise area or a place in which dogs are prohibited, or to cancel such specifications.

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)****OFFICER RECOMMENDATION (8142)****ABSOLUTE MAJORITY APPROVAL**

At 7:01pm Cr Fitzgerald moved, seconded Cr Robins –

**That the Council by absolute majority:**

- 1. Specifies the following places as dog exercise areas under section 31(3A) of the *Dog Act 1976*:**
  - i) Marmion Reserve east of the carpark and path bordering the lake;**
  - ii) Tompkins Park Reserve east of a point approximately midway between Francis Road and Cantray Avenue;**
  - iii) Melville Reserve sports oval and immediate surrounds, except the carpark and skatepark.**
  - iv) An area of approximately 263m<sup>2</sup> incorporating 25m of beachfront between the river side of the path and the mean high water mark off Blackwall Reach Parade commencing approximately 46m north east of the intersection with Crewe Street for an initial period covering the summer of 2021/2022 and will continue unless opposing feedback is received during this period.**
  
- 2. Cancels the specification of the following places as dog exercise areas:**
  - i) George Humes Park;**
  - ii) William Reynolds Park;**
  - iii) Juett Park;**
  - iv) Hill Park;**
  - v) Robert Crawford Reserve.**
  
- 3. Cancels the specification of the following places where dogs are currently prohibited totally under section 31(2A) of the *Dog Act 1976*:**
  - i) The area at Deep Water Point between the Dome Café leased area and the carpark, and between the leased area and that part of the path closest to the al fresco area.**
  - ii) The non-foreshore areas of Jeff Joseph Reserve.**
  
- 4. Resolves that, provided they are being effectively supervised by a competent person in reasonable proximity, dogs are allowed to be off-leash in a public place that has been specified to be a dog exercise area, except –**
  - i) On any pathway, or**
  - ii) on land which has been set apart as a children’s playground, or**
  - iii) during times when that public place is being used for an organised function, event or sporting activity attended by people.**

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)**

At 7:04pm having declared an interest, Cr Sandford left the meeting.

At 7:09pm Cr Mair foreshadowed an amendment.

**Amendment**

**COUNCIL RESOLUTION**

At 7:04pm Cr Pazolli moved, seconded Cr Wheatland –

**To delete clause 1. ii) of the Officer Recommendation and renumber the remaining clauses of Item 1 of the Officer Recommendation.**

**Words to be deleted:**

**“ii) Tompkins Park Reserve east of a point approximately midway between Francis Road and Cantray Avenue:”**

At 7:17pm, the Mayor declared the motion

**CARRIED (7/4)**

<b>Yes</b>	7	Cr Macphail, Cr Barton, Cr Wheatland, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	4	Cr Robartson, Cr Mair, Cr Woodall, Cr Barber

At 7:17pm Cr Kepert abstained from voting on this matter.

**Reasons for the Amendment as provided by Cr Pazolli:**

1. This amendment seeks to delete the officer proposed change to specify this area of Tompkins Park Reserve east as a dog exercise area. The amendment is based on the strong Agenda Briefing deputation by SERAG, who undertake regular volunteer maintenance activities in this area of foreshore, which highlighted the potential impact of unleashed dogs on the foreshore fauna and vegetation.
2. The suggestion for the City to construct a 250m long, 800mm high, chain-link fence at a cost of \$15 to \$20K to separate the unleashed dogs from access to the environmentally sensitive foreshore is unsatisfactory because:
  - The preliminary \$20K cost estimate is not consistent with the budgeted Capital Works Program item for the new Piney Lakes Fenced dog play area (which I believe is of similar fence length) budgeted at \$160K, nor consistent with the circa \$90K budget estimate for the initially proposed fenced dog exercise area on Burke Drive.
  - If the proposed fence is to be located between the Principal Shared Path (PSP) & the foreshore then its construction will necessitate the removal of significant foreshore vegetation as well as possibly restricting access of river wildlife to the river/foreshore (similarly if the fence is located south of the PSP).
  - The fence represents a significant safety risk to the many cyclists that use the PSP in that at 800mm height any misjudgements by a cyclist or collision of cyclists/pedestrians could result in serious injuries being sustained from cyclists falling onto (or into) the relatively low fence. (I have personally experienced such an incident with the fence around the Pelican Cove PSP!).

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)**

Reasons for the amendment as provided by Cr Pazolli, continued:

- The fence restricts public access to the river & foreshore and increases the difficulty of the SERAG volunteers maintaining the foreshore vegetation (for example elderly SERAG volunteers have to use step ladders to access the Alfred Cove fenced foreshore).
  - It is noted that construction of such a proposed fence should be completed before any action is taken to designate the area as a dog exercise area (perhaps a case of “putting the cart before the horse”)
3. There are significant unleashed dog areas at Burke Drive Reserve so there is no shortage of such facilities in this area.

*At 7:17pm Cr Sandford returned to the meeting.*

*At 7:17pm Cr Wheatland left the meeting and returned at 7:17pm.*

At 7:18pm Cr Barber foreshadowed an amendment.

Amendment

**COUNCIL RESOLUTION**

At 7:16pm Cr Barton moved, seconded Cr Pazolli –

**To delete clause 1. iv) of the Officer Recommendation.**

**Words to be deleted:**

**“iv) An area of approximately 263m<sup>2</sup> incorporating 25m of beachfront between the river side of the path and the mean high water mark off Blackwall Reach Parade commencing approximately 46m north east of the intersection with Crewe Street for an initial period covering the summer of 2021/2022 and will continue unless opposing feedback is received during this period.”**

At 7:28pm the Mayor declared the motion

**CARRIED (8/4)**

<b>Yes</b>	8	Cr Macphail, Cr Barton, Cr Wheatland, Cr Pazolli, Cr Fitzgerald, Cr Mair, Cr Sandford, Mayor Gear
<b>No</b>	4	Cr Robartson, Cr Barber, Cr Woodall, Cr Robins

At 7:28pm Cr Kepert abstained from voting on the matter.

*At 7:22pm Ms Davis left the meeting and returned at 7:23pm.*

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)**

**Reasons for the amendment as provided by Cr Barton:**

1. This amendment seeks to delete the change that specifies this area of Blackwall Reach as a dog exercise area. The amendment is based on the strong Agenda Briefing deputation by Bicton Environmental Action Group (BEAG) which carry out regular volunteer maintenance activities in this area of foreshore. This report highlighted the potential impact of unleashed dogs on the foreshore fauna and vegetation.
2. The BEAG volunteers have worked for many thousands of hours over nearly 20 years to maintain and rehabilitate this area, and do not want to see this work undone in a single summer trial.
3. There is a significant unleashed dog area at Burke Drive Reserve.
4. At the Point Walter end of Burke Drive Reserve there is a dog beach which satisfies the needs of those preferring access to the water, and it is unnecessary to further expose birdlife to dogs in the river.
5. The request for an unleashed area comes from the small number of people walking to the Blackwall Reach exercise area with their dogs; by far the majority, including Bicton residents, drive to the unleashed facility in Burke Drive.

**Amendment**

**COUNCIL RESOLUTION**

At 7:29pm Cr Barber moved, seconded Cr Robins –

**That a new point be included as follows:**

**Direct the CEO undertake community consultation for an alternative dog swim area on the Bicton Foreshore, such as timed seasonal sessions at Bicton Baths, on a three month trial basis and to report back to the Council at the December 2021 Ordinary Meeting of Council.**

At 7:36pm the Mayor declared the motion

**CARRIED (11/1)**

<b>Yes</b>	11	Cr Clive Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Sandford, Cr Woodall, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	1	Cr Mair

At 7:36pm Cr Kepert abstained from voting on the matter.

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)**

**Substantive Motion as Amended**

**COUNCIL RESOLUTION**

At 7:01pm Cr Fitzgerald moved, seconded Cr Robins–

**That the Council by absolute majority:**

1. **Specifies the following places as dog exercise areas under section 31(3A) of the *Dog Act 1976*:**
  - i) **Marmion Reserve east of the carpark and path bordering the lake;**
  - ii) **Melville Reserve sports oval and immediate surrounds, except the carpark and skatepark.**
  
2. **Cancels the specification of the following places as dog exercise areas:**
  - i) **George Humes Park;**
  - ii) **William Reynolds Park;**
  - iii) **Juett Park;**
  - iv) **Hill Park;**
  - v) **Robert Crawford Reserve.**
  
3. **Cancels the specification of the following places where dogs are currently prohibited totally under section 31(2A) of the *Dog Act 1976*:**
  - i) **The area at Deep Water Point between the Dome Café leased area and the carpark, and between the leased area and that part of the path closest to the al fresco area.**
  - ii) **The non-foreshore areas of Jeff Joseph Reserve.**
  
4. **Resolves that, provided they are being effectively supervised by a competent person in reasonable proximity, dogs are allowed to be off-leash in a public place that has been specified to be a dog exercise area, except –**
  - i) **On any pathway, or**
  - ii) **on land which has been set apart as a children’s playground, or**
  - iii) **during times when that public place is being used for an organised function, event or sporting activity attended by people.**
  
5. **Direct the CEO undertake community consultation for an alternative dog swim area on the Bicton Foreshore, such as timed seasonal sessions at Bicton Baths, on a three month trial basis and to report back to the Council at the December 2021 Ordinary Meeting of Council.**

At 7:37pm, the Mayor declared the motion

**CARRIED (12/0)**

<b>Yes</b>	12	Cr Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Woodall, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	0	

At 7:37pm Cr Kepert abstained from voting on the matter.



**C21/5864 SELECTION OF SITE SURVEYOR FOR 18A AND 18B TWEEDDALE ROAD, APPLECROSS (REC)**

**KEY ISSUES / SUMMARY**

- At the Ordinary Meeting of the Council held on 17 August 2021, the Council resolved that the CEO source a list of independent site surveyors to establish the natural ground level at 18a And 18b Tweeddale Road, Applecross. The site surveyor is to be selected by the Council at the September 2021 Council Meeting.”
- In response to the resolution a list of suppliers sourced from the WALGA Panel PSP002-013 Engineering, Environmental and Technical Consultancy – Surveying was published in the 27 August Elected Members Bulletin.
- The list of surveyors is provided in this report for the Council to select a company to undertake the site survey.

**BACKGROUND**

At the August 2021 Ordinary Meeting of Council the Council resolved to

*“Direct the CEO to source a list of independent site surveyors to establish the natural ground level. The site surveyor is to be selected by the Council at the September 2021 Council Meeting.”*

**DETAIL**

In the Elected Members Bulletin of Friday, 29 August 2021 the following list of suppliers sourced from the WALGA Panel PSP002-013 Engineering, Environmental & Technical Consultancy – Surveying was presented.

AAM Pty Ltd	Located in the City	Has not done work with City before
Cardno	Located in West Perth	Has done work for the City
GHD	Located in the City	Has done work for the City
Harley Dykstra	Located in Bunbury	Has not done work for the City before
McMullen Nolan Group	Located in Jandakot	Has done work for the City
Quantum Surveys	Located in Geraldton	Has not done work for the City before

In accordance with the August 2021 resolution it is for the Council to select a supplier to undertake the required works.

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

No community engagement has been undertaken with regard to providing the list of surveyors.

**II. OTHER AGENCIES / CONSULTANTS**

No engagement with agencies, consultants or surveyors has been undertaken with regard to providing the list of surveyors.

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**C21/5864 SELECTION OF SITE SURVEYOR FOR 18A AND 18B TWEEDDALE ROAD,  
APPLECROSS (REC)****STATUTORY AND LEGAL IMPLICATIONS**

If the council is to make the appointment Elected Members should be aware of and declare any related party disclosures.

**FINANCIAL IMPLICATIONS**

This procurement is expected to be under the value of \$5,000. At this value there would be a requirement, as per policy, to source only one quote for a supplier to undertake the works. No quotes have been obtained in relation to this supply of service.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Not applicable.

**POLICY IMPLICATIONS**

CP-023 Procurement of Products or Services should be applied in relation to the selection of an appropriately qualified and experienced surveyor.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The alternative to the Council appointing a surveyor is for the administration to undertake the procurement in accordance with Policy.

**CONCLUSION**

The list of surveyors as requested by the Council at the 17 August 2021 Meeting of Council has been provided for Council to make a decision.

**C21/5864 SELECTION OF SITE SURVEYOR FOR 18A AND 18B TWEEDDALE ROAD,  
APPLECROSS (REC)****OFFICER RECOMMENDATION (5864)****APPROVAL**

At 7:37pm Cr Fitzgerald moved, seconded Cr Pazolli –

**That the Council**

- 1. Determine the supplier to establish the natural ground level at 18A and 18B Tweeddale Road, Applecross**
- 2. Upon resolution of the item, The Council directs that the successful supplier name be inserted below this point 2, awarded;**

**Amendment**

At 7:38pm Cr Mair moved, seconded Cr Kepert –

**That the Council**

- 1. Determine the supplier to establish the natural ground level by determining the changes from 2004 to 2008 Levels and the 2008 to 2021 Levels at 18A and 18B Tweeddale Road, Applecross.**
- 2. The supplier is to produce a signed certified table showing how much sand was added to the site over the past 17 years.**
- 3. Upon resolution of the item, The Council directs that the successful supplier be AAM Pty Ltd located in the City.**
- 4. The chosen surveyor is to provide a Statutory Declaration that the levels shown in the survey are true and accurate.**
- 6. The results of the survey be provided to affected residents.**

*At 7:43pm Cr Wheatland left the meeting and returned at 7:46pm.*

At 7:47pm following discussion Cr Mair withdrew her amendment consent of the seconder.

**C21/5864 SELECTION OF SITE SURVEYOR FOR 18A AND 18B TWEEDDALE ROAD, APPLECROSS (REC)****Amendment**

At 7:57pm Cr Kepert moved, seconded Cr Mair –

**That the Council**

- 1. Select AAM Pty Ltd to conduct a site survey to determine the true natural ground levels of 18A and 18B Tweeddale Road, Applecross.**
- 2. Directs the CEO to include in scope of works a requirement that the surveyor produce a statutory declaration that establishes that they hold the results of their survey to be true and correct.**
- 3. Request a report on the results of the site survey verses the approved ground levels set in 2008.**
- 4. Allows the results and report of the site survey to be made available to the public.**

*At 7:58pm Cr Barber left the meeting and returned at 8:01pm.*

At 8:09pm the mover, with the consent of the seconder, amended the wording of point 3, to read:

- “3. Request a report on the results of the site survey verses the approved ground levels set in 2004 and 2008.”

At 8:11pm following advice from the Director Urban Planning, the mover, with the consent of the seconder, deleted the proposed amendment with the wording of point 3 to revert to:

- “3. Request a report on the results of the site survey verses the approved ground levels set in 2008.”

**C21/5864 SELECTION OF SITE SURVEYOR FOR 18A AND 18B TWEEDDALE ROAD, APPECROSS (REC)**

**Amendment**

**COUNCIL RESOLUTION**

At 7:57pm Cr Kepert moved, seconded Cr Mair –

**That the officer recommendation be amended to read:**

- 1. Select AAM Pty Ltd to conduct a site survey to determine the true natural ground levels of 18A and 18B Tweeddale Road, Applecross.**
- 2. Directs the CEO to include in scope of works a requirement that the surveyor produce a statutory declaration that establishes that they hold the results of their survey to be true and correct.**
- 3. Request a report on the results of the site survey verses the approved ground levels set in 2008.**
- 4. Allows the results and report of the site survey to be made available to the public.**

At 8:14pm the Mayor declared the motion

**CARRIED (7/5)**

<b>Yes</b>	7	Cr Barber, Cr Barton, Cr Mair, Cr Sandford, Cr Pazolli, Cr Kepert, Mayor Gear
<b>No</b>	5	Cr Robartson, Cr Wheatland, Cr Robins, Cr Fitzgerald, Cr Macphail

**Substantive Motion as Amended**

**COUNCIL RESOLUTION**

At 7:37pm Cr Fitzgerald moved, seconded Cr Pazolli –

**That the Council**

- 1. Select AAM Pty Ltd to conduct a site survey to determine the true natural ground levels of 18A and 18B Tweeddale Road, Applecross.**
- 2. Directs the CEO to include in scope of works a requirement that the surveyor produce a statutory declaration that establishes that they hold the results of their survey to be true and correct.**
- 3. Request a report on the results of the site survey verses the approved ground levels set in 2008.**
- 4. Allows the results and report of the site survey to be made available to the public.**

At 8:14pm, the Mayor declared the motion

**CARRIED (7/5)**

<b>Yes</b>	7	Cr Barber, Cr Barton, Cr Mair, Cr Sandford, Cr Pazolli, Cr Kepert, Mayor Gear
<b>No</b>	5	Cr Robartson, Cr Wheatland, Cr Robins, Cr Fitzgerald, Cr Macphail

At 8:15pm Cr Woodall returned to the meeting.

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER ROAD WILLAGEE (REC) (ATTACHMENT)**

Disclosure of Interest

Member	Cr Wheatland
Type of Interest	Interest under the Code of Conduct
Nature of Interest	I live on Leach Highway
Request	Stay, Discuss and Vote
Decision Leave	Stay, Discuss and Vote

Disclosure of Interest

Member	Cr S Kepert
Type of Interest	Interest under the Code of Conduct.
Nature of Interest	I do not possess all the information I require to make an informed decision
Request	Stay, Discuss.
Decision Leave	Stay, Discuss.

Ward	:	Palmyra - Melville - Willagee Ward
Category	:	Strategic
Application Number	:	Not Applicable
Property	:	71 – 77 Leach Highway Willagee and 2-6 Webber Road Willagee
Proposal	:	Request for Scheme Amendment - Additional Uses for these properties in the Willagee Local Centre.
Applicant	:	Not Applicable
Owner	:	Various
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	Item 16.2 Motion with Notice - Review of Land Use Restrictions at 71 – 77 Leach Highway / 2 – 6 Webber Road Willagee – Ordinary Meeting of Council held 16 March 2021
Responsible Officer	:	Gavin Ponton Manager Strategic Urban Planning

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6  
WEBBER ROAD WILLAGEE (REC) (ATTACHMENT)**

**AUTHORITY / DISCRETION**

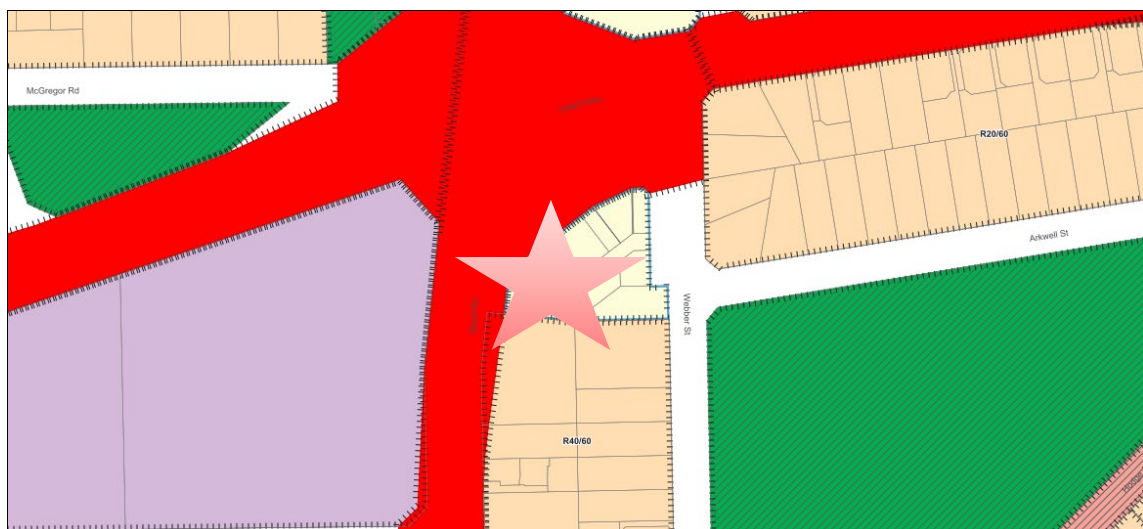
**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input checked="" type="checkbox"/>	<b>Legislative</b>	<b><i>Includes adopting local laws, town planning schemes &amp; policies.</i></b>
<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>

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER ROAD WILLAGEE (REC) (ATTACHMENT)**

**KEY ISSUES / SUMMARY**

- Local Planning Scheme 6 (LPS6) was gazetted on 27 May 2016.
- At the Ordinary meeting of the Council on 16 March 2021, a Notice of Motion was passed to undertake a review of land use restrictions at 71-77 Leach Highway and 2-6 Webber Road, Willagee with a view to modifying Local Planning Scheme 6 to provide greater flexibility in land use permissibility at this site.
- The subject area is the Willagee Local Centre located on the southern side of Leach Highway in Willagee.
- The properties are occupied by various businesses including dog grooming, a newsagency, a barbers, charcoal chicken restaurants, a bakery and a physiology business. Many of the properties are also vacant.
- The site is zoned Centre (C4) and classified as Restricted Use (R4). The allowable uses within the centre are currently restricted to only those listed in LPS6 (Table 5, R4).
- The current controls are considered to be restricting opportunities for the centre to thrive and provide uses and services for the community.
- The proposal is for a scheme amendment to:
  - remove the restricted (R4) classification thereby defaulting to the standard LPS6 zoning table (table 3) which identifies the permissibility of uses of land for all zones including Centre (C4); and
  - introduce an additional site requirement pursuant to Clause 33 of LPS6 to restrict the extent of retail use within the centre.
- It is also proposed to amend the Willagee Structure Plan to align with the above amendments to LPS6.
- The Council is requested to consider initiating advertising of both the proposed scheme amendment and the structure plan amendment.
- The request is considered suitable to allow commencement of advertising. At the conclusion of public advertising the amendment would be again presented to the Council to consider submissions and to decide whether or not to support the amendment.



**LPS6 zoning map of subject site (star) and surrounds**

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER ROAD WILLAGEE (REC) (ATTACHMENT)**

**BACKGROUND**

A Notice of Motion was passed at the Ordinary Meeting of the Council on 16 March 2021 to investigate review of land use restrictions at 71-77 Leach Highway and 2-6 Webber Road, Willagee with a view to modifying Local Planning Scheme 6 to provide greater flexibility in land use permissibility.

The site is zoned Centre (C4) and classified as Restricted Use (R4). This restricted use (R4) classification means that the only uses permitted in the centre are those listed in Table 5 of the LPS6 below. Other uses that would ordinarily be permissible in the Centre (C4) Zone are not permitted.

Extract from LPS 6 showing uses currently permitted:

4	Lots 262 (No.71), 271 (No.73) and 274 (No. 75-77) Leach Highway, Willagee, and Lots 277 (No.2), 66 (No.2A), 268 (No.4) and 269 (No.6) Webber Street, Willagee	Child Care Premises – P Consulting Rooms – P Educational Establishment – D Home Business – A Home Occupation – D Home Office – P Hospital – A Hotel - A Tavern – A Medical Centre – A Office – P Place of Worship – A Residential – D Warehouse/Storage – D Veterinary Centre – P Other uses not listed in the Zoning table – D
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Historically these restrictions on land use were imposed in response to:

- a) Recognition that much of the available parking for this centre will ultimately be removed in the event of a new interchange at the Stock Road/Leach Highway intersection being constructed.
- b) An objective to ensure that the Archibald Street shopping precinct in Willagee continued to function as the primary retail centre for the Willagee community.

It is noted that the local centre currently has approximately 104 total car parking spaces, 48 of which are in the area reserved for the future interchange and 56 of which are located along Webber Street and within the centre. Accordingly, the planning framework sought to allow a limited range of uses (which were considered to have lower parking demands) to minimise parking congestion at the centre.

Main Roads has recently confirmed that the project for the ultimate upgrading/widening of Leach Highway and/or Stock Road is not in Main Roads current 4-year forward estimated construction program and all projects not listed are considered long-term.

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6  
WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

An application for a yoga studio was recently refused at 1/71 Leach Highway which is currently vacant (DA-2020-1287). This site was formally occupied by the Willagee TAB. The proposed yoga studio use was not a permitted use within the subject lot under the current provisions of the City's Local Planning Policy Scheme No. 6. Assessment noted the parking requirements for the proposed use were satisfactory; however the use itself was not able to be approved. This is an example of how the current controls are restricting opportunities for the centre to thrive and provide suitable uses and services for the community. Additionally, the Department of Transport (DOT) Licensing Centre (1/71 and 2/71 Leach Highway) vacated in December 2019, impacting the viability of the centre. Other tenancies have ceased operation since this time and many of the premises are vacant.

**Site Details**

The amendment area comprises of five lots and benefits from vehicle crossovers to Stock Road and Webber Street. Car parking is located along the Leach Highway frontage within the road reserve and in and around the centre (see below).



***Subject properties outlined in Red.***

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

Lot 262 (No. 71 Leach Highway) was the previous DOT (Driver and Vehicle Services) site. It contains three units. Unit 1 is occupied by a physiotherapy business called Reps Movement. The other two units are currently vacant and advertised for lease.



**71 Leach Highway**

Lot 271 (No. 73 Leach Highway) contains Emry's Espresso café. This is an 183sqm lot and was previously occupied by Simon's lunch bar and deli.



**73 Leach Highway**

Lot 274 (No. 75-77 Leach Highway) is a 349sqm lot and contains an Indonesian restaurant (Waroeng Racik) at No. 75 and a convenience shop (previously an IGA) at No. 77.



**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

**75-77 Leach Highway**

Lot 207 (No. 2 Webber) is a 207sqm lot and contains Charcoal Chicken Express Cafe.



**2 Webber Street**

Lot 267 (No. 4 Webber) is a 290sqm lot and contains a newsagency (Willagee Park News), barber shop (Willagee Barber) and dog grooming business (doggy dazzlers).



**4 Webber Street**

Lot 269 (No. 6 Webber) is a 687sqm lot which contains a Taiwanese restaurant called Diner One.

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**



**6 Webber Street**

**Scheme Provisions**

MRS Zoning	:	Urban / Primary Regional Road
LPS Zoning	:	Centre
R-Code	:	R60
Use Type	:	Not Applicable
Use Class	:	Not Applicable

**Willagee Structure Plan Area:**

The subject properties (site) are within the Willagee Structure Plan Area. The Willagee Structure Plan was implemented in November 2013 and updated in May 2016. This Structure Plan applies to the area of land within the suburb of Willagee, bounded by North Lake Road, Stock Road, Leach Highway and Garling Street.

The Structure Plan identifies four policy areas being Archibald Hub, Carawatha, Webber and Leach Highway. The site is located in the Leach Highway Policy area and designated for restricted commercial uses. This area is identified as No. 2 LHPA in the Structure Plan below.

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**



***Willagee Structure Plan Map***

The structure plan content reflects the position of LPS 6 in seeking to manage land uses at the subject site in particular with the objective of ensuring that the Archibald Street shopping precinct in Willagee continues to function as the primary retail centre for the Willagee community.

**DETAIL**

Current land use restrictions applicable to the subject site have responded to:

- a) Potential impacts associated with a future loss of parking bays in the event of a new interchange being built at the corner of Leach Highway and Stock Road; and
- b) An objective to ensure the Archibald Street shopping precinct remains the primary retail centre in Willagee.

Further review of parking capacity indicates that the 56 bays at the centre (unaffected by the future interchange) are sufficient to accommodate additional development and the introduction of a wider range of land uses. Additional on street public parking is also available in the surrounding area, including Webber Reserve. In these circumstances a relaxation of the current restrictions is proposed. New development and change of use proposals would still be required to meet required parking standards.

A restriction on retail uses is also proposed to ensure impacts on the operation of the nearby Archibald street centre are managed.

Accordingly, it is proposed to amend LPS6 by removing the restricted use (R4) classification thereby allowing the normal Centre Zone C4 land use permissibility to apply. Many of the restricted uses are included in the standard C4 table of uses, some of which will change classification (highlighted below). One use, warehouse, will now be prohibited.

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

Uses Bold = change to classification	Existing (Willagee R4)	Proposed (Standard C4)
<b>Childcare Premises</b>	P	D
Consulting Room	P	P
Education Establishment	D	D
<b>Home Business</b>	A	D
Home Occupation	D	D
Home Office	P	P
Hospital	A	A
Hotel	A	A
Tavern	A	A <sup>1</sup>
<b>Medical Centre</b>	A	D
Office	P	P <sup>1</sup>
Place of Worship	A	A
Residential	D	N/A
<b>Warehouse / Storage</b>	D	X
<b>Veterinary Centre</b>	P	A

**Table 1: Uses currently permitted in the centre.**

In addition to the changes to the above classifications, the alignment with the standard Centre Zone C4 provisions will result in the following use permissibility for the site:

Land use	Classification	Land use	Classification
Amusement Parlour	D	Funeral Parlour	A
Art Gallery	P	Garden Centre	D
Bed And Breakfast	D	Home Store	P
Betting Agency	P	Liquor Store - Small	D
Caretakers Dwelling	D	Market	D
Car Park	A	Motor Vehicle Wash	A
Civic Use	P	Reception Centre	A
Club Premises	A	Recreation Private	D
Commercial Vehicle Parking	A	Restaurant/Cafe	P
Community Purpose	D	Serviced Apartments	D
Convenience Store	P	Service Station	A
Exhibition Centre	D	Shop	P
Family Day Care	P	Small Bar	D <sup>1</sup>
Fast Food Outlet	D <sup>2</sup>	Telecommunications Infrastructure (TI) <sup>3</sup>	A <sup>3</sup>

**Table 2: New uses proposed to be introduced to the centre (Standard C4 uses)**

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

The Structure Plan area contains four centres as follows:

- Willagee Neighbourhood Centre: these are the shops along the northern side of Archibald Street. This is the primary centre and described as Willagee’s Heart in the structure plan.
- Webber Local Centre: this is the subject site on the corner of Stock Road and Leach Highway.
- Archibald Local Centre: these are the shops along the southern side of Archibald Street near Carawatha. This area is identified as a niche local mixed use area with providing some local commercial services.
- Bawdon Local Centre: This is a small centre on the eastern side of Webber reserve and is identified as an Arts Precinct in the Structure Plan.

The structure plan aims to support the Archibald Hub as the retail heart of Willagee. The Structure Plan includes content which works together with the existing restrictions in LPS6 to discourage the expansion of retail uses at the other local centres. To maintain this objective, it is proposed to continue to restrict retail development within the Leach Highway/Webber Street centre. The proposed approach is to require any retail development involving a floor area in excess of 1000 square metres to be accompanied by a Retail Sustainability Assessment report which demonstrates that the proposal will not adversely impact the operation of other nearby centres. The trigger for the requirement at 1000 square metres provides flexibility for smaller retail premises to progress, but requires consideration of the impact of larger premises, more likely to impact on nearby centres, such as a small supermarket. An additional site and development requirement is therefore proposed in Clause 33 of LPS6 as follows:

No.	Description of Land	Requirement
1	Lots 262 (No. 71), and 271 (No. 73) and 274 (No. 75-77) Leach Highway, Willagee, and Lots 277 (No. 2), 66 (No. 2A), 268 (No. 4) and 269 (No. 6) Webber Street, Willagee.	<p>For a development proposal involving a retail use in excess of 1000sqm NLA, a retail sustainability impact assessment study is required to be submitted. The required Retail Impact Assessment is to satisfactorily demonstrate that the proposal will not detract from the function of other centres as envisaged by the Willagee Structure Plan, in particular the primacy of the Willagee Neighbourhood Centre / Archibald Hub Policy Area.</p> <p>The Retail Sustainability Assessment shall accord with the requirements and scope of Section 6.5 Retail Sustainability Assessments of State Planning Policy 4.2 Activity Centres for Perth and Peel.</p>

The proposed modifications to LPS6 are outlined in:

**[3934 Attachment 1 Schedule of Modifications to LPS6](#)**

The proposed changes in LPS6 will also need to be reflected in the Willagee Structure Plan. The Structure Plan changes involve amendments to the wording of the plan which reference the existing restrictions for the Leach Highway/Webber Street Centre. Details of the

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

Details of the proposed modifications to the structure plan are summarised below and more fully described in:

**[3934 Attachment 2 Schedule of Modifications to Willagee Structure Plan](#)**

Willagee Structure Plan Modifications:

The policy statement for the restricted commercial use at the intersection of the Stock Road and Leach Highway is *to provide for small scale office uses in this location, rather than retail which will be impacted by access changes associated with the potential construction of an interchange. It is envisioned that existing retailers serving the local residential catchment will locate in the Webber Policy area, or the Archibald Hub. Larger retailers, requiring highway exposure and larger format sites, will be attracted to the opposite Melville centre. Design guidelines for commercial uses within the Leach Highway Policy Area will address access, parking, built form, and landscaping to enhance the amenity of this location.* -This policy statement is proposed to be amended to allow for retail but at a scale and character that does not detrimentally impact nearby centres (Refer [Attachment 2](#)).

Part four of the structure plan states that *the Stock Road Restricted Commercial area, in future, will be impacted by noise and land impacts of on and off ramps at the intersection of Leach Highway and Stock Road. The long term access and egress of this site is likely to be considerably restricted, with access only via Webber Street. Office development in this location will benefit from highway exposure, but will not rely on immediate highway access for 'drive by' trade. The area will not support substantial retail that would convenience elsewhere in Willagee, but just enough to service the office spaces above or give the office tenants a shop front for their business.* -This statement is proposed to be amended to reflect the proposed land use changes in LPS6, in particular retail as a permitted use, but still ensure that that retail use in this centre does not undermine the hierarchy of centres in the Structure Plan area. (Refer [Attachment 2](#)).

Objectives 7.4.1 relating to the Leach Highway Policy area are (emphasis added);

- To provide for residential uses which deliver diverse and affordable housing options;
- To manage noise and access impacts from Leach Highway through innovative design responses;
- To ensure the nature, form and scale of development respects and integrates with the surrounding suburban streetscape;
- To reduce direct vehicular access from private property onto Leach Highway and encourage direct vehicular access onto alternative streets in recognition of increasing freight traffic use of Leach Highway; and
- *To encourage non-retail development in the Leach Highway Restricted Local Centre Sector in anticipation of the major changes scheduled for Stock Road and the Leach Highway/Stock Road intersection.*

The above objective statement (final dot point) is proposed to be deleted and replaced with an updated statement referencing the requirement for a retail sustainability assessment study as proposed in LPS6 (Refer to [Attachment 2](#)).

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

Objectives 7.4.1 that relate specifically to the Leach Highway Restricted Local Centre Sector are to:

- *Restrict commercial land uses, with new instances of Convenience Store, Corner Store, Garden Centre, Lunch Bar, Restaurant, Service Station and Shop land uses not permitted;*
- Encourage offices on ground floors;
- Present an activated frontage to public streets and visual/access links;
- Develop buildings of an appropriate scale (up to four storeys and 16m in height, plot ratio of 2) and design to contribute to the built form of the Local Centre;
- Locate buildings appropriately, with nil setbacks to frontages;
- Provide landscaping to improve the visual amenities of the area;
- Provide sufficient vehicle parking bays in accordance with Council policy; and
- Provide opportunity and safe environments for pedestrian and cycle access

The first dot point above reflects the current land use restrictions in LPS6 which are proposed to be amendment. Deletion of this objective statement from the structure plan is proposed. (Refer to [Attachment 2](#)).

**STAKEHOLDER ENGAGEMENT**

Advertising Required:

If the Council resolved to initiate the scheme amendment to LPS6 and the structure plan amendment, they would be required to complete a public advertising period. Advertising is not required, or usually undertaken in determining whether or not to initiate a scheme amendment or structure plan amendment.

**I. COMMUNITY**

Each amendment would be required to be advertised to the community. Advertising would commence should the amendment be initiated. Formal advertising will involve notification in a local newspaper, information on the City's website and correspondence to affected landowner/occupiers.

**II. OTHER AGENCIES / CONSULTANTS**

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

**STATUTORY AND LEGAL IMPLICATIONS**

An amendment to LPS6 requires a resolution of the Council to initiate the process, including the commencement of advertising. Procedures are specified by the *Planning and Development (Local Planning Schemes) Regulations 2015*. In summary the amendment would require advertising for comment, review of submissions and then forwarding of a recommendation on the amendment to the Western Australian Planning Commission (WAPC).

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

The WAPC would then forward a recommendation on the proposed amendment to the Minister for Planning, for determination. 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.

A change to the text of the Structure Plan to align with the LPS amendment would require a structure plan amendment process to commence in accordance with Part 5 of the Planning and Development (Local Planning Schemes) Regulations 2015. The required amendment would be subject to an advertising period, consideration of submissions by Council and forwarding of a recommendation to the WAPC for determination.

**FINANCIAL IMPLICATIONS**

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

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Initiation of an amendment to allow for a wider range of uses for the subject properties at this time is considered to be in keeping with the Local Planning Strategy. There are no strategic, risk or environmental management implications with this request.

**POLICY IMPLICATIONS**

An amendment to consider additional uses on these sites at this point in time is considered in keeping with the Local Planning Strategy.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The Council could resolve to not initiate the proposed scheme amendment or the proposed amendment to the Willagee Structure Plan. This option would not respond to proposal to provide additional land use flexibility at the Leach Highway/Webber Street centre.

**CONCLUSION**

The Leach Highway/Webber Street centre is the subject of restrictive land use controls which are noted to be constraining its operation. Historically these land use restrictions have sought to respond to:

- a) A long term likelihood that car parking spaces near the centre will be reduced with the construction of a Leach highway/Stock road interchange; and
- b) An objective to manage retail uses at the centre to ensure that the Archibald Hub remained the primary retail centre for Willagee.

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

Review of the operation of the centre and the existing controls has established that there is opportunity to reduce the land use restrictions whilst maintaining regard to the above objectives. Specifically it is proposed to align the land use controls at the centre with the standard controls applicable to a Centre C4 zone but with an inclusion of a requirement to manage retail uses. Under the arrangement, proposed uses would need to demonstrate compliance with standard parking requirements and larger retail uses would be required to demonstrate that the desired retail hierarchy in Willagee was not detracted from.

The proposed approach will allow a wider range of land uses to be considered for the centre and is expected to improve its operation. Key issues of parking and potential impacts on nearby centres will continue to be managed.

It is recommended that the proposed scheme and structure plan amendments be initiated to enable commencement of advertising. At the conclusion of the advertising period the amendments will be presented to Council to review submissions and consider next steps.

**OFFICER RECOMMENDATION (3934)**

**APPROVAL**

At 8:15pm Cr Barton moved, seconded Cr Barber –

**That the Council:**

- Pursuant to Section 75 of the *Planning and Development Act 2005*, resolves to prepare and initiate Scheme Amendment No. 12 to Local Planning Scheme 6 to modify the permitted land uses applicable to 71 – 77 Leach Highway and 2-6 Webber Rd Willagee as follows:**

a.	<p>Clause 20 - Restricted Uses.</p> <p>Table 5 - Restricted uses for land in Scheme area</p>	<p>Remove the following restricted uses (R4) from Table 5:</p> <table border="1" data-bbox="730 1415 1273 1774"> <tr> <td data-bbox="730 1415 785 1774">4</td> <td data-bbox="785 1415 976 1774"> <p>Lots 262 (No.71), 271 (No.73) and 274 (No. 75-77) Leach Highway, Willagee, and Lots 277 (No.2), 66 (No.2A), 268 (No.4) and 269 (No.6) Webber Street, Willagee</p> </td> <td data-bbox="976 1415 1273 1774"> <p>Child Care Premises – P Consulting Rooms – P Educational Establishment – D Home Business – A Home Occupation – D Home Office – P Hospital – A Hotel - A Tavern – A Medical Centre – A Office – P Place of Worship – A Residential – D Warehouse/Storage – D Veterinary Centre – P Other uses not listed in the Zoning table – D</p> </td> </tr> </table>	4	<p>Lots 262 (No.71), 271 (No.73) and 274 (No. 75-77) Leach Highway, Willagee, and Lots 277 (No.2), 66 (No.2A), 268 (No.4) and 269 (No.6) Webber Street, Willagee</p>	<p>Child Care Premises – P Consulting Rooms – P Educational Establishment – D Home Business – A Home Occupation – D Home Office – P Hospital – A Hotel - A Tavern – A Medical Centre – A Office – P Place of Worship – A Residential – D Warehouse/Storage – D Veterinary Centre – P Other uses not listed in the Zoning table – D</p>
4	<p>Lots 262 (No.71), 271 (No.73) and 274 (No. 75-77) Leach Highway, Willagee, and Lots 277 (No.2), 66 (No.2A), 268 (No.4) and 269 (No.6) Webber Street, Willagee</p>	<p>Child Care Premises – P Consulting Rooms – P Educational Establishment – D Home Business – A Home Occupation – D Home Office – P Hospital – A Hotel - A Tavern – A Medical Centre – A Office – P Place of Worship – A Residential – D Warehouse/Storage – D Veterinary Centre – P Other uses not listed in the Zoning table – D</p>			

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

b	Add to Clause 33 – Additional site and development requirements for areas covered by structure plan, activity centre plan or local development plan.	For a development proposal involving a retail use in excess of 1000sqm NLA, a retail sustainability impact assessment study is required to be submitted. The required Retail Impact Assessment is to satisfactorily demonstrate that the proposal will not detract from the function of other centres as envisaged by the Willagee Structure Plan, in particular the primacy of the Willagee Neighbourhood Centre / Archibald Hub Policy Area. The Retail Sustainability Assessment shall accord with the requirements and scope of Section 6.5 Retail Sustainability Assessments of State Planning Policy 4.2 Activity Centres for Perth and Peel.
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2. Authorise the preparation, processing and public advertising of documentation for Scheme Amendment No. 12 to Local Planning Scheme No. 6 in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.
3. Resolve that the amendment is a “standard” amendment under the provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015* for the following reasons:
  - The amendment is consistent with the City’s Local Planning Strategy and the Centre C4 zone of Local Planning Scheme 6.
  - The scope of the amendment is limited to the subject site.
  - The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
  - The amendment satisfies the definition of a standard amendment and does not reflect the characteristics of a complex or basic amendment.
4. In accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* resolves to accept the following proposed amendments to the Willagee Structure Plan for the purpose of assessment and public advertising:

<b>WILLAGEE STRUCTURE PLAN CENTRE STRUCTURE PLAN PART ONE</b>	<b>Modifications Required</b> (strike out = text to be replaced/deleted, Bold = additional text)
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**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

a	<p>Section 5: Land Use and Subdivision</p> <p>Sub clause 5.1: Land Use Permissibility</p>	<p>Land use permissibility within the structure plan area shall be in accordance with the corresponding zone or reserve under the Scheme. Except for the following:</p> <p><del>Pursuant to Table 5 in Part 3 of the Scheme, land uses are restricted in the Centre Zone on the corner of Leach Highway and Stock Road, Willagee. Existing instances of non-conforming uses may continue to operate in accordance with Part 3 of the Scheme.</del></p> <p><b>Pursuant to Clause 33 of the Scheme, a retail sustainability impact assessment study is required for a retail use above 1000sqm.</b></p>
b	<p>Section 7: Policy Area Design Principles</p> <p>Sub clause 7.4 Leach Highway Policy Area Point V</p>	<p><del>To encourage non-retail development in the Leach Highway Restricted Local Centre Sector in anticipation of the major changes scheduled for Stock Road and the Leach Highway/Stock Road intersection</del></p>
c	<p>Section 7: Policy Area Design Principles</p> <p>Sub clause 7.4.2 Leach Highway Restricted Local Centre First dot point</p>	<p><del>Restrict commercial land uses, with new instances of Convenience Store, Corner Store, Garden Centre, Lunch Bar, Restaurant, Service Station and Shop land uses not permitted</del></p> <p><b>Ensure retail development is of a scale and character that does not detrimentally impact nearby centres.</b></p>
	<p><b>WILLAGEE STRUCTURE PLAN CENTRE STRUCTURE PLAN PART TWO</b></p>	<p><b>Modifications Required</b> (strike out = text to be replaced/deleted, Bold = additional text)</p>

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

d	Part 2 Leach Highway Policy Area	<p>The Leach Highway Policy Area aims to facilitate higher density town house development as an incentive to move residential access away from Leach Highway. A split density code encourages amalgamation of private lots to achieve higher density development that does not require access from Leach Highway. New housing provides opportunity to incorporate quiet building design (for noise amelioration), to improve the amenity of housing in this location.</p> <p><del>The Policy Area also provides for restricted commercial use at the intersection of Stock Road and Leach Highway to provide for small scale office uses in this location, rather than retail which will be impacted by access changes associated with the potential construction of an interchange. It is envisaged existing retailers servicing the local residential catchment will locate in the Webber Policy Area, or the Archibald Hub. Larger retailers, requiring high way exposure and larger format sites, will be attracted to the opposite Melville centre. Design guidelines for commercial uses within the Leach Highway Policy Area will address access, parking, built form, and landscaping to enhance the amenity of this location.</del></p> <p><b>The policy area also seeks to ensure that retail development within the local centre, located at the corner of Leach Highway and Stock Road, is of a scale and character that does not detrimentally impact nearby centres.</b></p>
e	Part 4 Archibald Hub – Willagee's Heart	<p>A redeveloped Archibald Hub will be the heart of Willagee, and a place for people to meet and access daily services. Key services that will drive the redevelopment and expansion of the Archibald Hub include a new medical centre, new community centre, local indigenous centre, and retail (IGA and a range of smaller shops and cafes). These services will be supported by residential development, with upper floor residential.</p> <p><del>To ensure essential services locate in the hub, and serve the entire Willagee community, it is important to not expand retail at other local centres</del></p> <p><b>To ensure the Archibald hub remains the primary retail centre within the Structure Plan area, it is important that retail land use in the other local centres do not undermine the hierarchy of centres in the Structure Plan area.</b></p>

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

f	Part 4 Stock Road Restricted Commercial	<p>In future, this area will be impacted by noise and land impacts of on and off ramps at the intersection of Leach Highway and Stock Road. The long term access and egress of this site is likely to be considerably restricted, with access only via Webber Street.</p> <p>Office development in this location will benefit from highway exposure, but will not rely on immediate highway access for 'drive by' trade. The area will not support substantial retail that would convenience elsewhere in Willagee, but just enough to service the offices spaces above or give the office tenants a shop front for their business.</p> <p><b>Whilst retail development is permissible, the structure plan will seek to ensure that retail development is of a scale and character that does not detrimentally impact the hierarchy of nearby centres.</b></p>
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5. **Notes the intention to advertise the scheme amendment and structure plan modifications concurrently and that a further report will be presented to the Council at the conclusion of the advertising process to consider submissions and next steps.**

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER RD WILLAGEE (REC) (ATTACHMENT)**

Amendment

At 8:15pm Cr Sandford moved, seconded Cr Pazolli –

That “Child Care Premises” and “Family day care” be deleted as a permitted use in Table 5 such that the officer’s recommendation is modified as shown below:

1. Pursuant to Section 75 of the *Planning and Development Act 2005*, resolves to prepare and initiate Scheme Amendment No. 12 to Local Planning Scheme 6 to modify the permitted land uses applicable to 71 – 77 Leach Highway and 2-6 Webber Rd Willagee as follows:

a.	<p>Clause 20 - Restricted Uses.</p> <p>Table 5 - Restricted uses for land in Scheme area</p>	<p>Replace the restricted uses (R4) from Table 5 with the following:</p> <table border="1" data-bbox="699 815 1353 2031"> <thead> <tr> <th>Land use</th> <th>Classification</th> </tr> </thead> <tbody> <tr><td>Amusement Parlour</td><td>D</td></tr> <tr><td>Art Gallery</td><td>P</td></tr> <tr><td>Bed And Breakfast</td><td>D</td></tr> <tr><td>Betting Agency</td><td>P</td></tr> <tr><td>Caretakers Dwelling</td><td>D</td></tr> <tr><td>Car Park</td><td>A</td></tr> <tr><td>Civic Use</td><td>P</td></tr> <tr><td>Club Premises</td><td>A</td></tr> <tr><td>Commercial Vehicle Parking</td><td>A</td></tr> <tr><td>Community Purpose</td><td>D</td></tr> <tr><td>Consulting Room</td><td>P</td></tr> <tr><td>Convenience Store</td><td>P</td></tr> <tr><td>Education Establishment</td><td>D</td></tr> <tr><td>Exhibition Centre</td><td>D</td></tr> <tr><td>Fast Food Outlet</td><td>D<sup>2</sup></td></tr> <tr><td>Funeral Parlour</td><td>A</td></tr> <tr><td>Garden Centre</td><td>D</td></tr> <tr><td>Home Business</td><td>D</td></tr> <tr><td>Home Occupation</td><td>D</td></tr> <tr><td>Home Office</td><td>P</td></tr> <tr><td>Home Store</td><td>P</td></tr> <tr><td>Hospital</td><td>A</td></tr> <tr><td>Hotel</td><td>A</td></tr> <tr><td>Liquor Store - Small</td><td>D</td></tr> <tr><td>Market</td><td>D</td></tr> <tr><td>Medical Centre</td><td>D</td></tr> <tr><td>Motor Vehicle Wash</td><td>A</td></tr> <tr><td>Office</td><td>P<sup>1</sup></td></tr> <tr><td>Place of Worship</td><td>A</td></tr> <tr><td>Reception Centre</td><td>A</td></tr> <tr><td>Recreation Private</td><td>D</td></tr> </tbody> </table>	Land use	Classification	Amusement Parlour	D	Art Gallery	P	Bed And Breakfast	D	Betting Agency	P	Caretakers Dwelling	D	Car Park	A	Civic Use	P	Club Premises	A	Commercial Vehicle Parking	A	Community Purpose	D	Consulting Room	P	Convenience Store	P	Education Establishment	D	Exhibition Centre	D	Fast Food Outlet	D <sup>2</sup>	Funeral Parlour	A	Garden Centre	D	Home Business	D	Home Occupation	D	Home Office	P	Home Store	P	Hospital	A	Hotel	A	Liquor Store - Small	D	Market	D	Medical Centre	D	Motor Vehicle Wash	A	Office	P <sup>1</sup>	Place of Worship	A	Reception Centre	A	Recreation Private	D
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			Shop	P	
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  - **The scope of the amendment is limited to the subject site.**
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5. Notes the intention to advertise the scheme amendment and structure plan modifications concurrently and that a further report will be presented to the Council at the conclusion of the advertising process to consider submissions and next steps.

**P21/3934 - REQUEST FOR SCHEME AMENDMENT – 71 – 77 LEACH HIGHWAY AND 2 - 6 WEBBER ROAD WILLAGEE (REC) (ATTACHMENT)**

At 8:17pm Mr Ponton entered the Chamber for the purpose of answering questions on Item P21/3934 Request for Scheme Amendment – 71 – 77 Leach Highway and 2-6 Webber Street Willagee.

At 8:24pm with the consent of the mover and the seconder the meeting agreed that the Amendment would be presented as an Alternative Motion.

*At 8:26pm Cr Kepert left the meeting and returned at 8:37pm.*

*At 8:30pm Cr Macphail left the meeting and returned at 8:33pm.*

At 8:35pm Cr Wheatland foreshadowed an amendment.

At 8:38pm, the mover, with the consent of the seconder amended the alternative motion by deleting from point 1. the words “and 2-6 Webber Rd Willagee”.

**COUNCIL RESOLUTION**

At 8:15pm Cr Sandford moved, seconded Cr Pazolli –

**That “Child Care Premises” and “Family day care” be deleted as a permitted use in Table 5 such that the officer’s recommendation is modified as shown below:**

- Pursuant to Section 75 of the *Planning and Development Act 2005*, resolves to prepare and initiate Scheme Amendment No. 12 to Local Planning Scheme 6 to modify the permitted land uses applicable to 71 – 77 Leach Highway as follows:**

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			Home Office	P
			Home Store	P
			Hospital	A
			Hotel	A
			Liquor Store - Small	D
			Market	D
			Medical Centre	D
			Motor Vehicle Wash	A
			Office	P <sup>1</sup>
			Place of Worship	A
			Reception Centre	A
			Recreation Private	D
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			Telecommunications Infrastructure (TI)3	A <sup>3</sup>
			Veterinary Centre	A
b.	Add to Clause 33 – Additional site and development requirements for areas covered by structure plan, activity centre plan or local development plan.	<p>For a development proposal involving a retail use in excess of 1000sqm NLA, a retail sustainability impact assessment study is required to be submitted. The required Retail Impact Assessment is to satisfactorily demonstrate that the proposal will not detract from the function of other centres as envisaged by the Willagee Structure Plan, in particular the primacy of the Willagee Neighbourhood Centre / Archibald Hub Policy Area.</p> <p>The Retail Sustainability Assessment shall accord with the requirements and scope of Section 6.5 Retail Sustainability Assessments of State Planning Policy 4.2 Activity Centres for Perth and Peel.</p>		

2. Authorise the preparation, processing and public advertising of documentation for Scheme Amendment No. 12 to Local Planning Scheme No. 6 in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015*.
3. Resolve that the amendment is a “standard” amendment under the provisions of the Planning and Development (Local Planning Schemes) Regulations 2015 for the following reasons:
  - The amendment is consistent with the City’s Local Planning Strategy and the Centre C4 zone of Local Planning Scheme 6.
  - The scope of the amendment is limited to the subject site.

- The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
- The amendment satisfies the definition of a standard amendment and does not reflect the characteristics of a complex or basic amendment.

4. In accordance with the Planning and Development (Local Planning Schemes) Regulations 2015 resolves to accept the following proposed amendments to the Willagee Structure Plan for the purpose of assessment and public advertising:

	<b>WILLAGEE STRUCTURE PLAN CENTRE STRUCTURE PLAN PART ONE</b>	<b>Modifications Required</b> (strike out = text to be replaced/deleted, Bold = additional text)
a	Section 5: Land Use and Subdivision  Sub clause 5.1: Land Use Permissibility	Land use permissibility within the structure plan area shall be in accordance with the corresponding zone or reserve under the Scheme. Except for the following:  <del>Pursuant to Table 5 in Part 3 of the Scheme, land uses are restricted in the Centre Zone on the corner of Leach Highway and Stock Road, Willagee. Existing instances of non-conforming uses may continue to operate in accordance with Part 3 of the Scheme.</del>  <b>Pursuant to Clause 33 of the Scheme, a retail sustainability impact assessment study is required for a retail use above 1000sqm.</b>
b	Section 7: Policy Area Design Principles Sub clause 7.4 Leach Highway Policy Area Point V	<del>To encourage non-retail development in the Leach Highway Restricted Local Centre Sector in anticipation of the major changes scheduled for Stock Road and the Leach Highway/Stock Road intersection</del>
c	Section 7: Policy Area Design Principles Sub clause 7.4.2 Leach Highway Restricted Local Centre First dot point	<del>Restrict commercial land uses, with new instances of Convenience Store, Corner Store, Garden Centre, Lunch Bar, Restaurant, Service Station and Shop land uses not permitted</del>  <b>Ensure retail development is of a scale and character that does not detrimentally impact nearby centres.</b>

	<b>WILLAGEE STRUCTURE PLAN CENTRE STRUCTURE PLAN PART TWO</b>	<b>Modifications Required</b> (strike out = text to be replaced/deleted, Bold = additional text)

d	Part 2 Leach Highway Policy Area	<p>The Leach Highway Policy Area aims to facilitate higher density town house development as an incentive to move residential access away from Leach Highway. A split density code encourages amalgamation of private lots to achieve higher density development that does not require access from Leach Highway. New housing provides opportunity to incorporate quiet building design (for noise amelioration), to improve the amenity of housing in this location.</p> <p><del>The Policy Area also provides for restricted commercial use at the intersection of Stock Road and Leach Highway to provide for small scale office uses in this location, rather than retail which will be impacted by access changes associated with the potential construction of an interchange. It is envisaged existing retailers servicing the local residential catchment will locate in the Webber Policy Area, or the Archibald Hub. Larger retailers, requiring high way exposure and larger format sites, will be attracted to the opposite Melville centre. Design guidelines for commercial uses within the Leach Highway Policy Area will address access, parking, built form, and landscaping to enhance the amenity of this location.</del></p> <p><b>The policy area also seeks to ensure that retail development within the local centre, located at the corner of Leach Highway and Stock Road, is of a scale and character that does not detrimentally impact nearby centres.</b></p>
e	Part 4 Archibald Hub – Willagee’s Heart	<p>A redeveloped Archibald Hub will be the heart of Willagee, and a place for people to meet and access daily services. Key services that will drive the redevelopment and expansion of the Archibald Hub include a new medical centre, new community centre, local indigenous centre, and retail (IGA and a range of smaller shops and cafes). These services will be supported by residential development, with upper floor residential.</p> <p><del>To ensure essential services locate in the hub, and serve the entire Willagee community, it is important to not expand retail at other local centres</del></p> <p><b>To ensure the Archibald hub remains the primary retail centre within the Structure Plan area, it is important that retail land use in the other local centres do not undermine the hierarchy of centres in the Structure Plan area.</b></p>
f	Part 4 Stock Road Restricted Commercial	<p>In future, this area will be impacted by noise and land impacts of on and off ramps at the intersection of Leach Highway and Stock Road. The long term access and egress of this site is likely to be considerably restricted, with access only via Webber Street.</p> <p>Office development in this location will benefit from highway</p>

		<p>exposure, but will not rely on immediate highway access for 'drive by' trade. The area will not support substantial retail that would convenience elsewhere in Willagee, but just enough to service the offices spaces above or give the office tenants a shop front for their business.</p> <p><b>Whilst retail development is permissible, the structure plan will seek to ensure that retail development is of a scale and character that does not detrimentally impact the hierarchy of nearby centres.</b></p>
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- 5. Notes the intention to advertise the scheme amendment and structure plan modifications concurrently and that a further report will be presented to the Council at the conclusion of the advertising process to consider submissions and next steps.**

At 8:40pm the Mayor declared the motion

**CARRIED (12/0)**

<b>Yes</b>	12	Cr Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Woodall, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	0	

At 8:40pm Cr Keperst abstained from voting on the matter.

**Reasons for the amendment as provided by Cr Sandford:**

- At the 16 August 2021 OMC Council unanimously resolved to amend Childcare Policy CPP 1.12 to specify childcare centres on Leach Hwy as being a location having undesirable characteristics in order to minimise the potential for harmful traffic fumes, excessive noise levels and road safety risks impacting on the health of children, staff and visitors to child care centres and surrounding road users.
- A few days later on 19 August 2021 JDAP rejected the application for a childcare centre at neighbouring 79-81 Leach Hwy, Willagee due to air pollution concerns at this same location as the subject site.
- 71-77 Leach Hwy is at the corner of Stock Road in Willagee and is one of the busiest, most truck frequented intersections in the City of Melville. Lots 2-6 Webber Street are located only 72 meters from Leach Hwy as per the attached screenshot of google maps.
- California, seemingly best practice, requires a 150 metre buffer between schools and heavily trafficked roads, and has anti-idling laws such is their concern with emissions and air pollution. There is considerable research on this issue, and it would be an abdication of duty of care to include child care centres as a permitted use on these four lots as major signalised intersections, such as Stock Road and Leach Highway, are pollution "Hot Spots" due to queued and idling vehicles awaiting a green light.

At 8:40pm Mayor Gear brought forward the motion 16.1 - Attadale Reserve (Attadale-Alfred Cove Foreshore Master Plan) for the convenience of the Public Gallery.

*At 8:42pm Cr Kepert left the meeting.*

*At 8:42pm Mr Ponton left the Chamber.*

## **16. Motions with Notice**

### **16.1 Attadale Reserve (Attadale-Alfred Cove Foreshore Master Plan)**

#### Motion

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

**That the Council directs the Chief Executive Officer to ensure that during the Attadale-Alfred Cove Master Plan Design Refinement Process only the single existing Active Reserve (Troy Park) be retained in Attadale Reserve, deleting the sports ovals from the eastern end in the current draft plan.**

#### Procedural Motion

At 8:45 pm Cr Woodall moved, seconded Cr Robartson –

**That the motion be deferred for consideration at the 16 November 2021 Ordinary Meeting of Council.**

At 8:50pm, the Mayor declared the motion

**LOST (6/7)**

<b>Yes</b>	6	Cr Robartson, Cr Wheatland, Cr Woodall, Cr Robins, Cr Fitzgerald, Cr Macphail
<b>No</b>	6	Cr Barber, Cr Barton, Cr Mair, Cr Sandford, Cr Pazolli, Mayor Gear

**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).**

#### Motion

### **COUNCIL RESOLUTION**

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

**That the Council directs the Chief Executive Officer to ensure that during the Attadale-Alfred Cove Master Plan Design Refinement Process only the single existing Active Reserve (Troy Park) be retained in Attadale Reserve, deleting the sports ovals from the eastern end in the current draft plan.**

At 9:01pm, the Mayor declared the motion

**CARRIED (10/2)**

<b>Yes</b>	10	Cr Robartson, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Woodall, Cr Pazolli, Cr Fitzgerald, Mayor Gear
<b>No</b>	2	Cr Robins, Cr Macphail

16.1 Attadale Reserve (Attadale-Alfred Cove Foreshore Master Plan), continued.

**Reasons for the Motion as provided by Cr Barton:**

1. If implemented, the twin ovals proposal would reduce the overall area for the current recreational use of Attadale Reserve by about one-half, which would have an adverse effect on its current passive recreational use.
2. Even without these ovals, the Active Reserve Infrastructure Strategy (ARIS) report (May 2020) found that there are already parking issues associated with the location of Troy Park and the nature of Burke Drive, which serves the popular Point Walter recreational area and a major College, as well as local traffic.
3. There are issues associated with lighting, noise, and club infrastructure which are incompatible with the current passive recreational use of Attadale Reserve, affecting not only the users of the space but also the residents in the vicinity.
4. A charrette is intended as an intensive, multi-disciplinary workshop to develop a design, but is not primarily a consultation tool. The proposal for ovals was not included in all the Attadale-Alfred Cove Master Plan charrette sessions and as a result the process did not include broad community consultation, which would have revealed the high impact on local residents, who are only now becoming aware of it and using various alternative methods (petitions, social media, as well as protests to Local and State government members, and plans for Special Electors Meetings) to oppose it.

At 9:01pm, the Mayor brought forward Item 16.2 - Meeting Room for Use by the Local Government Elected Members Association.

At 9:01pm the Mayor relinquished the Chair in order to table a Motion with Notice.

At 9:02pm the Deputy Mayor, Cr June Barton, assumed the Chair.

## **16.2 Meeting room for use by the Local Government Elected Members Association**

### Motion

### **COUNCIL RESOLUTION**

At 9:01pm Mayor Gear moved, seconded Cr Fitzgerald –

**That the Council endorses the use of a suitable City of Melville meeting/function room, free of charge, for meetings of Local Government Elected Members Association.**

At 9:11pm, the Presiding Member declared the motion

**CARRIED BY ABSOLUTE MAJORITY (8/3)**

<b>Yes</b>	8	Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Pazolli, Cr Fitzgerald, Mayor Gear
<b>No</b>	3	Cr Robartson, Cr Robins, Cr Macphail

*At 9:02pm Cr Pazolli left the meeting and returned at 9:03pm.*

*At 9:03pm Cr Woodall left the meeting and returned at 9:12pm.*

### **Reasons for the Motion as provided by Mayor Gear:**

1. The Association is a not for profit organisation run entirely by volunteers.
2. LGEMA brings together elected members from councils within WA to discuss matters of importance. It also carries out an educative role.
3. The City of Melville benefits from the matters discussed at the LGEMA meetings and any small cost involved in allowing the meetings in City of Melville building are more than offset by the benefits to the City.

At 9:11pm Cr Barton, Deputy Mayor relinquished the Chair.

At 9:11pm the Mayor assumed the Chair.

Disclosure of Interest

Member : Cr S Kepert  
 Type of Interest : Interest under the Code of Conduct.  
 Nature of Interest : I do not possess all the information I require to make an informed decision  
 Request : Stay, Discuss.  
 Decision Leave : Stay, Discuss.

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

Ward : All  
 Category : Local Planning Framework  
 Application Number : Not Applicable  
 Property : Not Applicable  
 Proposal : Adoption of Local Planning Scheme Amendment 11 - Control of Short Stay Accommodation.  
 Applicant : Not Applicable  
 Owner : Not Applicable  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Item P21/3898 - Control of Short Stay Accommodation – Ordinary Meeting of Council held 16 February 2021  
 Item P21/3911 – Adoption of Local Planning Policy 1.21 Short Stay Accommodation - Ordinary Meeting of Council held 18 May 2021.  
 Responsible Officer : Gavin Ponton  
 Manager Strategic Urban Planning

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)****KEY ISSUES / SUMMARY**

- At its meeting held on 18 May 2021, the City of Melville Council resolved to prepare and initiate Scheme Amendment No. 11 Short Stay Accommodation to Local Planning Scheme No. 6. The amendment establishes new use classes and definition for short stay accommodation uses including hosted accommodation, holiday house, holiday accommodation and holiday apartments.
- At the same meeting, the Council adopted Local Planning Policy - LPP1.21 Short Stay Accommodation.
- The adoption of the LPP was intended to provide clarification that short stay uses were a land use requiring planning approval and to establish general criteria as to in what circumstances short stay uses are appropriate. The scheme amendment would then establish the specific land use permissibility for different types of short stay uses across different zones.
- The proposed amendment was advertised for 42 days and 15 submissions were received raising matters both in support of and against the amendment content.
- The submissions in support of the amendment identified current noise, disruption, traffic and parking issues associated with short stay accommodation and supported having tighter controls. The submissions objecting to the amendment raised concerns with the amendment being overly restrictive and preventing landowners from earning additional income.
- The proposed scheme amendment will formalise the land uses referred to in LPP 1.21 and establish land use permissibility for short stay accommodation across the different zones in LPS6.
- Assessment of the scheme amendment includes need to review proposed levels of permissibility and/or prohibition for single dwellings and multiple dwellings having regard to the submissions received and consistency with the content in LPP 1.21.
- Forwarding of the amendment to the Western Australian Planning Commission for final approval is recommended.

**BACKGROUND**

In late 2020 Council noted concerns regarding the emergence of amenity impacts associated with short stay accommodation uses. Particular concerns included the examples of anti-social behaviour associated with short stay use of a house in Murdoch and potential short stay use of apartment buildings in the Canning Bridge Activity Centre.

In response to the issue the City commenced an investigation including an overview of options to control the uses, the state government position and responses from other local governments. The findings were presented to Council in February 2021 together with a recommended approach to manage short stay accommodation through:

- Firstly, the introduction of a Local Planning Policy; and
- Secondly, formalising of land uses and permissibility through a scheme amendment.

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

February 2021

At the Ordinary Meeting of Council on 16 February 2021 (Item P21/3898) Council resolved to endorse LPP1.21 – Short Term Accommodation –for the purpose of advertising. The LPP has been developed to establish a clear framework for the identification, assessment and determination of applications for short term accommodation and to ensure appropriate location and management of short term accommodation with an objective to protect the amenity of residential areas or nearby residents. The key role of the LPP is to firstly clarify that short term residential accommodation is a land use which requires planning approval and secondly to identify locational and development control criteria to appropriately regulate the use.

At this meeting, Council also considered a recommendation to commence the current amendment to Local Planning Scheme 6 (LPS6) to formalise the land uses referred to in the LPP and to establish the level of permissibility across the different zones in LPS6. The proposed scheme amendment component of the response to the control of short term accommodation was not adopted by the Council.

May 2021

At the Ordinary Meeting of Council on 18 May 2021, the Council adopted Local Planning Policy (LPP1.21 Short Stay Accommodation).

At this meeting, the City of Melville Council resolved to prepare and initiate Scheme Amendment No. 11 Short Stay Accommodation to Local Planning Scheme No. 6. The amendment establishes new use classes and definition for short stay accommodation uses including hosted accommodation, holiday house, holiday accommodation and holiday apartments. It is noted that the Scheme Amendment content does not apply to C1 or C2 Centre Zones (Centre Zones where a Structure Plan applies.) In these areas, specific provisions will need to be incorporated through modification to the structure plans. The review of the CBACP is responding to this need for modifications. In the interim period short stay accommodation uses in structure plan areas will be managed through the guidelines in LPP 1.21.

The proposed amendment as per Council's resolution is outlined below:

a. Establishment of new use classes and definition as follows:

Hosted Accommodation	Means a portion of a dwelling or entire ancillary dwelling used to provide short-term accommodation with a permanent live in host (owner/occupier/manager) but does not include a bed and breakfast or caravan park or serviced apartment.
Holiday House	Means single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast or hosted accommodation.
Holiday Accommodation	Means 1 or more grouped dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot, but does not include hosted accommodation.
Holiday Apartment	Means a multiple dwelling that is used to provide short term accommodation, but does not include hosted accommodation.

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

b. Inclusion of the proposed use classes in the Zoning Table of Local Planning Scheme 6 with the following designations:

USE AND DEVELOPMENT CLASS	Residential	Centre C1	Centre C2	Centre C3	Centre C4	Mixed Use	Service Commercial	Light Industry	Private clubs and institutions and places of public worship	Urban Development
Hosted Accommodation	P	Refer to Clause 18(7)	Refer to Clause 18(7)	P	P	P	X	X	X	Refer to Clause 18(7)
Holiday House	P	Refer to Clause 18(7)	Refer to Clause 18(7)	P	P	P	X	X	X	Refer to Clause 18(7)
Holiday Accommodation	A	Refer to Clause 18(7)	Refer to Clause 18(7)	A	A	A	X	X	X	Refer to Clause 18(7)
Holiday Apartment	X	Refer to Clause 18(7)	Refer to Clause 18(7)	A	A	A	X	X	X	Refer to Clause 18(7)

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

It is noted that the Council resolution modified the recommended use permissibility for short stay uses. In particular the Council modifications provided for the following:

- Short stay accommodation in single dwellings in residential areas to be a permitted use - that is permissible without the need for a planning application.
- Short stay accommodation in multiple dwellings to be an 'X' or prohibited use (as opposed to a discretionary use).

The modifications to the amendment present a different approach to that in LPP 1.21. The LPP states a policy position that short stay accommodation is not supported in residential areas but acknowledges that some locations/circumstances may be better suited to the use. The LPP approach envisages short stay proposals being assessed on their merits. The scheme amendment approach is that short stay is permitted as of right in single dwellings and not permitted under any circumstances in multiple dwellings. Depending on the final position adopted in the scheme amendment, it is likely that the LPP content will need to be revisited to provide consistency.

**DETAIL**

The proposed scheme amendment was publicly advertised in accordance with the *Planning and Development (Local Planning Schemes) Regulations 2015* for 42 days. The comment period was open between 24 June 2021 and the 5 August 2021 with invitations to comment being publicised on the City's website and in the local newspaper. Letters were also sent out to Stayz, Airbnb and the Australian Short Term Rental Association (ASTRA).

In total 15 submissions were received. Six submissions opposed the LPP, seven submissions were in support and six noted opposition. A summary of the issues raised in the submissions is provided in the table below.

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

Comment supporting the Amendment	Comments Opposing the Amendment
<p>Amendment will respond to adverse impacts being experienced in apartment blocks including:</p> <ul style="list-style-type: none"> <li>• Use of apartments for parties and resultant loud music and antisocial behaviour.</li> <li>• Parking congestion, blocking of driveways and additional traffic</li> <li>• Additional noise and disturbance at all hours of the day and night.</li> <li>• Regular need to report disturbances to rangers and police.</li> </ul> <p>Currently the City has no ability to promptly control anti-social behaviour in short stay accommodation. The prohibition of uses in apartments will respond to these concerns.</p>	<ul style="list-style-type: none"> <li>• Amendment unnecessarily restricts the ability for owners to rent out their houses / apartments as they see fit.</li> <li>• Short stay accommodation serves a useful, convenient and cost effective use for both owners and guests.</li> <li>• Participant behaviour is self-regulated through the major providers. Guests involved in anti-social behaviour/complaints and hosts allowing such activity to occur are regulated through the on-line platforms. There is no need for local government involvement.</li> <li>• Short stay accommodation homes boost the local suburban economies when visitors wine, dine, shop and entertain at local businesses.</li> <li>• The prohibition of short stay in apartments whereas short stay is allowed in single houses is inconsistent.</li> <li>• The amendment proposes to make short stay in single houses a permitted use. This proposal does not address the adverse impacts being experienced in these single houses used for short stay accommodation</li> </ul>

Full details of the results of advertising are available in the Schedule of Submissions.

**[3945 Attachment 1 Schedule of Submissions](#)**

**STAKEHOLDER ENGAGEMENT**

Advertising Required: Yes

**I. COMMUNITY**

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

Amendment 11 was publicly advertised from 24 June to 5 August 2021 (42 days). Submissions received are documented in this report.

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)****II. OTHER AGENCIES / CONSULTANTS**

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

**STATUTORY AND LEGAL IMPLICATIONS**

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

The amendment was initiated by Council in May 2021, including the commencement of advertising. Following advertising, all submissions are reported to Council for consideration (current step). The resolution from Council will then be forwarded to the Western Australian Planning Commission (WAPC) and subsequently the Minister for Planning for determination.

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

**FINANCIAL IMPLICATIONS**

Establishment of the need for planning approval for short term accommodation will apply to any existing short term accommodation uses. A compliance response will be required enforce the new approach. The compliance response and associated assessment and determination of development applications will involve additional demand on resources and this will need to be factored into future workforce planning and the Long Term Financial Plan review.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

The proposed planning response to short term residential accommodation responds to the purposes and aims of LPS6 particularly in relation to the guiding and controlling of development. It is noted that the role of the Scheme with respect to residential areas includes the need to enhance the character and amenity of residential areas whilst also providing for a range of compatible and complementary non-residential uses. This position notes the importance of protecting the amenity of residential areas whilst acknowledging the role of appropriate non-residential uses in contributing to vibrancy, access to services and support for the economy and tourism.

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

<b>Risk Statement &amp; Consequence</b>	<b>Level of Risk</b>	<b>Risk Treatment</b>
Inability of planning framework to respond to increase in short term residential accommodation leads to adverse impacts and loss of amenity in residential areas.	Moderate consequences which are possible, resulting in a <b>Medium</b> level of risk	Clarify that short term residential accommodation is a use requiring planning approval and establish criteria relating to the control of development through LPP and LPS6.
Planning response to short term accommodation viewed as overly restrictive by decision makers (WAPC, SAT, JDAP).	Moderate consequences which are possible, resulting in a <b>Medium</b> level of risk.	Planning response to be proportionate to the anticipated impacts and in keeping with the objectives of the Scheme.

**POLICY IMPLICATIONS**

There are no policy implications with this proposal.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Alternative options to respond to the control of short term residential accommodation are discussed below:

<b>Possible Alternative Amendment Content</b>	<b>Implications</b>	<b>Comment</b>
Not progress proposed scheme amendment.	<ul style="list-style-type: none"> <li>Applications would need be assessment as uses not listed under LPS6</li> <li>Formalisation of land uses and land use permissibility would not be achieved.</li> </ul>	<ul style="list-style-type: none"> <li>LPP content would continue to provide sound assessment basis for determining applications, although the process would be cumbersome and lack clarity.</li> </ul>
Provide less restriction and designate short stay accommodation as a permitted use in more situations.	<ul style="list-style-type: none"> <li>Permitted uses would not be able to be assessed or regulated through the planning system.</li> <li>Regulation of impacts of short stay accommodation would rely on compliance with other legislation addressing noise, parking, anti-social behavior.</li> </ul>	<ul style="list-style-type: none"> <li>Additional risk and control of potential impacts in sensitive locations would be more reliant upon the management of related legislation such as Local Laws.</li> </ul>

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

<p>Designating short stay accommodation uses in multiple dwellings as an A use rather than being not permitted.</p>	<ul style="list-style-type: none"> <li>Proposed uses would be subject to advertising and considered on their merits and assessed against the performance criteria and development standards in LPP 1.21.</li> <li>Use class designation would be in keeping with that of uses with comparable impacts such as consulting rooms and serviced apartments.</li> </ul>	<ul style="list-style-type: none"> <li>The approach would be in keeping with LPP 1.21.</li> <li>The approach is suitably robust to ensure that inappropriate uses are not approved.</li> </ul>
<p>Consideration of more restrictive controls on the location of short term residential accommodation such as designating the use as not permitted across more zones.</p>	<ul style="list-style-type: none"> <li>Controls on short term accommodation would need to have regard to the objectives for the Residential zones throughout the City and to note the existing approach to land use permissibility for other non-residential uses in residential areas. For example, existing uses with comparable level of potential impact and intensity such as bed and breakfast and serviced apartments are designated A and D uses respectively in residential zones. This classification enables the merits of a particular proposal to be assessed against the planning framework, with an approval granted only where a use is determined to meet the requirements.</li> </ul>	<ul style="list-style-type: none"> <li>Prohibiting short term residential accommodation in residential areas, without the option of an assessment of the impacts and/or merits of the proposal may be determined to be overly restrictive.</li> </ul>

**Comment:**

The proposed scheme amendment seeks to formalise the land use definitions referred to in LPP 1.21 and translate the intent of the LPP into LPS6 by identifying specific land use permissibility for different types of short stay uses across different zones. The LPP and LPS6 content was intended to work together with the LPS6 outlining land use permissibility and the LPP providing the performance criteria to guide the exercise of discretion and standards aimed at managing amenity impacts.

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

The original scheme amendment was prepared on the basis of:

- Allowing 'hosted accommodation' as a permitted use in any dwelling; and
- Requiring all other types of short stay accommodation in dwellings to be assessed on their merits based on the performance criteria and controls in LPP 1.21.

The modified amendment, advertised for public comment, included the following key features:

- 'Hosted Accommodation' permitted in any dwelling
- Short stay accommodation in single houses being permitted (without need for planning approval).
- Short stay accommodation in grouped dwellings (villas, town houses etc.) being a discretionary use subject to merit assessment.
- Short stay accommodation in multiple dwellings (apartments) not being permitted.

Advertising of the scheme amendment has resulted in a range of comments both for and against the proposal. Feedback supporting the additional restriction and/or prohibition of short stay accommodation largely relates to adverse impacts of noise, parking congestion and anti-social behavior. These matters can largely be addressed through appropriate location of uses and management of operations as intended by LPP 1.21. Much of the feedback opposing the additional restrictions relates to the amendment content seeking to prohibit short stay accommodation in apartments. The alternative to prohibiting short stay uses in multiple dwellings is to ensure location and operating characteristics are suitably regulated through criteria such as those in LPP 1.21

Key questions for consideration in progressing the amendment include:

- Is there a case for additional control of short stay accommodation in single dwellings (such as requiring assessment of a planning application)?
- Is it overly restrictive to prohibit all short stay accommodation in multiple dwellings (apartments)?

*Single Dwellings:*

The advertised amendment proposed that short stay accommodation in single houses would be permissible as of right, rather than being subject to planning assessment and control. Under this approach any negative impacts associated with the operation of the use would be responded to through reference to local controls relating to noises, parking etc. or referral to other authorities such as the police. Progress of the amendment, including the exemption for short stay uses in single dwellings from requiring planning assessment, would be on the basis that the use was considered to have similar potential for adverse impact as any single dwelling, and that the measures to respond in the event of an adverse impact are adequate. It is recommended that the amendment progress with the listing of short stay accommodation as a P use.

*Multiple Dwellings:*

The scheme amendment proposes that short stay accommodation not be permitted in multiple dwellings (apartments). It is noted that the designation of short stay accommodation as an X use across residential zones may be viewed as being overly restrictive and presenting relativity issues when compared to other uses with similar impacts including:

- Serviced Apartments - D Use (discretionary)
- Consulting Rooms - A Use (discretionary with advertising)

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

An alternative approach to designate short stay accommodation in multiple dwellings as an ‘A’ use in residential zones would enable likely impacts to be taken into account, including assessment against the performance criteria of LPP 1.21, when making a decision. Listing of short stay accommodation in multiple dwellings as an A use would mean that a development application would be advertised in accordance with Local Planning Policy 1.1 (LPP 1.1) via letters to adjoining owner-occupiers, sign on site and the City’s website. Whether a development application were submitted to the Development Assessment Panel (DAP) or to the City, in accordance with LPP 1.1, Elected Members would have the opportunity to call the development application up to a meeting of Council.

In view of the above discussion and in examining the submissions received, Council may wish to consider the option of an “A” use class designation for short stay accommodation in multiple dwellings. Council’s original resolution was to designate short stay accommodation as being not permitted. Having regard to this resolved position; the X or not permitted use classification is retained in the amendment to be forwarded to the WAPC.

As noted above the scheme amendment content (relating to treatment of short stay accommodation in single dwellings and multiple dwellings) has deviated from the content in LPP 1.21. Prior to any final approval of Amendment 11 it is noted that revisions to LPP 1.21 will be required to ensure consistency of approach.

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

**OFFICER RECOMMENDATION (3945)**

**APPROVAL**

At 9:12pm Cr Barber moved, seconded Cr Sandford –

- 1. That the Council, pursuant to Part 5 of the *Planning and Development Act 2005*, supports Scheme Amendment No. 11 to Local Planning Scheme No. 6 for final approval without modification as follows:**

- a. Establishment of new use classes and definition as follows:**

Hosted Accommodation	Means a portion of a dwelling or entire ancillary dwelling used to provide short-term accommodation with a permanent live in host (owner/occupier/manager), but does not include a bed and breakfast or caravan park or serviced apartment.
Holiday House	Means single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast or hosted accommodation.
Holiday Accommodation	Means 1 or more grouped dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot, but does not include hosted accommodation.
Holiday Apartment	Means a multiple dwelling that is used to provide short term accommodation, but does not include hosted accommodation.

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

- b. Inclusion of the proposed use classes in the Zoning Table of Local Planning Scheme 6 with the following designations:

USE AND DEVELOPMENT CLASS	Residential	Centre C1	Centre C2	Centre C3	Centre C4	Mixed Use	Service Commercial	Light Industry	Private clubs institutions and places of public worship	Urban Development
Hosted Accommodation	P	Refer to Clause 18(7)	Refer to Clause 18(7)	P	P	P	X	X	X	Refer to Clause 18(7)
USE AND DEVELOPMENT CLASS	Residential	Centre C1	Centre C2	Centre C3	Centre C4	Mixed Use	Service Commercial	Light Industry	Private clubs institutions and places of public worship	Urban Development
Holiday House	P	Refer to Clause 18(7)	Refer to Clause 18(7)	P	P	P	X	X	X	Refer to Clause 18(7)

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

Holiday Accommodation	A	Refer to Clause 18(7)	Refer to Clause 18(7)	A	A	A	X	X	X	Refer to Clause 18(7)
Holiday Apartment	X	Refer to Clause 18(7)	Refer to Clause 18(7)	A	A	A	X	X	X	Refer to Clause 18(7)

2. That Council forward the amendment to the Western Australian Planning Commission together with the supporting information required under Regulation 53 of Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
3. That Council advise the Western Australian Planning Commission that the proposal is considered to be a standard amendment to Local Planning Scheme 6 in accordance with regulation 35 (2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as:
  - a) The amendment is consistent with the relevant objectives of the Scheme and Local Planning Strategy;
  - b) The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
  - c) The amendment would have minimal impact on land in the scheme area that is not subject of the amendment.

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**Amendment**COUNCIL RESOLUTION**

At 9:12pm Cr Fitzgerald moved, seconded Cr Wheatland –

**That the Officer Recommendation be amended by:**

- 1. the Use and Development Class for "Holiday House - Residential" be amended to read "D" (currently P).**
- 2. That a new paragraph 4 be added reading:**
  - "4. The Council notes its intention to amend LPP 1.21 to clarify that an application for approval for use as a 'Holiday House – Residential' be as of right where the application discloses that the use of the property for that purpose will be for not more than 3 months in any 12 month period."**

At 9:16pm, the Mayor declared the motion

**CARRIED UNANIMOUSLY (12/0)**

**Reasons for the amendment as provided by Cr Fitzgerald:**

1. Per the written deputation to last week's ABF, the current proposal will apply no restrictions to 'holiday house' style short stay accommodation in residential areas. This will drastically limit the council's capacity to manage those uses. That deputation identified the serious negative impacts such uses can have on neighbouring properties. Along with that deputation, a number of responses to the advertising process requested the prohibition of those uses in residential areas.
2. Mindful that the council determined to advertise holiday accommodation as P rather than X use, this amendment proposes to change that category of use in a residential area to D.
3. In particular, this would permit officers to allow those uses on a time-limited trial basis, as anticipated in the relevant local planning policy 1.21. I note that other jurisdictions - such as NSW - which took the view that similar uses in a residential area should be permitted as of right still restricted those uses to no more than 3 months a year. That restriction ensured that residents could permit their properties to be leased on short stay accommodation websites while they were unoccupied during holidays or trips overseas, but did not subject neighbours to the possibility of anti-social uses year-round. A de facto policy of this type could be trialled - and if successful adopted - if this amendment is entertained.

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

Substantive Motion as Amended

**COUNCIL RESOLUTION**

At 9:12pm Cr Barber moved, seconded Cr Sandford –

**1. That the Council, pursuant to Part 5 of the *Planning and Development Act 2005*, supports Scheme Amendment No. 11 to Local Planning Scheme No. 6 for final approval without modification as follows:**

**a. Establishment of new use classes and definition as follows:**

Hosted Accommodation	Means a portion of a dwelling or entire ancillary dwelling used to provide short-term accommodation with a permanent live in host (owner/occupier/manager), but does not include a bed and breakfast or caravan park or serviced apartment.
Holiday House	Means single dwelling on one lot used to provide short-term accommodation but does not include a bed and breakfast or hosted accommodation.
Holiday Accommodation	Means 1 or more grouped dwellings on one lot used to provide short term accommodation for persons other than the owner of the lot, but does not include hosted accommodation.
Holiday Apartment	Means a multiple dwelling that is used to provide short term accommodation, but does not include hosted accommodation.

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

- b. Inclusion of the proposed use classes in the Zoning Table of Local Planning Scheme 6 with the following designations:**

USE AND DEVELOPMENT CLASS	Residential	Centre C1	Centre C2	Centre C3	Centre C4	Mixed Use	Service Commercial	Light Industry	Private clubs institutions and places of public worship	Urban Development
Hosted Accommodation	P	Refer to Clause 18(7)	Refer to Clause 18(7)	P	P	P	X	X	X	Refer to Clause 18(7)
USE AND DEVELOPMENT CLASS	Residential	Centre C1	Centre C2	Centre C3	Centre C4	Mixed Use	Service Commercial	Light Industry	Private clubs institutions and places of public worship	Urban Development
Holiday House	D	Refer to Clause 18(7)	Refer to Clause 18(7)	P	P	P	X	X	X	Refer to Clause 18(7)

**P21/3945 – ADOPTION OF AMENDMENT NO.11 TO LOCAL PLANNING SCHEME 6 – SHORT STAY ACCOMMODATION (REC) (ATTACHMENT)**

Holiday Accommodation	A	Refer to Clause 18(7)	Refer to Clause 18(7)	A	A	A	X	X	X	Refer to Clause 18(7)
Holiday Apartment	X	Refer to Clause 18(7)	Refer to Clause 18(7)	A	A	A	X	X	X	Refer to Clause 18(7)

2. That Council forward the amendment to the Western Australian Planning Commission together with the supporting information required under Regulation 53 of Part 5 of the *Planning and Development (Local Planning Schemes) Regulations 2015*.
3. That Council advise the Western Australian Planning Commission that the proposal is considered to be a standard amendment to Local Planning Scheme 6 in accordance with regulation 35 (2) of the *Planning and Development (Local Planning Schemes) Regulations 2015*, as:
  - a) The amendment is consistent with the relevant objectives of the Scheme and Local Planning Strategy;
  - b) The amendment does not result in any significant environmental, social, economic or governance impacts on land in the scheme area.
  - c) The amendment would have minimal impact on land in the scheme area that is not subject of the amendment.
4. The Council notes its intention to amend LPP 1.21 to clarify that an application for approval for use as a 'Holiday House – Residential' be as of right where the application discloses that the use of the property for that purpose will be for not more than 3 months in any 12 month period.

At 9:16pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (12/0)**

**T21/3946 - CONSTRUCTION OF SOUTH EAST PREMIER PLAYSPLACE AT BOB GORDON RESERVE (AMREC) (CONFIDENTIAL ATTACHMENT)**

Item Deferred.  
**See page 131.**

**T21/3947 - SOUTHERN METROPOLITAN REGIONAL COUNCIL – REBRANDING AND NAME CHANGE (REC) (ATTACHMENT)**

Disclosure of Interest

Member Cr S Kepert  
 Type of Interest Interest under the Code of Conduct.  
 Nature of Interest I do not possess all the information I require to make an informed decision  
 Request Stay, Discuss.  
 Decision Leave Stay, Discuss.

Ward : All  
 Category : Operational  
 Subject Index : Southern Metropolitan Regional Council  
 Customer Index : Legal Matters and Documentation  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Not Applicable  
 Works Programme : Not Applicable  
 Funding : Not Applicable  
 Responsible Officer : Mick McCarthy  
 Director Technical Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**T21/3947 - SOUTHERN METROPOLITAN REGIONAL COUNCIL – REBRANDING AND NAME CHANGE (REC) (ATTACHMENT)****KEY ISSUES/SUMMARY**

- The Southern Metropolitan Regional Council (SMRC) has resolved to change its name to the Resource Recovery Group following a rebranding exercise and logo development process involving Member Councils.
- The renaming requires Member Council endorsement of changes to the Establishment Agreement to facilitate the name change and subsequent approval by the Minister for Local Government.
- There is also a requirement to undertake a more detailed amendment to the Establishment Agreement to reflect a range of other changes, (FOGO processing, waste to energy contract etc.), that will be done at a later date.
- The name change amendment to the Establishment Agreement is administrative and expected to be signed off by the Minister which will enable the organisation to enter into legal and financial contracts under the new trading name.
- The name change and rebranding is expected to be completed at minimal cost as it relates mainly to signage, (RRRC site, office), electronic communications and website.

**BACKGROUND**

The City of Melville is a current member and the largest shareholder of the SMRC which is a statutory local government authority for providing environmentally sustainable waste management solutions for the communities of East Fremantle, Fremantle, Melville and client Councils.

At the Strategic Workshop held 18 March 2021, it was agreed to continue to provide regional services for Participants and other stakeholders recognising the Regional Resource Recovery Centre (RRRC) as a strategic asset in delivering on Participants, State and Community resource recovery and circular economy aspirations.

One of six key strategies adopted by the organisation following the workshop was to create and promote a brand that reflects the vision and objectives of SMRC. It was further agreed that consideration be given to re-brand the regional local government and its projects to re-vitalise and enhance brand awareness.

**DETAIL**

The SMRC engaged Market Creations Agency to undertake a re-branding exercise which consisted of two focussed workshops, provision of branding options and feedback on the designs for the final selection. This work will also include provision of a style guide and various templates once the concept is endorsed.

All Council members and members of the Regional Executive Committee or delegates attended the Brand Development Workshops and provided input and feedback to arrive at a consensus view that the existing name and logo required changing.

**T21/3947 - SOUTHERN METROPOLITAN REGIONAL COUNCIL – REBRANDING AND NAME CHANGE (REC) (ATTACHMENT)**

The new name and rebranding designs were presented to a Special Meeting of the SMRC on 5 August 2021, whereby Council resolved to endorse Concept A and Parent Brand 1. Concept A and Parent Brand 1 forms an attachment to this Item and provides the designs and how the brand complements the current Recycle Right logo also owned by the SMRC.

**[3947 SMRC Branding Concepts](#)**

Advice from the Department of Local Government, Sport and Cultural Industries (DLGSCI) suggests that the name change to the Establishment Agreement will be required to enable the organisation to process legal documents, contracts, financial records and official correspondence. In summary, the unanimous view was that the existing brand of the SMRC was outdated, insular, did not evoke the vision and objectives of SMRC or even provide a signal as to who or what we are as an organisation.

**STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

There is no requirement to undertake community consultation related to this decision as it is consistent with the requirements and process set out in the Establishment Agreement endorsed by the SMRC and Member Councils.

**II. OTHER AGENCIES / CONSULTANTS**

The SMRC has been in liaison with Member Councils and the DLGSCI regarding the name change and rebranding exercise.

**STATUTORY AND LEGAL IMPLICATIONS**

The change in name and rebranding does not impact on the statutory function of the organisation as a Regional Local Government under the *Local Government Act 1995*. Any changes resulting from the proposed Phase 2 review of the Act related to facilitating *increased cooperation between local governments through an enhanced model of joint subsidiaries* will not be impacted by the name change or rebranding.

**FINANCIAL IMPLICATIONS**

The costs associated with changes resulting from the name change and rebranding are minor and are estimated between \$5,000 and \$10,000 related mainly to signage (RRRC site, office), electronic communications and website.

**T21/3947 - SOUTHERN METROPOLITAN REGIONAL COUNCIL – REBRANDING AND NAME CHANGE (REC) (ATTACHMENT)**

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

<b>Risk Statement &amp; Consequence</b>	<b>Level of Risk</b>	<b>Risk Treatment</b>
Risk of name change leading to loss of recognition and throughput associated with the RRRC site, therefore resulting in ongoing high overheads related to Participant Councils.	Minor financial and economic consequences which are possible, resulting in a <b>Medium</b> level of risk	Pro-actively secure contracted waste from client Councils and form alliances with the private sector for FOGO processing and other resource recovery activities.

**POLICY IMPLICATIONS**

This report and recommendation supports Council Policy CP-036 Waste Minimisation in that it supports the SMRC (Resource Recovery Group) in progressing the efficient operation of the RRRC site and assists the City in retaining its position as a leading Council in waste management.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Should the Council not support the recommendations of this report, the SMRC will not be able to satisfy requirements to amend the Establishment Agreement and therefore the SMRC will not be able to progress its name change or rebranding.

**CONCLUSION**

The Southern Metropolitan Regional Council (SMRC) name and branding is out of date and requires changing in order for the organisation to capitalise on opportunities to increase the efficiency of the RRRC site and to position itself to provide ongoing services at cost effective rates for Member and Participant Councils.

The name change to the Resource Recovery Group will enable the organisation to better engage with industry and potential clients such that the RRRC site can be optimised for strategic waste management activities and therefore reduce overhead costs currently borne by Participant Councils.

**T21/3947 - SOUTHERN METROPOLITAN REGIONAL COUNCIL – REBRANDING AND NAME CHANGE (REC) (ATTACHMENT)**

*At 9:17pm Cr Sandford left the meeting.*

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3947)                      APPROVAL**

At 9:17pm Cr Robartson moved, seconded Cr Barton –

**That the Council endorses:**

- 1. The name “Resource Recovery Group” and associated logo being concept and parent brand replacing the name and logo of the “Southern Metropolitan Regional Council.”**
- 2. The name “Resource Recovery Group” to be reflected in the review of the Establishment Agreement.**

At 9:17pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

Disclosure of Interest

Member Cr S Kepert  
 Type of Interest Interest under the Code of Conduct.  
 Nature of Interest I do not possess all the information I require to make an informed decision  
 Request Stay, Discuss.  
 Decision Leave Stay, Discuss.

**T21/3948 - SOUTHERN METROPOLITAN REGIONAL COUNCIL - WITHDRAWAL ARRANGEMENTS FOR A PROJECT PARTICIPANT (CITY OF KWINANA) (REC) (ATTACHMENT)**

Ward : All  
 Category : Operational  
 Subject Index : Southern Metropolitan Regional Council  
 Customer Index : City of Kwinana  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : T19-3813 Southern Metropolitan Regional Council – Withdrawal Arrangements for a Project Participant (City of Cockburn), 20 August 2019  
 Works Programme : Not Applicable  
 Funding : Not Applicable  
 Responsible Officer : Mick McCarthy  
 Director Technical Services

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**T21/3948 - SOUTHERN METROPOLITAN REGIONAL COUNCIL - WITHDRAWAL  
ARRANGEMENTS FOR A PROJECT PARTICIPANT (CITY OF KWINANA) (REC)  
(ATTACHMENT)****KEY ISSUES / SUMMARY**

- The City of Kwinana has given notice to the Southern Metropolitan Regional Council (SMRC) of its intention to withdraw from the “Office Project”, which relates to the SMRC’s office headquarters located in Aldous Place, Booragoon.
- In accordance with the Establishment Agreement and Project Agreements of the SMRC, an Amended Business Plan has been prepared following the withdrawal of the City of Kwinana from the Office Project, effective from 30 June 2021.
- Consent from the remaining Project Participants is required to enable the City of Kwinana to retire from the loan agreement with the Western Australian Treasury Corporation (WATC) associated with the Office Project.
- The WATC loan is based on an interest only repayment plan, equating to \$18,900 this financial year.
- Following the withdrawal of the City of Kwinana from the Office Project, the City of Melville’s equity (share) in the Office Project will increase from 54.9% to 72.43%.

**BACKGROUND**

The City of Melville is a participant in the Southern Metropolitan Regional Council (SMRC) Office Project to support the provision environmentally sustainable waste management solutions for the communities of East Fremantle, Fremantle, Kwinana and Melville. The SMRC is a statutory local government authority with member Councils being the Cities of Fremantle and Melville and the Town of East Fremantle.

The City of Kwinana gave notice of its intention to withdraw from the SMRC on 29 June 2020, resulting in an effective withdrawal date of 30 June 2021.

As a result of the notice of withdrawal of a Project Participant, and in accordance with Clause 2.6 of the Office Project Participants’ Agreement, the SMRC prepared an amended Business Plan for that project.

In addition to the above, and in accordance with Clause 2.7 of the Office Project Participants’ Agreement, the SMRC has determined the amount equal to the value of all assets of the Office Project less the amount of all borrowings and other liabilities with respect to the Office Project. The proportional entitlement of the withdrawing Project Participant is then to be applied to this amount. Following quantification of the proportional entitlement, SMRC is to distribute to, or collect from, the withdrawing Project Participant the relevant amount.

**T21/3948 - SOUTHERN METROPOLITAN REGIONAL COUNCIL - WITHDRAWAL ARRANGEMENTS FOR A PROJECT PARTICIPANT (CITY OF KWINANA) (REC) (ATTACHMENT)**

**DETAIL**

The details are contained in the amended Business Plan which forms an attachment to this Item.

**[3948 Office Project Amended Business Plan 2021 Draft](#)**

In accordance with Clause 2.7, the SMRC has determined a notional winding up surplus of \$136,252.

The proportional entitlement of the withdrawing Project Participant is \$26,629 less costs for the preparation of the amended business plan and valuation (\$8,025) resulting in a net entitlement amount of \$17,801.50 to be payable to the City of Kwinana.

The Office Project has a loan with the WATC and the loan agreement requires continuing participants to give consent to allow withdrawing participants to retire from their obligations to pay the debt. The loan repayment funding is currently \$18,900 this financial year.

As there is no longer an obligation for the City of Kwinana to pay any further loan repayments under the Project Agreement, it is recommended that the City of Melville resolve to consent and instruct the SMRC to issue a new share percentage to the WATC as part of the withdrawal process.

The SMRC is to notify the WATC of the percentages by furnishing a new Exhibit 'B' certificate with the following revised percentage shares.

**Im pact of Kwinana"s withdrawal on loan liability proportionm ents**

	FY21		FY22	
	%	\$	%	\$
East Fremantle	4.21%	75,712	5.53%	99,537
Fremantle	16.68%	300,296	22.04%	396,701
Kw inana	24.20%	435,625	0.00%	-
Melville	54.91%	988,367	72.43%	1,303,762
<b>Total</b>	<b>100.00%</b>	<b>1,800,000</b>	<b>100.0%</b>	<b>1,800,000</b>

The proportional share in the asset investment will also increase by these new percentages.

Following the withdrawal of the City of Kwinana from the Office Project, the City of Melville's equity (share) in the Office Project will increase from 55.82% to 72.43%.

**T21/3948 - SOUTHERN METROPOLITAN REGIONAL COUNCIL - WITHDRAWAL ARRANGEMENTS FOR A PROJECT PARTICIPANT (CITY OF KWINANA) (REC) (ATTACHMENT)**

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

There is no requirement to undertake community consultation related to this decision as it is consistent with the requirements and process set out in the Office Project Participants Agreement endorsed by the SMRC and Participant Councils.

**II. OTHER AGENCIES / CONSULTANTS**

The remaining other Participants, being the Cities of Fremantle and Town of East Fremantle, have been requested to seek a Council resolution related to the retiring the City of Kwinana's obligation to the Office Project Loan lending facility between the WATC, Project Participants and SMRC.

**STATUTORY AND LEGAL IMPLICATIONS**

The retirement of the City of Kwinana from the loan facility obligation is consistent with the requirements and process set out in the Office Project Participants Agreement endorsed by the SMRC and Participant Councils.

**FINANCIAL IMPLICATIONS**

The City of Melville's share of the Office Project Loan will increase from 55.82% to 72.43%, noting that this equity share has assets and liabilities that would essentially balance out in the event that the property was no longer required and sold.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Risk Statement & Consequence	Level of Risk	Risk Treatment
Risk of increased liability in the event that the property value declines further over time.	Minor financial and economic consequences which are possible, resulting in a <b>Medium</b> level of risk	Undertake annual valuations and retain Office reserve funds to maintain building and/or use to offset difference between loan liability and realisable property value.

**POLICY IMPLICATIONS**

This report and recommendation supports Council Policy CP-036 Waste Minimisation in that it helps meet and exceed the goal in the City's membership of, and investment in the SMRC and its resource recovery and recycling programs as identified in the policy statement.

**T21/3948 - SOUTHERN METROPOLITAN REGIONAL COUNCIL - WITHDRAWAL ARRANGEMENTS FOR A PROJECT PARTICIPANT (CITY OF KWINANA) (REC) (ATTACHMENT)****ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Should the Council or other Participant Councils not support the recommendations of this report, the process in the Office Project Participants Agreement would not be able to be implemented and thereby the SMRC would not be able to pay the \$17,801.50 entitlement owed to the City of Kwinana. In order to resolve this matter, a mediation process would be required to facilitate the City of Kwinana's retirement from their share of the Office Project Loan Facility.

**CONCLUSION**

The City of Kwinana has given notice to the SMRC of its intention to withdraw from the "Office Project", which relates to the SMRC's office headquarters located in Aldous Place, Booragoon.

In accordance with the Establishment Agreement and Project Agreements of the SMRC, an Amended Business Plan has been prepared following the withdrawal of the City of Kwinana from the Office Project, effective from 30 June 2021.

Following the withdrawal of the City of Kwinana from the Office Project, the City of Melville's equity (share) in the Office Project will increase from 55.82% to 72.43%.

**OFFICER RECOMMENDATION AND COUNCIL RESOLUTION (3948) APPROVAL**

At 9:18pm Cr Robartson moved, Seconded Cr Wheatland –

**That the Council**

- 1. Consent that the City of Kwinana be retired from its obligations under the \$2 million secured lending facility (known as the Office Project Loan) between the Western Australian Treasury Corporation, the Participants and the Southern Metropolitan Regional Council from 30 June 2021.**
- 2. Request the Southern Metropolitan Regional Council to submit a revised Exhibit B Certificate to the Western Australian Treasury Corporation as required under the terms and conditions of the loan agreements specified in (1) above indicating the new percentages of the debt being apportioned to the remaining participants following the withdrawal of the City of Kwinana effective 30 June 2021.**

At 9:19pm the Mayor declared the motion

**CARRIED UNANIMOUSLY (11/0)**

**CD21/8142 – REVIEW OF DOG EXERCISE AREAS (AMREC)**

Item Brought Forward  
**See Page 20.**

**M21/3923 – NEW LEASE AGREEMENTS FOR SPORTING AND RECREATION CLUBS (REC)**

Item M21/3923 – New Lease Agreement for Sporting and Recreation Clubs was withdrawn from the Agenda by the Chief Executive Officer in accordance with Clause 6.8(5) of the *City of Melville Meeting Procedures Local Law 2017*.

**M21/5863 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)  
(CONFIDENTIAL ATTACHMENTS)**

Item deferred to end of meeting.  
**See page 136.**

*At 9:20pm Cr Mair left the meeting and returned at 9:22pm.  
At 9:21pm Cr Robins left the meeting and returned at 9:23pm.  
At 9:23pm Cr Sandford returned to the meeting.*

## **15. EN BLOC ITEMS**

At 9:20pm Cr Barton moved, seconded Cr Fitzgerald –

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

**M21/5000 Common Seal Register  
C21/6000 Investment Statements June 2021  
C21/6001 Schedule of Accounts Paid June 2021  
C21/6002 Preliminary Statements of Financial Activity for June2021**

At 9:23pm, the Mayor declared the motion

**CARRIED UNANIMOUSLY BY ABSOLUTE MAJORITY (12/0)**

Disclosure of Interest

Member Cr S Kepert  
 Type of Interest Interest under the Code of Conduct.  
 Nature of Interest I do not possess all the information I require to make an informed decision  
 Request Stay, Discuss.  
 Decision Leave Stay, Discuss.

**M21/5000 – 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 and policies.</i>
<input type="checkbox"/>	Review	<i>When the Council operates as a review authority on decisions made by Officers for appeal purposes.</i>
<input type="checkbox"/>	Quasi-Judicial	<i>When the Council determines an application/matter that directly affects a person's right and interests. The judicial character arises from the obligation to abide by the principles of natural justice. Examples of Quasi-Judicial authority include town planning applications, building licences, applications for other permits/licences (eg under Health Act, Dog Act or Local Laws) and other decisions that may be appealable to the State Administrative Tribunal.</i>
<input checked="" type="checkbox"/>	Information	<b><i>For the Council/Committee to note.</i></b>

**KEY ISSUES / SUMMARY**

This report details the documents to which the City of Melville Common Seal has been applied for the period from 15 July 2021 up to and including 31 August 2021 for the Council's noting.

**M21/5000 – 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**

<b>Register Reference</b>	<b>Parties</b>	<b>Description</b>	<b>ECM Reference</b>
CS2180	City of Melville and Niraj John and Suja John	Restrictive Covenant under Section 129BA transfer of land act on Certificate of Title - No. 5 (Lot No. 121) Venus Street Bateman WA 6150	DA-2021-645
CS2181	City of Melville and Strategic Property Group Pty Ltd and Western Australian Planning Commission	Section 70A Notification on Certificate of Title No. 120 (Lot No. 5760) Arkwell Street, Willagee	DA-2021-763
CS2182	City of Melville	New Local Law - City of Melville Dog Local Law 2021	6403554
CS2183	City of Melville	Section 70A Notification on Certificate of Title - 6 ( Lot 385) Matthew Avenue, Leeming	DA-2021-878
CS2184	City of Melville	Section 70A - Notification on Certificate of Title - 15 ( Lot 617) Corbett Way, Booragoon	DA-2019-495
CS2185	City of Melville	Local Planning Scheme No. 6 – Amendment 10 Report – Rezoning several parks and reserves from “Residential” to “Public Open Space”	6474578

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

Not applicable.

**II. OTHER AGENCIES / CONSULTANTS**

Not applicable.

**M21/5000 – 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' that details the documents to which the City of Melville Common Seal has been applied for the period from 15 July 2021 up to and including 31 August 2021.

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

**That the Council notes the actions of His Worship the Mayor and the Chief Executive Officer in executing the documents listed under the Common Seal of the City of Melville from 15 July 2021 up to and including 31 August 2021.**

At 9:23pm the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (12/0)**

Disclosure of Interest

Member Cr S Kepert  
 Type of Interest Interest under the Code of Conduct.  
 Nature of Interest I do not possess all the information I require to make an informed decision  
 Request Stay, Discuss.  
 Decision Leave Stay, Discuss.

**C21/5861 – SUPPLY OF 4 SIDE LOADING RECYCLE WASTE RECOVERY TRUCKS AND 1 REAR LOADING COMMERCIAL TRUCK (REC) (CONFIDENTIAL ATTACHMENT)**

Ward : All  
 Category : Operational  
 Subject Index : Tender  
 Customer Index : City of Melville  
 Disclosure of any Interest : No Officer involved in the preparation of this report has a declarable interest in this matter.  
 Previous Items : Not Applicable  
 Works Programme : Not applicable  
 Funding : Fleet Capital Programme  
 Responsible Officer : Debbie Whyte – Manager Financial Services

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	<b>Executive</b>	<b><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></b>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; 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>

**C21/5861 SUPPLY OF 4 SIDE LOADING RECYCLE WASTE RECOVERY TRUCKS AND 1X REAR LOADING COMMERCIAL TRUCK (REC) (CONFIDENTIAL ATTACHMENT)****KEY ISSUES / SUMMARY**

To recommend the acceptance of Western Australian Local Government Association (WALGA) e-quotes for:

- Replacement of four (4) side loading recycle waste trucks
- Replacement of one (1) rear loading commercial waste truck

**BACKGROUND**

The City of Melville, as approved in the 2021-2022 Capital Program budget, will be replacing five waste trucks comprising of four side loading recycle waste trucks and one rear loading commercial waste truck.

The City reserved the right to purchase the various waste trucks from separate suppliers.

Quotes were called through WALGA's Preferred Supply Contract for Trucks and Associated Equipment - Contract Number NPN 04-13.

The existing trucks will not be offered as trade on this purchase. They will be auctioned on a later date through a nominated auctioneer as this enables a more effective hand over process and transition arrangements related to operator training.

**DETAIL**

The request for quotes for the replacement trucks were advertised on 15 July 2021 through the WALGA Preferred Supplier Program. Submissions from the various respondents were analysed by an evaluation panel comprising of City officers. Qualitative scores were achieved by joint agreement of the evaluation panel members at the evaluation meeting after each panel member had scored the submission individually. The City set four qualitative criteria for this request being operational capacity, technical specification, environmental/sustainability and warranty period.

The Evaluation Panel reviewed all respondent offers and prepared an evaluation report, identifying recommended respondents.

A copy of the Evaluation Report is provided and forms a confidential attachment to this Item.

The recommendation was supported by the Contract and Tender Advisory Unit (CTAU) at its meeting on 2 September 2021 and is put forward as part of the recommendation to Council.

**C21/5861 SUPPLY OF 4 SIDE LOADING RECYCLE WASTE RECOVERY TRUCKS AND 1 REAR LOADING COMMERCIAL TRUCK (REC) (CONFIDENTIAL ATTACHMENT)**

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

No stakeholder engagement has been required or undertaken for this request for quote.

**II. OTHER AGENCIES / CONSULTANTS**

No other agencies/consultants' engagement has been required or undertaken for this request for quote.

**STATUTORY AND LEGAL IMPLICATIONS**

Local Government (Functions and General) Regulations 1996 Section 3.57 11 (2):

*"Tenders do not have to be publicly invited if the supply of the goods or service is to be obtained through the WALGA Preferred Supplier Program".*

**FINANCIAL IMPLICATIONS**

2021-2022 Fleet Capital Programme Budget	\$2,090,000
If the budget is exceeded by appointing the proposed contractor a budget amendment proposal must be included in the recommendation	Not applicable, within budget.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

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

There is no residual risk implications following the invitation and evaluation process conducted for these purchases. Actions taken to address identified risks are listed in a confidential attachment included in the Contract and Tender Advisory Unit Meeting Minutes of 2 September 2021 distributed to Elected Members under confidential cover.

**POLICY IMPLICATIONS**

CP-023 Procurement of Products or Services.

Procurement has been undertaken in accordance with the provisions of Policy CP-023.

**C21/5861 SUPPLY OF 4 SIDE LOADING RECYCLE WASTE RECOVERY TRUCKS AND 1 REAR LOADING COMMERCIAL TRUCK (REC) (CONFIDENTIAL ATTACHMENT)**

CP-030 Environmental Policy - The Council has resolved for the organisation to be carbon neutral by 2030 and officers are monitoring the progress of low or no emissions heavy vehicles with alternative drive trains (e.g. electric and hydrogen powered) for future consideration based on their performance, operability and costs however at this time electric waste trucks although available are not yet fit for purpose in that they are capable of meeting the operational requirements of the City over the entire course of a shift. Hydrogen trucks are still in the developmental stage and "Green" hydrogen fuel is not freely available at this time.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

No alternate options have been identified.

**CONCLUSION**

The CTAU is satisfied that the recommended suppliers have demonstrated they have the necessary technical and operational specifications as requested and required by the City, the engine meets the environmental standards (Euro 6 emissions standards) and the warranty, service and spare parts support also meets the City's expectations.

The recommended suppliers scored the highest in the qualitative evaluation criteria and meet the operational requirements of the Resource Recovery and Waste Directorate. Whilst the recommended trucks are marginally more expensive based on the quotes received, an important consideration was the quality of the compactor hopper units offered in the preferred option and safety features.

The preferred option is expected to improve overall waste compaction, thereby reducing the number of trips to the various waste processing facilities, whilst also providing significant reduced maintenance costs associated with the compactor bodies. In addition, the recommended truck has the best driver ergonomics and internal cab design compared to the other trucks considered, which reduces operator fatigue and increases productivity.

The turning circle of the truck was also assessed as being the most advantageous for operating in cul-de-sacs and assists with bin collection on congested roads. This manoeuvrability is important in negotiating on street parking and narrow roadways found in multiple unit developments (MUDS), which are increasing being established throughout the City of Melville area.

Overall, the recommended truck purchase for the four side loader waste trucks offers the City the best value for money and road safety option.

In terms of the rear loader truck, the recommended make and model was chosen because it scored the highest in the qualitative evaluation criteria and is the second cheapest. In comparison to the other trucks included in submissions, it was the only truck quoted with a flat walk through cabin which does not pose a tripping hazard and reduces the risk of repetitive strain or injury to drivers as they continually walk through to enter/exit the cabin.

**C21/5861 SUPPLY OF 4 SIDE LOADING RECYCLE WASTE RECOVERY TRUCKS AND 1 REAR LOADING COMMERCIAL TRUCK (REC) (CONFIDENTIAL ATTACHMENT)**

At 9:24pm Cr Kepert returned to the meeting.

**OFFICER RECOMMENDATION (5861)**

**APPROVAL**

At 9:24pm Cr Robartson moved, seconded Cr Robins –

**That the Council**

1. **Accepts the recommendation as contained in the Confidential Attachment – RFQ202182 Contract and Tender Advisory Unit Minutes; and**
2. **Upon resolution of the recommendation, directs that the successful respondents' names be inserted below this point 2, awarded.**

**Volvo Group Australia Pty Ltd (Superior)  
ABN: 27 000 761 259**

**(Supplying Agent - Truck Centre WA Pty Ltd ABN 19 120 476 879)**

At 9:24pm, the Mayor declared the motion

**CARRIED (12/0)**

<b>Yes</b>	12	Cr Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Woodall, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	0	

At 9:24pm Cr Kepert abstained from voting on the matter.

**C21/5864 SELECTION OF SITE SURVEYOR FOR 18A AND 18B TWEEDDALE ROAD,  
APPLECROSS (REC)**

Item brought forward.  
**See Page 34.**

Disclosure of Interest

Member Cr S Kepert  
 Type of Interest Interest under the Code of Conduct.  
 Nature of Interest I do not possess all the information I require to make an informed decision  
 Request Stay, Discuss.  
 Decision Leave Stay, Discuss.

**C21/6000 - INVESTMENT STATEMENTS FOR JULY 2021 (REC)**

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

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**KEY ISSUES / SUMMARY**

This report presents the investment statements for the period ending 31 July 2021 for the Council's information and noting.

**C21/6000 - INVESTMENT STATEMENTS FOR 31 JULY 2021 (REC)**

**BACKGROUND**

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

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

**DETAIL**

The following statement details the investments held by the City as at 31 July 2021.

<b>CITY OF MELVILLE STATEMENT OF INVESTMENTS FOR THE PERIOD ENDING 31 JULY 2021</b>		
<b>SUMMARY BY FUND</b>		
Municipal		\$28,484,981
Reserve		\$145,768,897
Trust		\$-
Citizen Relief		\$224,057
<b>TOTAL</b>		<b>\$174,477,935</b>
<b>SUMMARY BY INVESTMENT TYPE</b>		
11AM		\$11,855,412
31Days at Call		\$6,000,000
60Days at Call		\$2,000,000
90Days at Call		\$16,600,000
Term Deposit		\$138,022,523
<b>TOTAL</b>		<b>\$174,477,935</b>
<b>SUMMARY BY CREDIT RATING</b>		
AAA Category	AAA	
AA Category (AA+ to AA-)	AA-	\$127,977,220
A Category (A+ to A-)	A+	\$10,000,716
	A	
	A-	
BBB+ Category	BBB+	\$36,500,000
<b>TOTAL</b>		<b>\$174,477,935</b>

**C21/6000 - INVESTMENT STATEMENTS FOR 31 JULY 2021 (REC)**

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

Investment with financial institutions						
Institution	Credit Rating	Credit Rating Category	Funds held at period end	Actual %	Limit Per Policy	
ANZ	AA-	AA Category	\$ 5,500,000	3.15%	30.00%	✓
AMP	BBB+	BBB+ Category	\$ -	0.00%	15.00%	✓
Bankwest	AA-	AA Category	\$ -	0.00%	30.00%	✓
Bank of Queensland	BBB+	BBB+ Category	\$ 25,000,000	14.33%	15.00%	✓
ING Bank	A-	A Category	\$ -	0.00%	25.00%	✓
Bendigo & Adelaide	BBB+	BBB+ Category	\$ 11,500,000	6.59%	15.00%	✓
CBA	AA-	AA Category	\$ 43,000,000	24.64%	30.00%	✓
Macquarie	A+	A Category	\$ 7,000,716	4.01%	25.00%	✓
NAB	AA-	AA Category	\$ 27,535,660	15.78%	30.00%	✓
St George	AA-	AA Category	\$ -	0.00%	30.00%	✓
Suncorp	A+	A Category	\$ 3,000,000	1.72%	25.00%	✓
Westpac	AA-	AA Category	\$ 51,941,560	29.77%	30.00%	✓
<b>TOTAL</b>			<b>\$ 174,477,935</b>	<b>100%</b>		

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

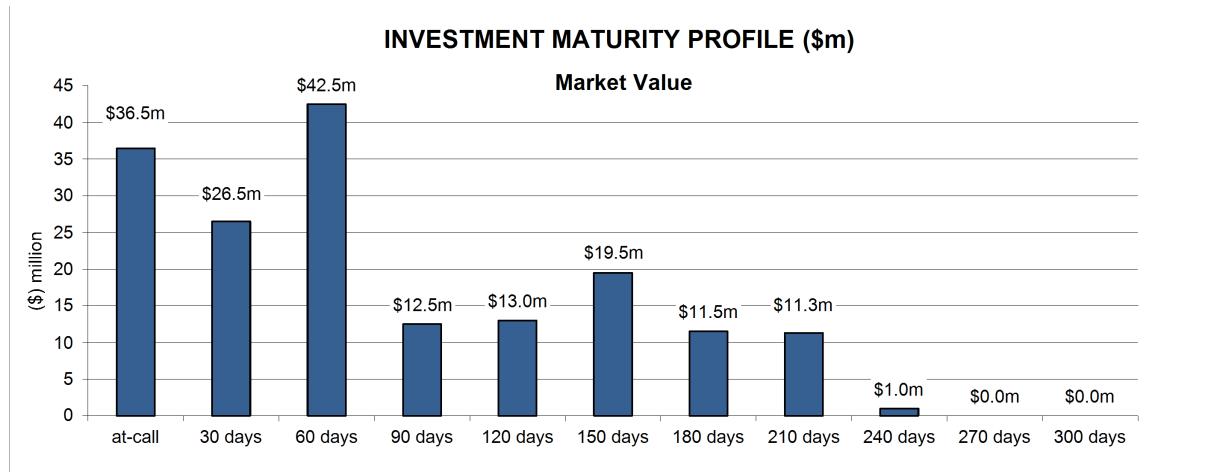
The City's investments were invested within the limits allowed within each category rating for July 2021.

Maximum Percentage of Average Investment Portfolio Balance				
Long Term Rating	Funds held at period end \$	Actual %	Limit Per Policy	
AAA Category	\$ -	0%	100%	✓
AA Category (AA+ to AA-)	\$ 127,977,220	73%	80%	✓
A Category (A+ to A-)	\$ 10,000,716	6%	50%	✓
BBB+ Category	\$ 36,500,000	21%	25%	✓
<b>TOTAL</b>	<b>\$ 174,477,935</b>	<b>100%</b>		

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

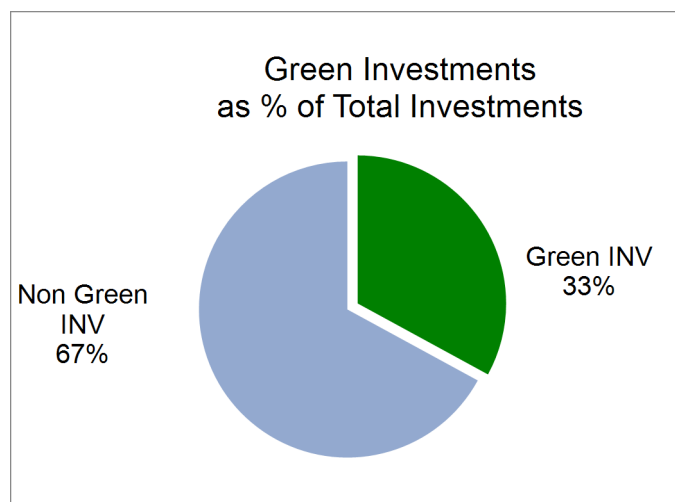
**C21/6000 - INVESTMENT STATEMENTS FOR 31 JULY 2021 (REC)**

The below graph summarises the maturity profile of the City’s investments at market value as at 31 July 2021. The immediacy of the demand for funds depends on the particular Fund or Reserve Account(s) of the City. The maturity profile provided in the table above meets the liquidity requirements of the Council policy.



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

The total investment in authorised institutions that do not lend to industries engaged in the exploration for, or production of, fossil fuels, as at 31 July 2021 was \$57,500,000 or 33% of total investment holdings being in non-fossil fuels institutions, compared to \$57,500,000 (32.6%) in June 2021. The total investments holding for July and June were \$174,477,935 and \$176,275,885 respectively.



**C21/6000 - INVESTMENT STATEMENTS FOR 31 JULY 2021 (REC)**

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

Green investments are invested in three banks listed above, following the council credit rating policy. Green Term Deposits with CBA are currently limited or no longer available as the pool of funds with them has reached full capacity. Other banks offer a lower interest rate on Green Investments.

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

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

**II. OTHER AGENCIES / CONSULTANTS**

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

**STATUTORY AND LEGAL IMPLICATIONS**

The following legislation is relevant to this report:

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

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

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

**C21/6000 - INVESTMENT STATEMENTS FOR 31 JULY 2021 (REC)**

**FINANCIAL IMPLICATIONS**

For the period ending 31 July 2021:

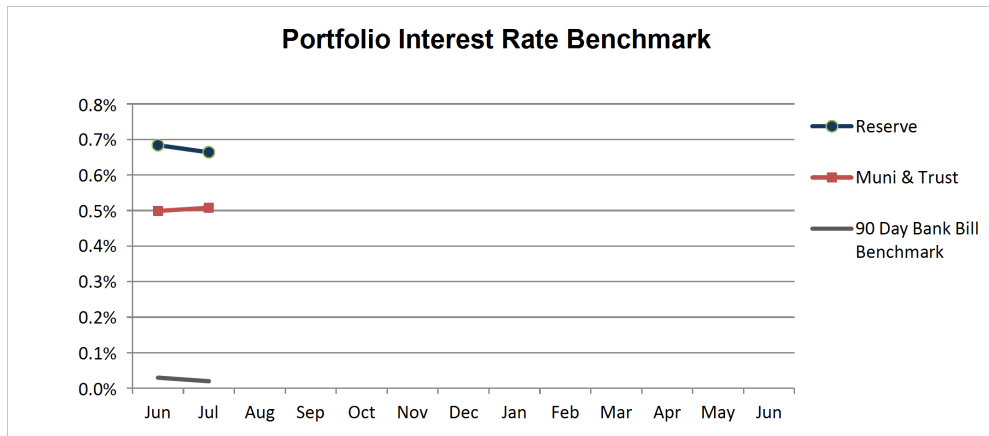
- Investment earnings on Municipal and Trust Funds were \$11,817 against a year to date budget of \$20,833 representing a negative variance of \$9,016 .

The weighted average interest rate for Municipal and Trust Fund investments as at 31 July 2021 was 0.51% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.02%.

- Investment earnings on Reserve accounts were \$89,592 against a year to date budget of \$100,000 representing a negative variance of \$10,408.

The weighted average interest rate for Reserve account investments as at 31 July 2021 was 0.66% which compares favourably to the benchmark three month bank bill swap (BBSW) reference rate of 0.02%.

- Both negative variances are a result of withdrawal of higher term deposit investments than anticipated to settle creditor payments during last three months ending 31 July 2021.



**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

**Strategic**

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

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

**Risk**

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

**C21/6000 - INVESTMENT STATEMENTS FOR 31 JULY 2021 (REC)****Environmental**

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

**POLICY IMPLICATIONS**

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

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable as this report only presents information for noting.

**CONCLUSION**

The City's investment portfolio is invested in highly secure investments with a low level of risk yielding a weighted average rate of return of 0.51% to 0.66% which exceeds the benchmark three month bank bill swap (BBSW) reference rate of 0.02%.

33% of the City's investment portfolio is invested in authorised deposit taking institutions that do not lend to industries engaged in the exploration for, or production of, fossil fuels. This compared to 33% in June 2021.

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 2021.**

At 9:23pm, the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (12/0)**

Disclosure of Interest

Member Cr S Kepert  
 Type of Interest Interest under the Code of Conduct.  
 Nature of Interest I do not possess all the information I require to make an informed decision  
 Request Stay, Discuss.  
 Decision Leave Stay, Discuss.

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

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

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input type="checkbox"/>	Executive	<i>The substantial direction setting and oversight role of the Council. e.g. adopting plans and reports, accepting tenders, directing operations, setting and amending budgets.</i>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; 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	<b><i>For the Council/Committee to note.</i></b>

**KEY ISSUES / SUMMARY**

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

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

**BACKGROUND**

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

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

**DETAIL**

The Schedule of Accounts Paid for July including Payment Register numbers, Cheques: 798-800, Electronic Funds Transfers batches: 715-719, Trust Payments, Card Payments and Payroll was distributed to the Elected Members of the Council on 3 September 2021.

A total of \$9,173,357 direct creditor payments were paid during the month, of which, 17% of payments were paid to suppliers located within the City of Melville and 30% to suppliers within the South West Group, compared to 24% and 34% of total of \$ 10,210,748 direct creditor payments made over June 2021 respectively. The biggest payment of \$1,010,827 made during the month was the Insurance premium to the LGISWA. Approximately 96% of supplier invoices are paid within 30 days of receipt of the invoices.

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

<b>SCHEDULE OF PAYMENTS MADE</b>		
<b>JULY 2021</b>		
<i>Payments made under Delegated Authority DA-035</i>		
<b>MUNICIPAL FUNDS - DIRECT CREDITOR PAYMENTS</b>		
<b><i>Cheques</i></b>	Chq Payment Register No. 798 and 800	\$57,604.48
	Chq Payment on Restricted Funds Register No.	\$0.00
	Less Cancelled Chqs	(\$61.65)
<b><i>Electronic Funds Transfers</i></b>	EFT Payment Register No. 716, 717 and 719	\$8,875,830.85
	EFT Payment on Restricted Funds Register No. 109, 715 and 718	\$169,267.65
	Less Cancelled EFTs	(\$41,031.45)
		<b>\$9,061,609.88</b>
<b><i>Direct Debits</i></b>	Bank Fees	\$22,925.00
	Ampol Fuel	\$87,337.84
<b><i>Direct Payments</i></b>		\$1,484.49
	<b>Total Direct Creditor Payments</b>	<b>\$9,173,357.21</b>
<b><i>Payroll</i></b>	Total Pay 1 and 2	\$3,718,103.31
	<b>Total Payroll</b>	<b>\$3,718,103.31</b>
<b><i>Cards</i></b>	Corporate Cards	\$6,250.93
	Purchase Cards	\$52,782.61
	American Express	\$10,656.59
	<b>Total Card Payments</b>	<b>\$69,690.13</b>
	<b>Total Direct Creditor Payments from Municipal Account</b>	<b>\$12,961,150.65</b>

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

*Schedule of Payments Made continued.*

<b>INTERFUND &amp; INVESTMENT TRANSACTIONS</b>			
<b><i>Interfund Transfers</i></b>			
Loan			\$0.00
Citizen Relief Trust			(\$2,000.00)
Citizen Relief Operating			\$2,000.00
Municipal			\$0.00
Reserve			\$0.00
Trust			\$0.00
<b><i>Total Interfund Transfers</i></b>			<b>\$0.00</b>
<b><i>New Municipal Investments</i></b>			
Westpac Bank	7/07/2021		\$1,500,000.00
Westpac Bank	9/07/2021		\$1,000,000.00
Westpac Bank	21/07/2021		\$1,500,000.00
Westpac Bank	23/07/2021		\$1,000,000.00
Westpac Bank	27/07/2021		\$1,300,000.00
<b><i>Total New Investments</i></b>			<b>\$6,300,000.00</b>
<b>Grand Total</b>			<b>\$19,261,150.65</b>

Details of the payments are shown in attachment [6001 Payment Details July 2021](#).

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

**STAKEHOLDER ENGAGEMENT**

**I. COMMUNITY**

Not applicable.

**II. OTHER AGENCIES / CONSULTANTS**

**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.

**C21/6001 – SCHEDULE OF ACCOUNTS PAID FOR JULY 2021 (REC) (ATTACHMENT)****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 \$19,261,150.65.

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

At 9:23pm, the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (12/0)**

Disclosure of Interest

Member Cr S Kepert  
 Type of Interest Interest under the Code of Conduct.  
 Nature of Interest I do not possess all the information I require to make an informed decision  
 Request Stay, Discuss.  
 Decision Leave Stay, Discuss.

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

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

**AUTHORITY / DISCRETION**

**DEFINITION**

<input type="checkbox"/>	Advocacy	<i>When the Council advocates on its own behalf or on behalf of its community to another level of government/body/agency.</i>
<input checked="" type="checkbox"/>	<b>Executive</b>	<b><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></b>
<input type="checkbox"/>	Legislative	<i>Includes adopting local laws, town planning schemes &amp; 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>

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

This report presents:

- The Statements of Financial Activity by Program, Sub-Program and Nature and Type, for the period ending 31 July 2021 and recommends that they be noted by the Council.
- Year-end processes are still underway and therefore the final figures for July 2021 may be different from what is presented in this report.
- The variances for the month of July and recommends that they be noted by the Council.
- The Budget amendments required for the month of July and recommends that they be adopted by Absolute Majority decision of the Council.

**BACKGROUND**

The Statements of Financial Activity for the period ending 31 July 2021 have been prepared and tabled in accordance with the *Local Government (Financial Management) Regulations 1996*.

**OVERALL SUMMARY OF THE CITY'S FINANCIAL POSITION**

- End of financial year processes for 2020-2021 are still underway and therefore the final figures for 2020-2021 may be materially different to what is presented in this report.
- The Municipal cash balance at the end of the month is \$28.4m. This reflects that the City has a positive financial position to meet its obligation. However, the inter fund transfers for July 2021 are yet to be finalised. This will be reflected in the August month-end report.
- An investment holding in reserve accounts for July is \$146m, compared to the reserve investment holding of \$147m in June 2021. 84% of the City's investment holdings are held in reserve accounts which are restricted to the defined purpose for which the reserve account was established. As above, the inter fund transfers for July 2021 are yet to be finalised and therefore the final figures for reserve balance may be materially different to what is presented in this report.
- The 'Green' investment with authorised banking institutions as at 31 July 2021 was \$57,500,000 or 33% of total investment holdings, compared to \$57,500,000 (32.6%) in June 2021.
- Rates raised in July were \$91,690,981 with a variance of \$115,624 compared to the approved budget of \$91,575,357. This is mainly due to the impact of interim rate adjustments processed on various residential improved properties following the preparation of the 2021-2022 annual budget. These adjustments are subsequently reflected in the value of the rates raised in 2021-2022.
- Total debtor collections for July equalled \$8,424,413. The year to date total outstanding debtors (including all rates and sundry debtors) is \$117,009,334. The YTD cash collection of \$8,424,413 from total debtors is higher than the cash collection of \$2,052,960 during the same period in the previous year.

**C21/6002 – STATEMENTS OF FINANCIAL ACTIVITY for July 2021 (AMREC)  
(ATTACHMENTS)**

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

**Variances**

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

[6002B Rate setting Statement July 2021](#): Rate Setting Statement by Nature or Type  
[6002H Statement of Variances July 2021](#): Statement of Variances in Excess of \$100,000.

**Revenue**

Rates raised as at July were \$91,690,981, compared to a year to date budget of \$91,575,357. The positive variance of \$115,624 is due to the impact of interim rate adjustments processed on various residential improved properties.

**Rates Collection**

<b>SUMMARY OF RATE DEBTOR MOVEMENT</b>					
Detail	Actuals Current Month YTD	Actuals Previous Month YTD	% Diff Current Mth to Previous Mth	Actuals This Month Last Year YTD	% Diff Current Mth to Current Mth Last Yr
Opening Balance - 1 July	6,491,862	9,142,487	-29%	9,142,487	-29%
Debtors Raised	116,834,456	102,042,742	14%	99,891,672	17%
Payments Received	(7,701,583)	(104,693,366)	-93%	(1,627,019)	373%
Closing Balance	115,624,735	6,491,862	1681%	107,407,141	8%

Total rate debtor collections for the month equalled \$7,701,583.

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

**Sundry Debtor Movement**

<b>SUMMARY OF SUNDRY DEBTOR MOVEMENT</b>					
Detail	Actuals Current Month YTD	Actuals Previous Month YTD	% Diff <i>Current Mth to Previous Mth</i>	Actuals This Month Last Year YTD	% Diff <i>Current Mth to Current Mth Last Yr</i>
Opening Balance - 1 July	883,110	1,238,865	-29%	1,238,865	-29%
Invoices Raised	1,218,617	6,738,602	-82%	821,959	48%
Receipts	(722,830)	(7,112,980)	-90%	(425,941)	70%
Prepayments	5,702	18,623	-69%	16,335	-65%
Closing Balance	1,384,599	883,110	57%	1,651,218	-16%

Sundry debtor balances increased by \$501,489 over the course of July from \$883,110 to \$1,384,599 of which total 90 day sundry debtors over \$1,000 for the month is \$102,385, representing 7% of total sundry debtors.

**Money Expended in an Emergency and Unbudgeted Expenditure**

Not applicable for July 2021.

**Budget Amendments**

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

**Granting of concession or writing off debts owed to the City**

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

An invoice for \$340, from 2018, for the hire of the Blue Gum function room was written off under delegated authority in the month of July. The City was unable to make contact with the debtor and, due to the lack of economic viability in further pursuing the debtor, has written off the charge.

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

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

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

**C21/6002 – STATEMENTS OF FINANCIAL ACTIVITY FOR JULY 2021 (AMREC)  
(ATTACHMENTS)****STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

Not applicable.

**II. OTHER AGENCIES / CONSULTANTS**

Not applicable.

**STATUTORY AND LEGAL IMPLICATIONS**

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

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

**34. Financial activity statement report — s. 6.4**

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

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

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

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

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

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

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

(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 2021](#): Notes on Statement of Variances in excess of \$100,000 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

**CONCLUSION**

The attached financial reports reflect a positive financial position of the City of Melville as at 31 July 2021.

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

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

**That the Council:**

- Notes the Rate Setting Statement and Statements of Financial Activity for the month ending 31 July 2021 as detailed in the following attachments:**

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

- By Absolute Majority Decision adopts the budget amendments, as detailed in the attached Budget Amendment Reports for July 2021  
[6002J BUDGET AMENDMENTS JULY 2021](#)**

At 9:23pm, the Mayor declared the motion

**CARRIED EN BLOC BY ABSOLUTE MAJORITY (12/0)**

**15. EN BLOC ITEMS**

Item brought forward.  
**See page 101.**

**16. MOTIONS OF WHICH PREVIOUS NOTICE HAS BEEN GIVEN****16.1 Attadale Reserve (Attadale-Alfred Cove Foreshore Master Plan)**

Item Brought Forward.  
**See Page 68.**

**16.2 Meeting room for use by the Local Government Elected Members Association**

Item brought forward  
**See Page 70.**

**17. MOTIONS WITHOUT NOTICE BY ABSOLUTE MAJORITY OF THE COUNCIL**

Nil.

**18. IDENTIFICATION OF MATTERS FOR WHICH MEETING MAY BE CLOSED**

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

- T21/3946 - Construction of South East Premier Playspace at Bob Gordon Reserve
- M21/5863 – Chief Executive Officer Performance Review

Disclosure of Interest  
 Member Cr S Kepert  
 Type of Interest Interest under the Code of Conduct.  
 Nature of Interest I do not possess all the information I require to make an informed decision  
 Request Stay, Discuss.  
 Decision Leave Stay, Discuss.

**T21/3946 - CONSTRUCTION OF SOUTH EAST PREMIER PLAYSPACE AT BOB GORDON RESERVE (AMREC) (CONFIDENTIAL ATTACHMENT)**

Ward : Bull Creek - Leeming  
 Category : Operational  
 Subject Index : Tenders  
 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 : T16/3714 – Peter Ellis Reserve Petition Playground Request – Ordinary Meeting of Council 19 July 2016  
 Works Programme : Not Applicable  
 Funding : As outlined in the confidential attachments  
 Responsible Officer : Mario Murphy – Manager City Buildings

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**T21/3946 - CONSTRUCTION OF SOUTH EAST PREMIER PLAYSPACE AT BOB GORDON RESERVE (AMREC) (CONFIDENTIAL ATTACHMENT)****KEY ISSUES / SUMMARY**

To recommend the acceptance of the tender as contained in the confidential attachment T21/3946 RFT202111 Contract and Tender Advisory Unit Minutes.

**BACKGROUND**

In September 2015, a petition with 104 signatures was presented to the Council requesting a substantial playspace be constructed at Peter Ellis Reserve. The petition requested the City to;

*“Allocate a portion of their 2016-2017 budget to install a playspace on the currently idle land located behind Farrington Shops on Peter Ellis Oval and a portion of the unused carpark. This should be an inclusive place that allows local community members to gather, interact and connect with each other. Therefore, included in this request is an adequate shade structure over the playground, soft floor grounding, drink fountain and seating. The play equipment needs to be of substantial size in order to meet the high number of users in the area. It should accommodate different age groups and focus on pre-schoolers and adolescence.”*

As a result of the above, the City prepared and presented a report T16/3714 – Peter Ellis Reserve Petition Playground Request item to the Council in July 2016. At that meeting, Council resolved to await the finalisation of the investigation into park development planning in the eastern section of the City, prior to making a decision on the petition to install a playground at Peter Ellis Reserve and endorsed expenditure of \$50,000 to explore options for a playspace of significant size to be developed in the south east area of the City.

Community engagement and planning was undertaken to identify the style and location of a new premier playspace within the south eastern neighbourhood. A Community Reference Group (CRG) was formed, as stage one of this engagement, by random selection of residents from Bull Creek and Leeming who identified the style and location of park required.

A presentation on the outcomes of the CRG engagement was provided at an Elected Member Information session (EMIS) in late June 2017 with Elected Members supporting the CRG recommendation that Bob Gordon Reserve be selected as the most appropriate location for establishing the premier playspace.

A draft concept plan was prepared was presented at 26 July 2017 EMIS prior to going to broader engagement. This presentation acknowledged an approximate \$4 million construction cost and \$60,000 increased costs for the ongoing maintenance for the reserve.

The second stage of consultation was undertaken which involved a meeting with current users of Bob Gordon Reserve including the Scouts, Tennis and BMX clubs, followed by an online survey (resulting in 502 participants) to determine the level of support for the plan, the individual features within the playspace and an opportunity for other comments.

**T21/3946 - CONSTRUCTION OF SOUTH EAST PREMIER PLAYSPLACE AT BOB GORDON RESERVE (AMREC) (CONFIDENTIAL ATTACHMENT)**

Residents adjacent to the park were notified by letter, signage on site was provided and two on site meetings were held with interested community members.

A total of 70% of survey respondents supporting the draft concept plan as presented or with minor amendments, following which the concept was revised to reflect the feedback from the community which included:

- reducing the scale of the fenced area and to move it away from existing houses
- relocation of basketball facilities to the tennis courts side of the site
- increase the connectivity of Bob Gordon Reserve through to Centennial Park and John Creany Reserve

The concept plan was revised in response to this feedback. And upon agreement of the final concept design by Elected Members at the EMIS on 14 November 2017, the City included \$100,000 in the 2018-2019 budget for detailed design and pre-works (services reviews and surveys) and included \$4,000,000 in the Long Term Financial Plan (LTFP) to be spread over the 2019-2020 and 2020-2021 financial years. These budgets were approved by Council each financial year with funding allocated in the Capital Works Program.

The construction project scope for the South East Premier Playspace includes:

- A central play hub including hard and soft works, play equipment and furniture, shade structures, UFO inspired structure and boardwalk and space rover,
- Additional paths around the play area and connections to Parry Ave and Benningfield Road,
- Carpark modifications to include ACROD bays and small bus set-down area,
- Renewal of a half-court basketball court, hit-up wall and retaining wall on eastern side of park,
- Re-configuration of carpark power connection (away from Scout Hall).

**DETAIL**

The tender was advertised on 9 June 2021 and submissions received were subject to a detailed tender evaluation process. Qualitative scores of tenders received were achieved through joint agreement of the evaluation panel members at the evaluation meeting after each panel member had scored the submissions individually. The City set three qualitative criteria for this Request, being Demonstrated Experience, Key Personnel and Methodology. Shortlisted submissions were also evaluated based on price.

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

The recommendation was supported by the Contract and Tender Advisory Unit (CTAU) at its meeting on 10 August 2021 and is put forward as part of the recommendation to the Council.

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

**T21/3946 - CONSTRUCTION OF SOUTH EAST PREMIER PLAYSPACE AT BOB GORDON RESERVE (AMREC) (CONFIDENTIAL ATTACHMENT)****STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

No stakeholder engagement has been required or undertaken for the tender process.

Extensive stakeholder engagement has been undertaken during the planning of the project through the CRG and in the development of the design through a range of consultation activities.

**II. OTHER AGENCIES / CONSULTANTS**

No external agencies or consultants were required or engaged for the tender process.

**STATUTORY AND LEGAL IMPLICATIONS**

Local Government (Functions and General) Regulations 1996 Section 3.57 11 (1) "A Local Government is required to invite tenders before it enters into a contract for another person to supply goods or services".

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

**FINANCIAL IMPLICATIONS**

The total project cost, inclusive of preliminary costs, construction, project management and contingency, will exceed the original budget estimate. The full breakdown of costs for this project is outlined in the confidential attachment. This project will require additional funds of \$430,574 to be funded by the Public Open Space and Urban Forest Reserve.

The shortfall is due mainly to the heat in the current construction market resulting in higher than anticipated construction costs, particularly in respect to the playground equipment, perimeter fencing and other parkland elements such as shelters and soft landscaping.

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

The provision of these services has no major strategic implications.

The provision of these services has no major environmental management implications.

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

**POLICY IMPLICATIONS**

CP-023 Procurement of Products or Services

**T21/3946 - CONSTRUCTION OF SOUTH EAST PREMIER PLAYSPLACE AT BOB GORDON RESERVE (AMREC) (CONFIDENTIAL ATTACHMENT)**

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

The City could decide not to proceed with the Project or delay the Project. The City has a minor reputational risk linked with cancelling or delaying the project and would need to determine alternative arrangements for meeting the community need for a large recreational facility of this type in the south east area of the City.

**CONCLUSION**

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

The recommended Respondent offers the second lowest price of the shortlisted submissions whilst satisfying the City's risk and qualitative requirements therefore they offer the best value for money.

**CONTRACT AND TENDER ADVISORY UNIT RECOMMENDATION (3946)  
ABSOLUTE MAJORITY APPROVAL**

At 9:25pm Cr Woodall moved, seconded Cr Robartson –

**That by absolute majority the Council**

- 1. Accepts the recommendation as contained in the Confidential Attachment –T21/3946 RFT202111 Contract and Tender Advisory Unit Minutes.**
- 2. Upon resolution of Recommendation 1, directs that the successful Respondent's name be inserted below this point 2:**

**Phase 3 Landscape Construction Pty Ltd  
ABN 55 126 011 621**

- 3. A transfer from the Public Open Space and Urban Forest Reserve of \$271,693, being the 2022-2023 budget allocation brought forward, be approved to increase the budget for this project.**
- 4. A further transfer from the Public Open Space and Urban Forest Reserve of \$430,574 be approved to increase the budget for this project to account for the remaining budget shortfall.**

At 9:25pm, the Mayor declared the motion

**CARRIED (12/0)**

<b>Yes</b>	12	Cr Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Woodall, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	0	

At 9:25pm Cr Kepert abstained from voting on the matter.

Disclosure of Interest

Member	Mr M Tieleman
Type of Interest	Financial Interest
Nature of Interest	I am the CEO the subject to the review.
Request	Leave
Decision Leave	Leave

*At 9:27pm having declared and interest in the matter Mr Tieleman left the meeting and did not return.*

*At 9:27pm Cr Wheatland left the meeting and returned at 9:27pm.*

*At 9:28pm Mr McCarthy left the meeting and did not return.*

*At 9:28pm Mr Duncan left the meeting and did not return.*

*At 9:28pm Ms Reid left the meeting and did not return.*

*At 9:28pm Mr Cope left the meeting and did not return.*

Insert link to Officer Amendment – [Amendment to M21/5863 – CEO Performance Review](#)

**M21/5863 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)  
(CONFIDENTIAL ATTACHMENTS)**

Ward	:	All
Category	:	Operational
Subject Index	:	Personnel file
Customer Index	:	Personnel file
Disclosure of any Interest	:	No Officer involved in the preparation of this report has a declarable interest in this matter.
Previous Items	:	M21/5812 – Chief Executive Officer Performance Review – Ordinary Meeting of Council held 16 February 2021 M21/5824 – Chief Executive Officer Performance Criteria and Key Performance Indicators – Ordinary Meeting of Council held 16 March 2021 M21/5850 – Planning for CEO Performance Review 1 July 2020 to 30 June 2021 – Ordinary Meeting of Council 20 July 2021 M21/5860 – Chief Executive Officer Performance Review – Governance Committee held 31 August 2021
Works Programme	:	Not Applicable
Funding	:	Not Applicable
Responsible Officer	:	Dean McAuliffe Manager People Services

**M21/5863 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)  
(CONFIDENTIAL ATTACHMENTS)**

**AUTHORITY / DISCRETION**

**DEFINITION**

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

**KEY ISSUES / SUMMARY**

- The Governance Committee has been determined by the Council to be the reviewers of the Chief Executive Officer (CEO) performance.
- At the Ordinary Meeting of Council held 16 March 2021, the Council endorsed the CEO Performance Indicators for the review period 17 March 2021 to 30 June 2021.
- This review addresses the review period 1 July 2020 to 30 June 2021, which is to be completed by 21 September 2021 Ordinary Meeting of Council, and during which to different sets of performance indicators apply:
  - 01 July 2020 to 16 March 2021
  - 17 March 2021 to 30 June 2021.
- The Council adopted the process to consider undertake the current CEO Performance Review at its Ordinary Meeting of Council held 20 July 2021.
- The Governance Committee at its meeting held 31 August 2021 discussed the CEO performance, future expectations and performance criteria, performance development and review the salary package, for recommendation to the Council.
- This report provides:
  - the outcome of the CEO Performance Review Process; and
  - a recommendation to the Council on changes to the CEO salary.

**M21/5863 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)  
(CONFIDENTIAL ATTACHMENTS)****BACKGROUND**

On 20 November 2018 Mr Marten Tieleman commenced in the role of Chief Executive Officer (CEO) at the City of Melville.

Clause 7 of the CEO's contract details that there needs to be a review of remuneration on an annual basis, at a time that is no later than three months after the anniversary of the commencement date.

The CEO Performance Review process was considered at the Ordinary Meeting of Council held 20 July 2021, where the following was unanimously resolved:

*"That the Council:*

- 1 approve the Chief Executive Officer Performance Review process, and*
- 2 approve the use of the previous survey tool, updated with the agreed Performance Indicators by the consultant, to support the Chief Executive Officer Performance Review for the 1 July 2020 to 30 June 2021 period, and*
- 3 appoint Mr John Phillips of JCP Consulting to assist with the Chief Executive Officer Performance Review 1 July 2020 to 30 June 2021 period.*
- 4 that at the conclusion of the 30 June 2021 Chief Executive Officer Performance Review, the City commence the advertising and appointment of a consultant to develop the performance indicators for, and undertake the 1 July 2021 to 30 June 2022 Chief Executive Officer Performance Review.*
- 5 amends the CEO Performance Review Process Chart by replacing the Governance Committee Meeting process symbol in the Decision Row with the following:*

*"Governance Committee Meeting including CEO presentation to Council and Council discussion with the CEO re performance".*

Performance Review Consultant (Consultant), Mr John Phillips from John Phillips Consulting, was engaged by the City of Melville to facilitate the discussions between the Council and the CEO during the Performance and Remuneration Review process. This has included opportunities for all Elected Members to provide individual feedback with the Consultant.

The outcome of the CEO Performance and Remuneration Review Process was presented the Governance Committee at its meeting held 31 August 2021.

**M21/5863 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)  
(CONFIDENTIAL ATTACHMENTS)****DETAIL**

The review process was amended and endorsed by the Council at its 20 July Ordinary Meeting of Council meeting. The process provides for the Governance Committee to provide feedback to the Consultant on the CEO Performance Review Process, so that the process may be improved or modified for future reviews. In relation to the next review the Council has previously resolved:

*that at the conclusion of the 30 June 2021 Chief Executive Officer Performance Review, the City commence the advertising and appointment of a consultant to develop the performance indicators for, and undertake the 1 July 2021 to 30 June 2022 Chief Executive Officer Performance Review.*

The role of the Performance Review Consultant was to assist in discussions between Elected Members, the Mayor and the CEO in all aspects of the performance discussion and process. The current performance indicators will stay in use until any alternative indicators are developed with the assistance of a future consultant and in conjunction with the CEO.

The Performance Review Consultant provided a summary of Elected Member feedback, for the consideration of the Governance Committee and the Council.

The Performance Report from the CEO was provided to Elected Members on 27 August 2021. The Chief Executive Officer Annual Performance Review 31 August 2021 – Reviewer Report, including the Total Remuneration Report (TRP) is distributed as part of this agenda under confidential cover:

The remaining stages of the process to be completed are to:

- Governance Committee Meeting including CEO presentation to Council and Council discussion with the CEO regarding performance
- Discuss and review remuneration
- Present Governance Committee Recommendation on CEO Performance Review to the Council
- Mayor to formally advise CEO of outcomes with variation to employment contract undertaken by Manager People Services.

**M21/5863 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)  
(CONFIDENTIAL ATTACHMENTS)**

The process for the Governance meeting was as follows and included the opportunity for the Elected Members to ask questions of the Consultant and the Chief Executive Officer when present:

<b>Action</b>	<b>Purpose</b>	<b>CEO Involvement</b>
1. Discussion between Mr John Phillips and Governance Committee relating to the report from the Performance Review Consultant on survey results, potential changes to remuneration data	Clarify key comments to be delivered to the CEO on behalf of the Elected Members including -past performance – <i>based on matters relating to specified performance criteria within the employment contract</i> -performance development	CEO not present
2. Remuneration discussion	Review of salary level	CEO not present
3. CEO to provide comment on performance and future priorities	Discussion on the CEO's Performance Review document and CEO to detail his perspective of his and the organisation's performance and future priorities	CEO to be present
4. Feedback to CEO from Governance Committee on performance	Ensure CEO understands views of Elected Members on performance and priorities, with reference to the CEO Performance Review - Consultant Report.	CEO to be present
5. Discussion of performance development plan – review of the comments on professional development opportunities provided by the Consultant	To ensure performance development areas are discussed. It is noted the Mayor is authorised to approve professional development for the CEO, as specified in contract of employment.	CEO to be present

The consultant provided the following draft recommendations for the Committee to consider.

That the Council:

1. Notes that Mr. Marten Tieleman's Performance Review in his role as Chief Executive Officer for the City of Melville for the period 1 July 2020 to 30 June 2021 has been undertaken;
2. Endorses Mr. Tieleman's overall assessment of 'Meets Expectations';
3. Endorses/Reviews the Performance Criteria/Key Performance Indicators for the 2021 appraisal period;
4. Reviews the CEO's Total Reward Package in accordance with the contract of employment and the Salaries and Allowances Determinations dated 8 April and 24 June 2021 (effective 1 July 2021);
5. Schedules the next review of the CEO's performance to be commenced by 1 August 2022 and completed by the September 2022 Ordinary Meeting of Council.

**M21/5863 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)  
(CONFIDENTIAL ATTACHMENTS)**

The third point has not been supported in the Committee Recommendation as the process to establish Performance Criteria/Key Performance Indicators for the 2021/2022 appraisal period has been resolved by the Council at its 20 July 2021 Ordinary Meeting.

The Manager People Services will commence the process to engage an external performance review consultant to assist the Council with reviewing and establishing updated KPI's for the next CEO performance review.

The salary determination, to be effective from 1 July 2021 will be presented to the Council as a recommendation from the Committee under confidential cover.

**STAKEHOLDER ENGAGEMENT****I. COMMUNITY**

Not applicable.

**II. OTHER AGENCIES / CONSULTANTS**

There has been no liaison with any other agencies or Consultants beyond John Phillips Consulting.

**STATUTORY AND LEGAL IMPLICATIONS**

Section 5.38 of the Local Government Act 1995 states the requirement to review a CEO's performance at least once a year in relation to every year of employment.

Section 5.23 (2) of the Local Government Act 1995 states that a meeting by a Council or Committee, or part of a meeting, may be closed to members of the public if a matter affecting an employee is being dealt with.

Section 5.39 (7) of the Local Government Act 1995 requires a report from the Salaries and Allowances Tribunal with a recommendation as to the remuneration to be paid or provided to a CEO to be taken into account by the local government before entering into, or renewing a contract of employment with a CEO. Although this section of the Local Government Act 1995 does not include salary reviews this information has been included in the comparative salary data for consideration by the Council when assessing salary.

**FINANCIAL IMPLICATIONS**

The fee for the Consultant is included in the adopted 2021 - 2022 Budget. Any change to the salary package of the CEO will be reflected in the operational budgets for 2021-2022.

**M21/5863 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)  
(CONFIDENTIAL ATTACHMENTS)**

**STRATEGIC, RISK AND ENVIRONMENTAL MANAGEMENT IMPLICATIONS**

Risk Statement & Consequence	Level of Risk	Risk Treatment
That the performance criteria for the next twelve months are not determined	<b>Low</b>	Defined process that includes this stage

**POLICY IMPLICATIONS**

Not applicable.

**ALTERNATE OPTIONS AND THEIR IMPLICATIONS**

Not applicable as the requirement for a performance review are mandatory.

**CONCLUSION**

The Governance Committee Meeting considered the information provided by the Consultant and provides recommendations to the Council in relation to the Performance and Salary Review for the Chief Executive Officer.

The meeting provided feedback opportunities to the Council and CEO and clarified some expectations, which are to be reflected in the CEO Contract performance criteria as agreed by Council and the Chief Executive Officer.

**M21/5863 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)  
(CONFIDENTIAL ATTACHMENTS)**

**COUNCIL RESOLUTION**

**Procedural Motion**

At 9:27pm Cr Robins 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)(a) and (c) of the Local Government Act 1995, to be discussed behind closed doors.**

At 9:27pm the Mayor declared the motion

**CARRIED (12/1)**

<b>Yes</b>	12	Cr Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Woodall, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	1	Cr Kepert

**COMMITTEE RECOMMENDATION (5863)**

**APPROVAL**

At 9:30pm, Cr Pazolli, Seconded Cr Wheatland –

**That the Council:**

- 1 Notes that Mr. Marten Tieleman’s Performance Review in his role as Chief Executive Officer for the City of Melville for the period 1 July 2020 to 30 June 2021 has been undertaken;**
- 2 Endorses Mr. Tieleman’s overall assessment of ‘Meets Expectations’;**
- 3 Endorses the review of the CEO’s Total Reward Package in accordance with the contract of employment and the Salaries and Allowances Determinations dated 8 April and 24 June 2021 (effective 1 July 2021) and the confidential recommendation from the Governance Committee;**
- 4 Schedules the next review of the CEO’s performance to be commenced by 1 August 2022 and completed by the September 2022 Ordinary Meeting of Council.**

**M21/5863 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)  
(CONFIDENTIAL ATTACHMENTS)**

At 9:30pm the Mayor advised that there was an officer amendment to the recommendation to delete point 2 and replace it with:

“Endorses the overall assessment of Mr Tieleman’s performance as ‘Meets Expectations’.”

With the consent of the meeting, the Committee Recommendation as amended would be considered.

Committee Resolution as amended

At 9:30pm Cr Pazolli moved, seconded Cr Wheatland –

**That the Council:**

- 1 Notes that Mr. Marten Tieleman’s Performance Review in his role as Chief Executive Officer for the City of Melville for the period 1 July 2020 to 30 June 2021 has been undertaken;**
- 2 Endorses the overall assessment of Mr Tieleman’s performance as ‘Meets Expectations’;**
- 3 Endorses the review of the CEO’s Total Reward Package in accordance with the contract of employment and the Salaries and Allowances Determinations dated 8 April and 24 June 2021 (effective 1 July 2021) and the confidential recommendation from the Governance Committee.**
- 4 Schedules the next review of the CEO’s performance to be commenced by 1 August 2022 and completed by the September 2022 Ordinary Meeting of Council.**

Procedural Motion

At 9:30pm Cr Kepert moved, seconded –

**That the meeting be closed to Non-Elected Members.**

At 9:30pm the Mayor declared the motion

**LAPSED FOR WANT OF A SECONDER**

**M21/5863 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)  
(CONFIDENTIAL ATTACHMENTS)**Committee Resolution as amended

At 9:30pm Cr Pazolli moved, seconded Cr Wheatland –

**That the Council:**

- 1 Notes that Mr. Marten Tieleman’s Performance Review in his role as Chief Executive Officer for the City of Melville for the period 1 July 2020 to 30 June 2021 has been undertaken;**
- 2 Endorses the overall assessment of Mr Tieleman’s performance as ‘Meets Expectations’;**
- 3 Endorses the review of the CEO’s Total Reward Package in accordance with the contract of employment and the Salaries and Allowances Determinations dated 8 April and 24 June 2021 (effective 1 July 2021) and the confidential recommendation from the Governance Committee;**
- 4 Schedules the next review of the CEO’s performance to be commenced by 1 August 2022 and completed by the September 2022 Ordinary Meeting of Council.**

Confidential Information Extracted - Section 5.23 (a) and (c) of Local Government Act 1995

At 9:41pm Cr Kepert sought to moved an amendment. At 9:42pm the Mayor did not accept the amendment in accordance with the provisions of Council Policy CP-105 Election Caretaker Period.

**Procedural Motion****COUNCIL RESOLUTION**

At 9:50pm Cr Fitzgerald, seconded Cr Wheatland –

**That the member no longer be heard.**

At 9:52pm, the Mayor declared the motion

**CARRIED (12/1)**

<b>Yes</b>	12	Cr Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Mair, Cr Sandford, Cr Woodall, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear
<b>No</b>	1	Cr Kepert

*At 9:52pm Ms Davis left the meeting and did not return.*

**M21/5863 – CHIEF EXECUTIVE OFFICER PERFORMANCE REVIEW (REC)  
(CONFIDENTIAL ATTACHMENTS)**

**COUNCIL RESOLUTION (5863)**

**APPROVAL**

At 9:30pm Cr Pazolli moved, seconded Cr Wheatland –

**That the Council:**

- 1 Notes that Mr. Marten Tieleman’s Performance Review in his role as Chief Executive Officer for the City of Melville for the period 1 July 2020 to 30 June 2021 has been undertaken;**
- 2 Endorses the overall assessment of Mr Tieleman’s performance as ‘Meets Expectations’;**
- 3 Endorses the review of the CEO’s Total Reward Package in accordance with the contract of employment and the Salaries and Allowances Determinations dated 8 April and 24 June 2021 (effective 1 July 2021) and the confidential recommendation from the Governance Committee;**
- 4 Schedules the next review of the CEO’s performance to be commenced by 1 August 2022 and completed by the September 2022 Ordinary Meeting of Council.**

At 9:55pm, the Mayor declared the motion

**CARRIED (11/2)**

<b>Yes</b>	11	Cr Robartson, Cr Macphail, Cr Barber, Cr Barton, Cr Wheatland, Cr Woodall, Cr Pazolli, Cr Robins, Cr Fitzgerald, Mayor Gear, Cr Mair
<b>No</b>	2	Cr Kepert, Cr Sandford

*At 9:55pm Cr Kepert left the meeting and did not return.*

**Procedural Motion**

At 9:55pm Cr Macphail moved, seconded Cr Barber –

**That the meeting come out from behind closed doors.**

At 9:55pm the Mayor declared the motion

**CARRIED (12/0)**

At 9:55pm the Mayor advise the meeting that the Recommendation from the Governance Committee in relation to Item M21/5863 – Chief Executive Officer Performance Review, was carried 11/2.

**19. CLOSURE**

There being no further business to discuss, the Mayor Honourable George Gear declared the meeting closed at 9:56pm.